

South Australia

## Plant Health Regulations 2009

under the *Plant Health Act 2009*

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### 1—Short title

These regulations may be cited as the *Plant Health Regulations 2009*.

### 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

*Act* means the *Plant Health Act 2009*;

*ICA* means the scheme for Interstate Certification Assurance relating to plant quarantine requirements developed by the States in accordance with the Memorandum of Understanding agreed on 6 August 1999 at the sixteenth meeting of the Agriculture and Resource Management Council of Australia and New Zealand;

*IP number* means the unique identifier (comprising a combination of letters and numbers) assigned to an accredited person;

*operational procedure* means an operational procedure agreed under the ICA included in the list of operational procedures as published from time to time on the website maintained by the Domestic Quarantine Market Access Working Group, a subcommittee of the national Plant Health Committee.

- (2) In these regulations, a reference to the *Plant Quarantine Standard* is—
- (a) a reference to the *Plant Quarantine Standard South Australia* adopted by the notice under the *Fruit and Plant Protection Act 1992* signed by the Minister on 6 February 2006 (see Gazette 16 February 2006 p552) as in force immediately before the commencement of clause 6(2) of Schedule 1 of the Act; or
  - (b) if the Minister, by notice under the Act, adopts some other plant quarantine standard—a reference to that other standard.

#### 4—Declaration of corresponding laws

For the purposes of the definition of *corresponding law* in section 3(1) of the Act, the following Acts are declared to be corresponding laws:

- (a) the *Pest Plants and Animals Act 2005* of the Australian Capital Territory;
- (b) the *Plant Diseases Act 2002* of the Australian Capital Territory;
- (c) the *Plant Diseases Act 1914* of Western Australia;
- (d) the *Plant Diseases Act 1924* of New South Wales;
- (e) the *Plant Diseases Control Act* of the Northern Territory;
- (f) the *Plant Health and Plant Products Act 1995* of Victoria;
- (g) the *Plant Protection Act 1989* of Queensland;
- (h) the *Plant Quarantine Act 1997* of Tasmania.

#### 5—Packaging and labelling of fruit, vegetables and nuts for sale

- (1) For the purposes of section 12(1)(d) of the Act, a person who packs for sale any fruit, vegetables or nuts must label the packaging as follows:
- (a) the label must—
    - (i) be legibly written in English in permanent ink in letters at least 5 millimetres in height; and
    - (ii) be clearly visible on the outside of the packaging;
  - (b) if the person doing the packing is an accredited person—the label must include—
    - (i) the date (or date code) on which the produce was packed; and
    - (ii) a brief description of the contents of the package; and
    - (iii) the IP number of the accredited person; and
    - (iv) either—
      - (A) a code approved by the Chief Inspector for the purposes of this subparagraph indicating where the produce was grown; or
      - (B) the postcode of the town nearest to the place of production; and

- (v) the words "meets ICA" followed by the number that identifies the particular ICA operational procedures that have been followed and met in respect of the produce;
- (c) in any other case—
  - (i) the date (or date code) on which the produce was packed; and
  - (ii) a brief description of the contents of the package; and
  - (iii) the district of production; and
  - (iv) either—
    - (A) the name, address and postcode of both the grower and packer of the produce; or
    - (B) the codes approved for the purpose by the Chief Inspector for the purposes of this subparagraph identifying both the packer and grower.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) A person must not pack for sale or sell any fruit, vegetables or nuts in used packaging unless the packaging—
  - (a) is in good repair; and
  - (b) is clean and free of extraneous visible matter; and
  - (c) is free of any objectionable odour; and
  - (d) is labelled in accordance with subregulation (1).

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) This regulation does not apply to a person who has been approved by the Chief Inspector to receive bulk loads of produce for processing.
- (4) In this regulation—

*date code* means a code approved by the Chief Inspector for the purposes of this regulation indicating the date on which produce is packed.

## **6—Identification and labelling of plants sold for propagation**

- (1) For the purposes of section 13 of the Act, the plants listed in Schedule 1 are prescribed (a *prescribed plant*).
- (2) A person must not sell for propagation a prescribed plant that has been brought or introduced into the State unless it is accompanied by—
  - (a) an assurance certificate or a plant health certificate issued in respect of the prescribed plant; and
  - (b) any other document issued in respect of the prescribed plant as required by the Minister and set out in the Plant Quarantine Standard.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## 7—Accreditation of persons

- (1) For the purposes of sections 17(1)(c) and 20(2)(f) of the Act, the prescribed protocols and operational procedures are the protocols and operational procedures specified by the Minister in respect of the particular authority conferred by the accreditation granted to a particular applicant.
- (2) For the purposes of section 20(3) of the Act, the following conditions are prescribed:
  - (a) a condition imposed under section 20(2)(e);
  - (b) a condition imposed under section 20(2)(i).
- (3) For the purposes of section 21(1) of the Act—
  - (a) the date for payment of the annual fee is 1 August in the financial year to which the fee relates; and
  - (b) the date for lodging an annual return is 1 August immediately following the financial year to which the return relates.

## 8—Registration of importers

- (1) For the purposes of sections 27(1)(c) and 28(2)(c) of the Act, the prescribed protocols and operational procedures are the protocols and operational procedures specified by the Minister in respect of the particular authority conferred by the registration granted to a particular applicant.
- (2) For the purposes of section 29(1) of the Act—
  - (a) the date for payment of the annual fee is 1 August in the financial year to which the fee relates; and
  - (b) the date for lodging an annual return is 1 August immediately following the financial year to which the return relates.

## 9—Adoption of code

- (1) The *Code—Control of Branched Broomrape* (the **Code**) prepared by the Branched Broomrape Program Unit immediately before the commencement of this regulation, as in force from time to time, is adopted.
- (2) However, an amendment to the Code will not take effect for the purposes of these regulations until approved by the Minister by notice in the Gazette.
- (3) A person who contravenes or fails to comply with a provision of the Code is guilty of an offence.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (4) In this regulation—

***Branched Broomrape Program Unit*** means the unit of that name or some other name in the administrative unit of the Public Service that is, under a Minister, responsible for the State's response to the national program to eradicate branched broomrape.

## 10—Exemptions

The Minister may, in the Minister's discretion, by notice in the Gazette, exempt conditionally or unconditionally a class of persons, plants, plant related products or activities specified in the notice from the application of the Act or a specified provision of the Act, as determined by the Minister.

## 11—Fees

- (1) The fees set out in Schedule 2 are payable as prescribed in the Schedule.
- (2) The Minister may, on application or on the Minister's own initiative, in the Minister's discretion, waive payment of the whole or a part of a fee.
- (3) In addition, the following are exempt from the relevant fees under Schedule 2:
  - (a) an application for registration as an importer where the applicant is—
    - (i) an accredited person; or
    - (ii) an agency or instrumentality of the Crown;
  - (b) an application for variation of registration as an importer where the applicant is—
    - (i) an accredited person; or
    - (ii) an agency or instrumentality of the Crown;
  - (c) an annual fee payable by a registered importer where the importer is—
    - (i) an accredited person; or
    - (ii) an agency or instrumentality of the Crown.

## Schedule 1—Prescribed plants for propagation

Common name	Scientific name
Citrus	<i>Citrus</i> spp
Date palm offshoots	<i>Phoenix dactylifera</i>
Grapevines	<i>Vitis</i> spp
Pinus plants	<i>Pinus</i> spp
Tomato plants	<i>Solanum lycopersicum</i> ( <i>syn. Lycopersicon esculentum</i> )

## Schedule 2—Fees

1 In this Schedule—

- (a) **inspection** includes a survey inspection;
- (b) **survey inspection** means an inspection by an inspector of a growing crop to determine if the crop is free from pests;

- (c) if a charge for a service or time taken to travel to or from the site of an audit or inspection is expressed as an amount per hour—
  - (i) a charge is payable for services provided or travelling time for less than or more than an hour (with a minimum charge payable for 15 minutes for services provided or travelling time); and
  - (ii) the amount payable is to be determined by multiplying the amount per hour by the proportion that the number of minutes for which the services are provided or the time is taken to travel rounded to the nearest 5 minutes bears to 60 minutes.

**2 Application fees—**

- (a) on lodging an application for accreditation authorising the carrying out of an activity at only 1 specified premises (section 16 of the Act) \$288.00
- (b) on lodging an application for accreditation authorising the carrying out of an activity at more than 1 specified premises (section 16 of the Act) \$288.00 plus \$288.00 for each additional premises
- (c) on lodging an application for variation of accreditation (section 22 of the Act)—
  - (i) if the variation is to authorise the carrying out of the activity authorised under the accreditation at additional specified premises \$288.00 for each additional premises
  - (ii) for any other variation \$56.50

**Note—**

If more than 1 application for variation of the type referred to in subparagraph (ii) is made in any year, the fee is payable only on lodging the first such application.

- (d) on lodging an application for registration as importer (section 26 of the Act)—

**Note—**

An accredited person applying for registration is not required to pay this fee.

- (i) if registration is restricted to the importing of diagnostic samples for testing \$41.25
- (ii) in any other case \$113.00
- (e) on lodging an application for variation of registration as importer (section 30 of the Act) \$30.75

**Note—**

An accredited person applying for variation of registration is not required to pay this fee.

- (f) on lodging an application for review by the Minister (section 35 of the Act) \$30.75

**3 Annual fees—**

- (a) for a person whose accreditation authorises the carrying out of an activity at only 1 specified premises (section 21 of the Act) \$113.00
- (b) for a person whose accreditation authorises the carrying out of an activity at more than 1 specified premises (section 21 of the Act) \$113.00 plus \$113.00 for each additional premises

(c)	for a registered importer (section 29 of the Act)	\$61.50
<b>Note—</b>		
A registered importer who is also an accredited person is not required to pay this fee.		
4	Penalty for default in payment of an annual fee or lodgment of an annual return—	
(a)	for an accredited person (section 21 of the Act)	\$170.00
(b)	for a registered importer (section 29 of the Act)	\$92.50
5	Fee for a book of certificates to be issued by an accredited person under the Act	\$22.60
6	Fee for issue of plant health certificate under the Act	\$22.60
7	Fees for audits and inspections—	
(a)	for an audit or inspection during ordinary business hours	\$98.50 per hour
(b)	for an audit or inspection after hours—	
(i)	on a week day	\$148.00 plus \$148.00 per hour
(ii)	on a weekend or public holiday—	
(A)	if the inspection has been prearranged with the auditor or inspector	\$198.00 plus \$198.00 per hour
(B)	in any other case	\$247.00 plus \$247.00 per hour
8	Fees for time taken to travel to or from the site of an audit or inspection—	
<b>Notes—</b>		
1	These fees are in addition to the fees under clause 7.	
2	If, on any particular trip, more than 1 site is visited for an audit or inspection, the fees under this clause will be apportioned on an equitable basis between the persons responsible for the fees charged for the relevant audits or inspections.	
(a)	for travelling time to or from the site during ordinary business hours	\$98.50 per hour
(b)	for travelling time to or from the site after hours—	
(i)	on a week day—	
(A)	if not more than 3 hours	\$148.00 per hour, up to a maximum of \$396.00
(B)	if more than 3 hours	\$396.00
<b>Note—</b>		
If it takes more than 3 hours to travel to or from a site, the fee for the travelling time is set at a fixed rate.		
(ii)	on a weekend or public holiday	\$198.00 per hour
9	Fee for disposal of plants or plant related products affected by a pest	Actual cost incurred

## Legislative history

### Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2009	211	<i>Gazette 30.7.2009 p3440</i>	1.8.2009: r 2
2010	174	<i>Gazette 22.7.2010 p3891</i>	1.8.2010: r 2
<b>2011</b>	<b>96</b>	<b><i>Gazette 9.6.2011 p2148</i></b>	<b>1.7.2011: r 2</b>
2012	55	<i>Gazette 31.5.2012 p2242</i>	1.7.2012: r 2

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.8.2010</i>
Sch 2	substituted by 174/2010 r 4	1.8.2010
	<b>substituted by 96/2011 r 4</b>	<b>1.7.2010</b>

### Historical versions

1.8.2010