

Authorised Version No. 003
Plant Biosecurity Regulations 2012

S.R. No. 49/2012

Authorised Version incorporating amendments as at
1 July 2015

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PART 1—PRELIMINARY

1 Objectives

The objectives of these Regulations are—

- (a) to require possession of an assurance certificate, a plant health certificate or a plant health declaration in certain circumstances and to provide exemptions from this requirement;
- (b) to prescribe particulars for assurance certificates, plant health certificates and plant health declarations in certain circumstances;
- (c) to require the presentation of prescribed material, certificates or declarations in certain circumstances;
- (d) to prescribe the manner of attaching a warning to seized or detained packages, plants or plant products;
- (e) to prescribe plants for the purposes of the Act;
- (f) to specify activities for which inspectors can impose fees and charges;
- (g) to prescribe offences under the Act which may be enforced by infringement notices, penalties for infringement notices and other matters authorised by the Act.

Reg. 1(a)
substituted by
S.R. No.
80/2015
reg. 5(1).

Reg. 1(c)
amended by
S.R. No.
80/2015
reg. 5(2).

2 Authorising provision

These Regulations are made under section 141 of the **Plant Biosecurity Act 2010**.

3 Commencement

These Regulations come into operation on 1 July 2012.

4 Revocation

- (1) The Plant Health and Plant Products Regulations 2006¹ are **revoked**.
- (2) These Regulations are **revoked** on 6 June 2016.

5 Definitions

In these Regulations—

area freedom certificate means a certificate issued by an officer of a department responsible for the agriculture of another State or Territory that contains the details set out in regulation 8(2);

department responsible for the agriculture of another State or Territory includes a department in another State or Territory administering a corresponding law;

grape phylloxera means the pest *Daktulosphaira vitifoliae* (Fitch);

phylloxera exclusion zone means any part of another State or a Territory that has been identified under a corresponding law for the purpose of preventing the entry of grape phylloxera into that part of the State or Territory;

plant or plant product of the genus Vitis includes grapevines, potted vines, cuttings, rootlings, leaves, stems, grapes for table use or wine making, grape marc or grape must, fresh

grape juice and plant samples of the genus
Vitis taken for diagnostic purposes;

potato cyst nematode means the pest *Globodera*
rostochiensis (Wollenweber) (Skarbilovich);

root vegetable includes beetroot, carrot, parsnip,
potato, radish, rutabaga, swede, sweet potato
and turnip;

the Act means the **Plant Biosecurity Act 2010**.

PART 2—PLANT PEST AND DISEASE CONTROL

6 Prescribed materials

For the purposes of Division 1 of Part 2 of the Act, the following materials are prescribed materials—

- (a) a plant or plant product of the genus *Vitis*;
- (b) used agricultural equipment used for the culture, harvesting, packing or processing of any plant or plant product of the genus *Vitis*;
- (c) a used package which contains, is known to have contained, or is reasonably suspected of containing or having contained, any plant or plant product of the genus *Vitis*;
- (d) soil, including samples of soil for diagnostic purposes, that originates from a property on which plants or plant products of the genus *Vitis* are grown;
- (e) root vegetables, bulbs, nursery plants or seedlings that have been grown in soil or in a soil free medium in contact with soil;
- (f) used agricultural equipment used for the culture, harvesting, packing or processing of root vegetables, bulbs, nursery plants or seedlings to which paragraph (e) applies;
- (g) a used package which contains, is known to have contained, or is reasonably suspected of containing or having contained, any root vegetables, bulbs, nursery plants or seedlings to which paragraph (e) applies;
- (h) soil in which root vegetables, bulbs, nursery plants or seedlings to which paragraph (e) applies have been grown, including samples of soil for diagnostic purposes;

- (i) a host to an exotic pest or disease in relation to which a restricted area order is declared under section 32 of the Act.

7 Prescribed States and Territories

For the purposes of section 8 of the Act—

- (a) New South Wales, Queensland, Tasmania, South Australia and Western Australia are prescribed States; and
- (b) the Northern Territory and the Australian Capital Territory are prescribed Territories.

8 Requirement to possess certificate or declaration with prescribed materials

- (1) For the purposes of section 8(1C) of the Act, a person must comply with paragraph (a) of that subsection in respect of all prescribed material unless—

Reg. 8(1)
substituted by
S.R. No.
80/2015 reg 6.

- (a) the prescribed material is specified in subregulation (1A); or
 - (b) regulation 8A applies to the person.

- (1A) For the purposes of subregulation (1)(a), the following prescribed materials are specified—

Reg. 8(1A)
inserted by
S.R. No.
80/2015 reg 6.

- (a) material prescribed under regulation 6(a) or (d) that originates from a phylloxera exclusion zone;
 - (b) prescribed material used for the culture, harvesting, packing or processing of any plant or plant product of the genus *Vitis* that is from a phylloxera exclusion zone;
 - (c) prescribed material which contains, is known to have contained, or may reasonably be suspected of containing or having contained any plant or plant product of the genus *Vitis* from a phylloxera exclusion zone;

- (d) material prescribed under regulation 6(a), (b), (c) or (d) that originates from an area for which an area freedom certificate has been issued in relation to grape phylloxera;
 - (e) material prescribed under regulation 6(e), (f), (g) or (h) that originates from an area for which an area freedom certificate has been issued in relation to potato cyst nematode;
 - (f) a plant in tissue culture.
- (2) An area freedom certificate must include the following details—
- (a) the name of the relevant pest or disease that is known not to occur in the area described in paragraph (b);
 - (b) a description of the area of the prescribed State or Territory or part thereof in which the pest is known not to occur;
 - (c) the signature of the officer who issued the certificate and his or her position;
 - (d) the name of the relevant department responsible for the agriculture of another State or Territory.

Reg. 8A
inserted by
S.R. No.
80/2015 reg. 7.

8A Requirement to present prescribed material for inspection, examination and treatment

For the purposes of section 8(1C) of the Act, a person must comply with paragraph (b) of that section if the prescribed material in the person's possession is not specified in regulation 8(1A) and the person—

- (a) is not in possession of an assurance certificate, a plant health certificate or a plant health declaration for the prescribed material; or

- (b) is in possession of an assurance certificate for the prescribed material which does not comply with section 11 of the Act; or
- (c) is in possession of a plant health certificate for the prescribed material which does not comply with section 12 of the Act; or
- (d) is in possession of a plant health declaration for the prescribed material which does not comply with section 13 of the Act.

9 Prescribed place for inspection, examination and treatment

Reg. 9
amended by
S.R. No.
80/2015 reg. 8.

For the purposes of section 8(1C)(b) of the Act, the prescribed place is the Plant Standards Centre at the Melbourne Wholesale Fruit and Vegetable Market.

10 Prescribed particulars for certificates and declarations

For the purposes of sections 11(b), 12(b) and 13(b) of the Act, the prescribed particulars for an assurance certificate, a plant health certificate or a plant health declaration are details that identify the prescribed material to which the certificate or declaration relates.

11 Requirement to present certificate or declaration for inspection

Reg. 11
amended by
S.R. Nos
80/2015
regs 9, 10.

A person who is required under regulation 8A(b), (c) or (d) to present any prescribed material for inspection, examination or treatment must also present for inspection any assurance certificate, plant health certificate or plant health declaration that accompanies the prescribed material.

Penalty: 5 penalty units.

PART 3—PROPERTY IDENTIFICATION CODES

12 Prescribed plants

For the purposes of section 15 of the Act, the plants listed in Schedule 1 are prescribed.

PART 4—MARKING AND IDENTIFICATION

13 Prescribed fruit and vegetables for marking locality

For the purposes of section 46(3)(b) of the Act, the fruit and vegetables listed in Schedule 2 are prescribed.

14 Warnings

- (1) For the purposes of section 83 of the Act, the prescribed manner of attaching a warning is to attach a label in the form set out in Schedule 3 to the package, plants or plant products.
- (2) A person must not—
 - (a) detach a warning or cause or permit it to be detached without the written consent of the inspector or inspection agent who attached it to the package; or
 - (b) deface or obscure a warning or permit it to be defaced or obscured.

Penalty: 10 penalty units.

PART 5—FEES AND CHARGES

15 Fees and charges

- (1) An inspector may impose fees and charges at the amounts or rates fixed by the Minister under section 55 of the Act for—
 - (a) inspecting plant, plant products, packages or equipment; and
 - (b) inspecting land including inspecting any plant growing on the land; and
 - (c) supervising the treatment of any plant, plant product, used package, used equipment or earth material; and
 - (d) supervising the destruction or disposal of any plant, plant product, plant refuse, used package, used equipment or earth material.
- (2) The owner or the person apparently in charge of the consignment of plant, plant product, used package, used equipment, earth material or land referred to in subregulation (1) must pay the relevant fee or charge.
- (3) An inspector may impose fees and charges at the amounts or rates determined by the Minister under section 55 of the Act for the preparation of a compliance agreement.
- (4) An inspector may impose fees and charges at the amounts or rates determined by the Minister under section 55 of the Act to ensure it is complied with.
- (5) The person requesting the preparation of a compliance agreement must pay the fees and charges referred to in subregulation (3).
- (6) A party to a compliance agreement, other than the Crown, must pay the fees and charges referred to in subregulation (4).

PART 6—INFRINGEMENT NOTICES

16 Prescribed offences and penalties

- (1) For the purposes of section 119(1) of the Act, the offences referred to in Column 1 of Schedule 4 are offences for which an infringement notice may be served.
 - (2) For the purposes of section 119(2) of the Act, the prescribed infringement penalty for an offence for which an infringement notice may be served is the penalty listed in Column 2 in Schedule 4 opposite the description of that offence.
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Schedules

SCHEDULES

Sch. 1
amended by
S.R. No.
23/2015 reg. 4.

SCHEDULE 1

Regulation 12

PRESCRIBED PLANTS

Chestnuts (where the growing area contains not less than
20 chestnut plants)

Grapevines (where the growing area is not less than 0·5 hectares)

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SCHEDULE 2

Regulation 13

PRESCRIBED FRUIT AND VEGETABLES

Abiu
Acerola
Achachairu
Apple
Apricot
Avocado
Babaco
Banana
Black Sapote
Blackberry
Blueberry
Boysenberry
Brazil Cherry
Breadfruit
Caimito (Star Apple)
Cape Gooseberry
Capsicum
Carambola (Starfruit)
Cashew Apple
Casimiro (White Sapote)
Cherimoya
Cherry
Chilli
Choko
Citron
Cocoa Berry
Coffee Berry

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Cumquat
Custard Apple
Date
Durian
Eggplant
Feijoa
Fig
Goji Berry
Granadilla
Grape
Grapefruit
Grumichama
Guava
Hog Plum
Jaboticaba
Jackfruit
Jew Plum
Jujube
Kiwifruit
Lemon
Lime
Loganberry
Longan
Loquat
Lychee
Mandarin
Mango
Mangosteen
Medlar
Miracle Fruit
Monstera

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Mulberry
Nashi
Nectarine
Olive
Orange
Passionfruit
Pawpaw
Peach
Peacharine
Pear
Pepino
Persimmon
Plum
Plumcot
Pomegranate
Prickly Pear
Pummelo
Quince
Rambutan
Raspberry
Rollinia
Santol
Sapodilla
Soursop
Strawberry
Sweetsop (Sugar Apple)
Tamarillo
Tangelo
Tomato
Wax jambu (Rose Apple)

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SCHEDULE 3

Regulation 14(1)

WARNING

STOP SALE

The packages, plants or plant products to which this warning is attached do not comply with the **Plant Biosecurity Act 2010**. It is an offence for any person selling or removing them to detach this warning without the written consent of an inspector or to deface or obscure this warning.

Items	Quantity
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Name of Inspector

Signature of Inspector

Date	Time
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SCHEDULE 4

Regulation 16

Sch. 4
amended by
S.R. No.
80/2015
reg. 11.

**INFRINGEMENT OFFENCES AND INFRINGEMENT
PENALTIES**

In this Schedule—

relevant prescribed material means material
prescribed under regulation 6(a), (b), (d), (e),
(f), (h) or (i).

<i>Item</i>	<i>Column 1 Offence</i>	<i>Column 2 Infringement Penalty</i>
1AA	Section 8(1) if the offence involves relevant prescribed material	2 penalty units in the case of a natural person 10 penalty units in the case of a body corporate
1AB	Section 8(1A) if the offence involves relevant prescribed material	2 penalty units in the case of a natural person 10 penalty units in the case of a body corporate
1AC	Section 8(1B) if the offence involves relevant prescribed material	2 penalty units in the case of a natural person 10 penalty units in the case of a body corporate
1	Section 9(1) if the offence involves relevant prescribed material	2 penalty units in the case of a natural person 10 penalty units in the case of a body corporate
2	Section 10(1) if the offence involves relevant prescribed material	5 penalty units
3	Section 15(1)	2 penalty units
4	Section 15(5)	1 penalty units
5	Section 20(2)	2 penalty units

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<i>Item</i>	<i>Column 1 Offence</i>	<i>Column 2 Infringement Penalty</i>
6	Section 20(3)	2 penalty units in the case of a natural person 10 penalty units in the case of a body corporate
7	Section 25(2)	5 penalty units in the case of a natural person 25 penalty units in the case of a body corporate
8	Section 25(3)	5 penalty units in the case of a natural person 25 penalty units in the case of a body corporate
9	Section 25(4)	5 penalty units in the case of a natural person 25 penalty units in the case of a body corporate
10	Section 26(5)	2 penalty units in the case of a natural person 10 penalty units in the case of a body corporate
11	Section 27(2)	5 penalty units in the case of a natural person 25 penalty units in the case of a body corporate
12	Section 30(5)	5 penalty units in the case of a natural person 25 penalty units in the case of a body corporate
13	Section 33(3)	2 penalty units in the case of a natural person 10 penalty units in the case of a body corporate
14	Section 35(4)	5 penalty units
14A	Section 38(2)	2 penalty units in the case of a natural person 10 penalty units in the case of a body corporate

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<i>Item</i>	<i>Column 1 Offence</i>	<i>Column 2 Infringement Penalty</i>
15	Section 43(4)	5 penalty units
16	Section 45(1)	3 penalty units
17	Section 45(4)	5 penalty units
18	Section 46(1)	5 penalty units
19	Section 98	5 penalty units
20	Section 104(5)	5 penalty units
21	Section 111(2)	3 penalty units
22	Regulation 14(2)	1 penalty unit

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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Plant Biosecurity Regulations 2012 were made on 18 June 2012 by the Lieutenant-Governor as the Governor's deputy with the advice of the Executive Council under section 141 of the **Plant Biosecurity Act 2010**, No. 60/2010 and came into operation on 1 July 2012: regulation 3.

The Plant Biosecurity Regulations 2012 will sunset 10 years after the day of making on 18 June 2022 (see section 5 of the **Subordinate Legislation Act 1994**).

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Endnotes

2 Table of Amendments

This publication incorporates amendments made to the Plant Biosecurity Regulations 2012 by statutory rules, subordinate instruments and Acts.

Plant Biosecurity Amendment Regulations 2015, S.R. No. 23/2015

Date of Making: 14.4.15

Date of Commencement: 20.4.15: reg. 3

Plant Biosecurity Further Amendment Regulations 2015, S.R. No. 80/2015

Date of Making: 30.6.15

Date of Commencement: 1.7.15: reg. 3

3 Amendments Not in Operation

Not updated for this publication.

4 Explanatory details

¹ Reg. 4(1): S.R. No. 62/2006 as amended by S.R. No. 115/2006.

Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2015 is \$151.67.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.