

BIOSECURITY UNDERTAKING

NSW Biosecurity Act 2015

Pursuant to section 142 of the *Biosecurity Act 2015* (the Act), I

Name of person offering undertaking

Residential or business address

Suburb

State

Postcode

Phone

Email

give this biosecurity undertaking on account of a contravention, suspected contravention or likely contravention of a requirement imposed by or under the Act. The biosecurity undertaking relates to:

(Please explain contravention, suspected contravention or likely contravention)

The measures in this biosecurity undertaking relates to the following thing or place:

(For example: Property identification code; latitude longitude, animal identification code, vehicle registration, Lot/DP number, animal species, other)

Measures

Pursuant to section 143 of the Act, I agree to implement the following measures to remedy or prevent the contravention, suspected contravention or likely contravention:

(Measures may specify a time period in which they must be implemented. Insert time period for measure/s)

This biosecurity
undertaking
commences on:

Ends on:

Definitions:
If applicable



Department of
Primary Industries

Name of person offering the undertaking

Business name (if applicable)

Signature

Date



Local Land
Services

Authorised officer's name

Role and agency

Signature

Date

Failure to comply with the biosecurity undertaking could result in a penalty notice or prosecution. The maximum penalty for an individual is \$1,100,000. The maximum penalty for a corporation is \$2,200,000.

This information is collected by the collecting agency identified in this form in relation to its functions under the *Biosecurity Act 2015*. This agency/s and the NSW Department of Industry may use and disclose this information as reasonably necessary for the purpose of performing biosecurity risk functions under, or reasonably contemplated by, the *Biosecurity Act 2015*.



Record of action

- ☐ I confirm that the measures in this biosecurity undertaking have been complied with, or pursuant to section 149 of the Act, one of the following actions applies:
- ☐ The biosecurity undertaking has been varied by a subsequent biosecurity undertaking agreed for the following reason/s:

- ☐ I have agreed, on approach of the person who made the biosecurity undertaking, to withdraw the biosecurity undertaking for the following reason/s:

- ☐ I have withdrawn acceptance of the biosecurity undertaking for the following reason/s:

Authorised officer's name

Role

Agency

Signature

Date

Guide to the Biosecurity Undertaking

Information about the biosecurity undertaking

This biosecurity undertaking is accepted by an authorised officer in accordance with section 142 of the *Biosecurity Act 2015* (the Act). A person who contravenes a biosecurity undertaking given by that person is guilty of an offence under the Act.

The giving of a biosecurity undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention, suspected contravention or likely contravention to which the biosecurity undertaking relates.

When does a biosecurity undertaking take effect?

A biosecurity undertaking takes effect and becomes enforceable when the person giving the biosecurity undertaking and an authorised officer accepts and signs the biosecurity undertaking.

Penalty for not complying with a biosecurity undertaking

It is an offence against the Act not to comply with the biosecurity undertaking. The maximum penalty is:

- in the case of an individual—\$220,000 and, in the case of a continuing offence, a further penalty of \$55,000 for each day the offence continues, or
- in the case of a corporation—\$440,000 and, in the case of a continuing offence, a further penalty of \$110,000 for each day the offence continues.

The maximum penalty for an offence that is committed negligently is:

- in the case of an individual—\$1,100,000 and, in the case of a continuing offence, a further penalty of \$137,500 for each day the offence continues, or
- in the case of a corporation—\$2,200,000 and, in the case of a continuing offence, a further penalty of \$275,000 for each day the offence continues.

Contravention of a biosecurity undertaking

Under section 147 of the Act, if a person fails to comply with a biosecurity undertaking, an authorised officer may enter or authorise any person to enter premises and take any actions in relation to those premises or any thing on those premises that the liable person is required to take by the biosecurity undertaking or that are otherwise necessary to remedy that failure.

The Secretary may apply to the Land and Environment Court for an order if a person contravenes a biosecurity undertaking. If the Court is satisfied that the person who made the biosecurity undertaking has contravened the biosecurity undertaking, the Court may make one or both of the following orders:

- (a) an order directing the person to comply with the biosecurity undertaking,
- (b) an order discharging or varying the biosecurity undertaking.

Withdrawal or variation of a biosecurity undertaking

Under section 149 of the Act, a person who has made a biosecurity undertaking may, at any time, with the written agreement of an authorised officer:

- withdraw the biosecurity undertaking
- vary the biosecurity undertaking

An authorised officer may at any time

- withdraw an authorised officer's acceptance of a biosecurity undertaking, by notice in writing served on the person who gave the undertaking, or
- vary a biosecurity undertaking (but only with the written agreement of the person who gave the undertaking).

Enforcement action not prevented by biosecurity undertaking

Under section 150 of the Act, a biosecurity undertaking does not prevent the taking or continuation of proceedings for an offence against this Act or the regulations in respect of any matter that is the subject of the undertaking.

Contact

For all biosecurity matters please contact NSW Department of Primary Industries on 1800 680 244 or biosecurity@dpi.nsw.gov.au.