Draft Orders submitted to the Governor in Council by the Honourable the Minister for Agriculture

Plant Biosecurity Act 2010

Recommending to the Governor in Council, under section 141 of the **Plant Biosecurity Act 2010**, that the Plant Biosecurity Regulations 2026 be made.

(Signature of Secretary or Authorised Delegate) .....

Kate Houghton PSM, Secretary, Department of Energy, Environment and Climate Action

(Signature of Minister).....

Hon Michaela Settle MP, Minister for Agriculture

Margaret Gardiner

For Executive Council

19 MAY 2026

APPROVED BY THE

GOVERNOR IN COUNCIL

.....

Clerk of the Executive Council

Plant Biosecurity Act 2010

Plant Biosecurity Regulations 2026

EXPLANATORY MEMORANDUM

Summary

- The Plant Biosecurity Regulations 2016 (current Regulations) will sunset on 31 May 2026 and have been reviewed in accordance with the **Subordinate Legislation Act 1994** to ensure the matters provided for under those regulations continue to be appropriate for the regulation of plant biosecurity in Victoria.
- The proposed Plant Biosecurity Regulations 2026 (proposed Regulations), to be made under section 141(1) of the **Plant Biosecurity Act 2010** (the Act), will revoke the current Regulations and remake the substance of the current Regulations with minor changes. These changes include updating the list of prescribed fruit and vegetables that are subject to labelling requirements, prescribing additional infringement offences and increasing infringement penalty units for some offences, making minor changes to improve operation of the Regulations, and making changes to improve consistency of wording with the Act.
- The proposed Regulations will come into operation on 30 May 2026.

Recommendation

1. It is recommended to the Governor in Council that the Plant Biosecurity Regulations 2026 (proposed Regulations) be made.

Background to proposed Regulations and their effect

2. The **Plant Biosecurity Act 2010** (the Act) provides a legislative framework for preventing, monitoring, controlling and eradicating plant pests and diseases, for the packaging, labelling and description of plants and plant products, and to facilitate the movement of plants, plant products, used packages, used equipment and earth material within, into and out of Victoria.
3. Regulations made under the Act support the operation of this framework by prescribing particulars for inspection and certification requirements, by introducing offences to promote compliance with the framework and by prescribing infringement offences and infringement penalties to support effective enforcement.
4. Regulations 1 to 4 of the proposed Regulations contain the preliminary matters for the

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proposed Regulations, including the objectives of the Regulations, the authorising provision, the commencement date for the proposed Regulations, and the revocations.

5. Regulation 5 contains the definitions for the proposed Regulations.
6. Regulation 6 outlines what materials are defined as prescribed materials for Division 1 of Part 2 of the Act.
7. Regulation 7 defines what is a prescribed State and Territory for the purposes of sections 8(1) and 14 of the Act.
8. Regulation 8 prescribes the requirement to send and possess certificates or declarations with prescribed materials.
9. Regulation 9 prescribes the requirement to present prescribed material for inspection, examination and treatment.
10. Regulation 10 prescribes the requirement to present a certificate or declaration for inspection.
11. Regulation 11 prescribes the place for inspection, examination and treatment for the purposes of section 8(1C)(b)(ii) of the Act.
12. Regulation 12 prescribes the particulars for certificates and declarations.
13. Regulation 13 prescribes the plants that require Property Identification Codes (PICs) under section 15 of the Act.
14. Regulation 14 prescribes fruit and vegetables for marking locality for the purposes of section 46(3)(b) of the Act.
15. Regulation 15 prescribes the way in which warning labels can be attached.
16. Regulation 16 prescribes the fees and charges that an inspector may impose.
17. Regulation 17 prescribes the offences and penalties for infringement notices.
18. Schedule 1 lists the prescribed plants that require a Property Identification Code.
19. Schedule 2 lists the prescribed fruit and vegetables.
20. Schedule 3 prescribes the warning label template.
21. Schedule 4 lists the infringement offences and infringement penalties.
22. Continued updates to scientific definitions and increased compliance and enforcement requirements during biosecurity responses have required changes to the current Regulations to be made, including:
    a. adding to the list of prescribed fruit and vegetables that must be marked or labelled with the details of where they were grown.

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b. prescribing additional offences for which infringement notices may be issued and the infringement penalties that apply in respect of those offences.

c. increasing the infringement penalty amounts for certain offences to align with the Attorney-General's Guidelines to the **Infringements Act 2006** (Infringement Guidelines).

d. making other minor changes to improve the operation of the Regulations.

23. Infringement offences provide inspectors an alternative to prosecution which can provide a more proportionate and time-effective response to non-compliance.

24. The majority of the infringement offences included in the proposed Regulations fall within the Infringement Guidelines and the Department of Justice and Community Safety was consulted on the proposal and advised the offences were suitable to be infringement notice offences. Those infringement penalties that fall outside of the Infringement Guidelines are lower than recommended by the guidelines due to the limitation on maximum infringement penalties under section 120 of the Act, which means the infringement penalties in Schedule 4 of the proposed Regulations must not exceed 10 penalty units (for a natural person) or 40 penalty units (for a body corporate).

25. The proposed Regulations will ensure Victoria is able to continue to protect its plant biosecurity and to enable trade of plants and plant products both into and out of Victoria.

Authorising Legislation

26. The proposed Regulations are proposed to be made under section 141 of the **Plant Biosecurity Act 2010**.

27. Section 141(1) of the **Plant Biosecurity Act 2010** enables the Governor in Council to make regulations for or with respect to the various matters included in the proposed Regulations, including any matter required or permitted to be prescribed under the **Plant Biosecurity Act 2010**.

Certificates provided in accordance with the Subordinate Legislation Act 1994

28. The following certificates are attached for the proposed Regulations in accordance with the **Subordinate Legislation Act 1994**:

- a consultation certificate under section 6;
- an exemption certificate under section 8;



- a human rights certificate under section 12A; and
- an infringements offence consultation certificate under section 6A.

29. The proposed Regulations do not limit any human right set out in the **Charter of Human Rights and Responsibilities Act 2006.**

30. A certificate from the Chief Parliamentary Counsel is also submitted as required by section 13 of the **Subordinate Legislation Act 1994** specifying that, amongst other things, the proposed Regulations appear to be within power and consistent with and achieve the objectives of the **Plant Biosecurity Act 2010**.

National Competition Policy

31. In accordance with the guidelines contained in the Victorian Guide to Regulation (published by the Office of the Commissioner for Better Regulation), the proposed Regulations are not required to be tested under competition policy assessment requirements as they are exempt from the Regulatory Impact Statement process.

Gazettal

32. Notice of the making of the proposed Regulations will be published in a Special Gazette on the day of their making.

Contact name: Tyrone Cain, Senior Policy Officer, Food, Agriculture and Biosecurity Regulatory Policy
Contact number: 0427 486 878



Hon Michaela Settle MP

Minister for Regional Development
Minister for Agriculture

PO Box 500, East Melbourne
Victoria, 8002 Australia

Plant Biosecurity Act 2010

Plant Biosecurity Regulations 2026

RECOMMENDATION

It is recommended to the Governor in Council that, under section 141 of the **Plant Biosecurity Act 2010**, the **Plant Biosecurity Regulations 2026** be made.

Advice from the Chief Parliamentary Counsel is submitted as required by section 13 of the **Subordinate Legislation Act 1994**.

A Regulatory Impact Statement for these Regulations has not been prepared. As the Minister responsible for the administration of the **Plant Biosecurity Act 2010**, I have issued an exemption certificate under section 8 of the **Subordinate Legislation Act 1994**, and it is attached.

Under my hand, the following, additional, certificates are attached:

- a consultation certificate under section 6 of the **Subordinate Legislation Act 1994**;
- an infringements offence consultation certificate under section 6A of the **Subordinate Legislation Act 1994**; and
- a human rights certificate under section 12A of the **Subordinate Legislation Act 1994**;

Dated:11/05/2026

Hon Michaela Settle MP
Minister for Agriculture

APPROVED
BY THE GOVERNOR IN COUNCIL
19 MAY 2026
CLERK OF THE EXECUTIVE COUNCIL

VICTORIA State Government

Hon Michaela Settle MP

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Minister for Agriculture

PO Box 500, East Melbourne
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Subordinate Legislation Act 1994

CONSULTATION CERTIFICATE

(Section 6)

Plant Biosecurity Regulations 2026

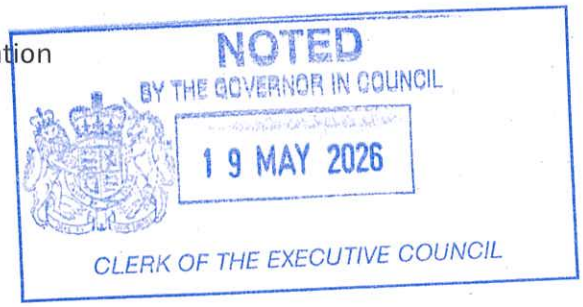
I, The Hon. Michaela Settle MP, Minister for Agriculture, and Minister responsible for administering the **Plant Biosecurity Act 2010**, certify that in accordance with the guidelines made under the **Subordinate Legislation Act 1994** there has been consultation with:

(a) every other Minister whose area of responsibility may be affected by the proposed Plant Biosecurity Regulations 2026 and there is no overlap or conflict with any other existing or proposed statutory rule, legislation or stated government policy; and

(b) sectors of the public on which a significant economic or social burden may be imposed by the proposed Plant Biosecurity Regulations 2026, so that the need for and the scope of the proposed Plant Biosecurity Regulations 2026 have been considered.

The sectors of the public that have been consulted are the following agriculture industry organisations:

- Apple and Pear Australia Limited
- Australian Blueberry Growers' Association
- Australian Table Grapes Association
- AusVeg
- Citrus Australia
- Dried Fruits Australia
- Fresh State Ltd
- Fruit Growers Victoria Limited
- Grains Industry Association of Victoria
- Melbourne Market Authority
- Murray Valley Winegrowers Inc
- Nursery and Garden Industry Victoria



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- Seed Potatoes Victoria
- Stockfeed Manufacturer's Council of Australia
- Summerfruit Australia
- AuSPICA
- Victorian Strawberry Industry Certification Authority
- Victorian Strawberry Industry Development Committee
- Victorian Farmers Federation
- Wine Victoria.

Better Regulation Victoria was also consulted.

Dated:11/05/2026

Hon Michaela Settle MP
Minister for Agriculture

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Subordinate Legislation Act 1994

EXEMPTION CERTIFICATE

(Section 8)

Plant Biosecurity Regulations 2026

I, the Hon. Michaela Settle MP, Minister for Agriculture, and Minister responsible for administering the **Plant Biosecurity Act 2010**, certify under section 8(1)(a) of the **Subordinate Legislation Act 1994** that in my opinion, the proposed statutory rule would not impose a significant economic or social burden on a sector of the public.

The reasons for forming this opinion are as follows:

In consultation with Better Regulation Victoria, Agriculture Victoria undertook a regulatory burden analysis which estimated that the additional annual costs imposed on industry by the Plant Biosecurity Regulations 2026 are well under the indicative threshold of $2 million per year provided within the **Subordinate Legislation Act 1994** Guidelines 2025 (the Guidelines). The Guidelines advise that where an analysis suggests that the measurable social or economic costs to any sector of the public are likely to be less than $2 million per year, then there is unlikely to be a significant burden.

Accordingly, a Regulatory Impact Statement is not required for these Regulations.

Dated:11/05/2026

Hon Michaela Settle MP
Minister for Agriculture

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Subordinate Legislation Act 1994

HUMAN RIGHTS CERTIFICATE

(Section 12A)

Plant Biosecurity Regulations 2026

I, The Hon. Michaela Settle MP, Minister for Agriculture, and Minister responsible for administering the **Plant Biosecurity Act 2010**, certify that, in my opinion:

the proposed Plant Biosecurity Regulations 2026 do not limit any human right set out in the **Charter of Human Rights and Responsibilities Act 2006**.

Dated:11/05/2026

Hon Michaela Settle MP
Minister for Agriculture

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Subordinate Legislation Act 1994

INFRINGEMENTS OFFENCE CONSULTATION CERTIFICATE

(Section 6A)

Plant Biosecurity Regulations 2026

I, The Hon. Michaela Settle MP, Minister for Agriculture, and Minister responsible for administering the **Plant Biosecurity Act 2010**, certify under section 6A of the **Subordinate Legislation Act 1994** that:

(a) the Department of Justice and Community Safety has been consulted about the enforcement of the offences referred to in the proposed Plant Biosecurity Regulations 2026 by infringement notice and the suitability of the offences referred to in the Plant Biosecurity Regulations 2026 to be infringement offences enforced under the **Infringements Act 2006**;

(b) the Attorney-General's Guidelines to the **Infringements Act 2006** have been taken into account in the preparation of the Plant Biosecurity Regulations 2026 including increases to 11 infringement penalties to better align with the guidelines;

(c) those infringements outside of the Attorney-General's Guidelines are lower than the amount in the guidelines due to maximum infringement penalties set out in section 120 of the **Plant Biosecurity Act 2010**, which means the infringements in Schedule 4 of the proposed Plant Biosecurity Regulations 2026 must not exceed 10 penalty units (for a natural person) or 40 penalty units (for a body corporate). The guidelines are not cast in absolute term and the penalties are subject to other considerations such as proportionality and fairness; and

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(d) I am satisfied that the prescribed infringement penalties are appropriate in the circumstances. They are sufficiently proportionate and fair relative to the seriousness of the corresponding offending behaviour.

Dated:11/05/2026

Hon Michaela Settle MP
Minister for Agriculture

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VICTORIA State Government

PARLIAMENTARY COUNSEL VICTORIA

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Your Reference: LEX 27392

Our Reference: 26-021/24030:CD/BM

SUBORDINATE LEGISLATION ACT 1994
SECTION 13 CERTIFICATE

Proposed statutory rule : **Plant Biosecurity Regulations 2026**

Authorising Act : **Plant Biosecurity Act 2010**

Date of print of proposed statutory rule : **17 April 2026**

A proposed statutory rule that is to be made by, or with the consent or approval of, the Governor in Council must be submitted to the Chief Parliamentary Counsel for the issue of a certificate by the Chief Parliamentary Counsel specifying whether the proposed statutory rule —

(a)	***appears to be within the powers conferred by the authorising Act;***	***(a)*** so appears;
(b)	***appears without clear and express authority being conferred by the authorising Act —***	***(b)***
	(i) to have a retrospective effect; or	(i) if made on or before 30 May 2026, does not so appear;
	(ii) to impose a tax, fee, fine, imprisonment or other penalty; or	(ii) does not so appear;
	(iii) to shift the legal burden of proof to a person accused of an offence; or	(iii) does not so appear;
	(iv) to sub-delegate powers delegated by the authorising Act;	(iv) does not so appear;
(c)	***appears to be consistent with the general objectives of the authorising Act;***	***(c)*** so appears;

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(d)	***appears to be consistent with and to achieve the objectives set out in the proposed statutory rule and, if the proposed statutory rule is to amend an existing statutory rule, appears to be consistent with the objectives set out in the existing statutory rule;***	*(d)*	so appears;
(e)	***appears to be inconsistent with principles of justice and fairness;***	*(e)*	does not so appear;
(f)	***appears significantly or substantially to overlap or conflict with any other statutory rule or legislation;***	*(f)*	does not so appear;
(g)	***is expressed as clearly and unambiguously as is reasonably possible.***	*(g)*	is so expressed.

JAYNE ATKINS

Chief Parliamentary Counsel

Date : 17 April 2026

This certificate relates to the circumstances as at the date of the certificate.



Plant Biosecurity Regulations 2026

S.R. No. 43

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