



Model Legislation Summary

1. Background

Potato Cyst Nematode (PCN) is under official control nationally with all states and territories imposing restrictions on the entry of host material sourced from within 20km of a known detection or from the state of Victoria.

In November 2012, the Department of Primary Industries Victoria presented a reform model to Plant Health Committee (PHC-42 Hobart) recommending change to the management of PCN. This included the focussing of government intervention on controlling pathways identified as being a high risk for the entry and spread of PCN, whilst low risk pathways would remain the responsibility of industry. These pathways were identified in the DRAFT national PCN management plan which had been under development since 2007 and was being finalised by AUSVEG at the time.

The reform model (known as the Risk Based Regulatory Reform Model) focussed government controls on the management of;

1. Infested land
2. Land classified under the national plan as being linked to infested land
3. Potatoes sold for planting

Important principles underpinning national adoption of the RBRRM include;

1. Continued acceptance of current area freedom status of all states and territories irrespective of their previous testing history and linkages to PCN affected districts in Victoria.
2. Free movement of all host material from land not classified as infested or linked from Victoria to interstate markets – without the need for certification.

Since PHC – 42, all states and territories have endorsed the RBRRM (except for Western Australia) and have indicated legislative changes required to remove the “20km” rule will be undertaken once Victoria has implemented appropriate legislation controlling infested and linked land in the state.

2. Purpose

The purpose of this paper is to outline and describe in detail the legislative framework supporting Australia’s claim that PCN remains under official control.

Privacy Statement

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The intent of this legislation is to:

1. Regulate the management of PCN infested and linked land in order to prevent the movement and spread of PCN to unaffected regions and states.
2. Orders and permits will require land owners to supply host material to approved markets only.
3. Enable state jurisdictions with a current area freedom certificate to align importation Orders and take actions within their market if non-conforming produce is detected.

3. State legislation – affected states (Victoria)

Victorian legislation will focus land use management and market access controls on land known to be infested with PCN, and land known to be linked with a PCN infestation.

1. Section 19 of the Plant Biosecurity Act 2010 provides the legislative tools required to regulate PCN infested and linked land in the form of a Ministerial (Order). Orders will identify infested lands at the crown allotment or registered property lot/volume¹ level and prohibit the movement of PCN host material and associated equipment from such lands. Orders will also set the conditions for movement from linked properties, as per the Infested and Linked Land Condition Schedule (refer to [attachment 1](#)).
2. Section 21 of the Plant Biosecurity Act 2010 allows permits to be issued imposing conditions consistent with the Infested and Linked Conditions Schedule which require the land owners farming infested lands to comply with.

i. Market access – infested land

Potatoes grown in infested land can only be distributed under the direction of a permit to businesses who hold a current accreditation under PS14 – PCN CA for the receipt of ware and processing businesses within Victoria.

The removal of potatoes for growing/propagation is prohibited.

Agricultural equipment;

- Moved from infested to un-infested properties must be cleaned to remove all earth material, PCN host plants and inspected by an approved person and accompanied with a PHC, or
- Agricultural equipment moved between infested and linked land must be cleaned to remove all earth material and PCN host plants prior to leaving the land.

¹ Crown allotments or registered property lot/volume are linked to local government register of lands and reflect the smallest parcel of land to be managed under this arrangement.

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Used packages;

- Move under the provisions of accreditation (PS 14), or
- Cleaned to remove earth material and PCN host plants, undergo an inspection by an approved person and accompanied with a PHC.

Nurseries accredited under PS 27 - Interstate Movement of Plants and do not have *Solanaceae* host material growing on the property shall be granted interstate access.

ii. **Market access – linked land**

Potatoes grown in linked land can be distributed to interstate markets by businesses accredited under an ICA-43² or ICA-44 accreditation (or PHC).

The removal of potatoes for growing/propagation is prohibited.

Agricultural equipment;

- Moved from linked to non-link land must be cleaned to remove all earth material, PCN host plants and inspected by an approved person and accompanied with a PHC, or
- Agricultural equipment moved between linked land must be cleaned to remove all earth material and PCN host plants prior to leaving the land.

Used packages;

- Move under the provisions of accreditation (PS 14), or
- Cleaned to remove earth material and PCN host plants, undergo an inspection by an approved person and accompanied with a PHC.

Nurseries accredited under PS-27 - Interstate Movement of Plants and do not have *Solanaceae* host material growing on the property shall be granted interstate access.

Controls will also be imposed on land managers not engaged in horticultural production. Conditions include prohibiting the movement of soil.

4. State level legislation – area freedom

The RBRRM recognises the area freedom status of all states and territories excepting for Western Australia which is currently under review.

To enact recognition of the RBRRM, model legislation covering the movement of all high risk items, is included as Model Legislation (refer to [attachment 2](#)).

² Currently called PS 43 – Ware Potatoes from Thorpdale but a submission has been put to the CSWG to have the procedure aligned with the RBRRM and renamed to and ICA 43.

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Attachment 1 – Infested and Linked Land Conditions Schedule

Commodity	Infested land ³	Linked land
Seed	The removal of potatoes for propagation/ planting is prohibited	The removal of potatoes for propagation/ planting is prohibited
Ware	<p>Movement of bulk potatoes for packing must comply with:</p> <ul style="list-style-type: none"> i. The soil adhesion standard, as per ICA 43⁴ ii. Sent to a PS 14 accredited packing facility iii. Consignment accompanied with a PTC, as per ICA 43 <p>Movement of packed potatoes comply with:</p> <ul style="list-style-type: none"> i. The soil adhesion standard, as per the ICA 43 ii. Consignment accompanied with a PTC, as per ICA 43 	<p>Movement of potatoes must adhere to:</p> <ul style="list-style-type: none"> i. ICA 43 – Ware Potatoes <p>Movement of potatoes for intrastate distribution comply with:</p> <ul style="list-style-type: none"> i. The soil adhesion standard, as per ICA 43 ii. Consignment accompanied with a PTC, as per ICA 43
Processing	<p>Movement of potatoes must comply with:</p> <ul style="list-style-type: none"> i. The soil adhesion standard, as per the ICA 43 ii. Sent to a PS 14 accredited processing facility iii. Consignment accompanied with a PTC, as per ICA 44 	<p>Movement of potatoes must adhere to:</p> <ul style="list-style-type: none"> i. ICA 44 – Potatoes from a PCN area <p>Movement of potatoes for intrastate distribution comply with:</p> <ul style="list-style-type: none"> i. The soil adhesion standard, as per ICA 43 ii. Sent to a PS 14 accredited facility iii. Consignment accompanied with a PTC, as per ICA 44
Earth Material & PCN Host Plants	<p>Removal of any earth material and PCN host plants is prohibited, unless:</p> <ul style="list-style-type: none"> i. Directed under a permit for Analytical purpose ii. Directed under a permit for stockfeed purpose 	<p>Removal of any earth material and PCN host plants is prohibited, unless:</p> <ul style="list-style-type: none"> i. Directed under a permit for Analytical purpose ii. Directed under a permit for stockfeed purpose iii. Part of the delinking process

³ Infested Land – PCN host material produced on infested land is regulated under the conditions specified in this document and restricted for distribution within Victoria only.

⁴ Currently called PS 43 – Ware Potatoes from Thorpdale but a submission has been put to the CSWG to have the procedure aligned with the RBRRM and renamed to and ICA 43.

Attachment 1 – Infested and Linked Land Conditions Schedule

<p>Agricultural Equipment</p>	<p>Agricultural equipment moved from infested to un-infested properties must be:</p> <ul style="list-style-type: none"> i. Cleaned to remove all earth material and PCN host plants ii. Accompanied by a PHC issued by DEPI following an inspection of the item <p>Agricultural equipment moved between infested and linked land must be:</p> <ul style="list-style-type: none"> i. Cleaned to remove all earth material and PCN host plants 	<p>Agricultural equipment moved from linked to non-linked properties must be:</p> <ul style="list-style-type: none"> i. Cleaned to remove all earth material and PCN host plants ii. Accompanied by a PHC issued by DEPI following an inspection of the item <p>Agricultural equipment moved between linked land must be:</p> <ul style="list-style-type: none"> i. Cleaned to remove all earth material and PCN host plants
<p>Used Packages</p>	<p>Movement of packages used to transport bulk material to packing/processing facilities, must be:</p> <ul style="list-style-type: none"> i. Transported in secure conditions to avoid spillage ii. To a PS 14 accredited facility iii. Consignment accompanied with a PTC, as per ICA 43 <p>Any other packages leaving the property must be:</p> <ul style="list-style-type: none"> i. Cleaned to remove earth material and organic matter ii. Accompanied by a PHC issued by DEPI 	<p>Movement of packages used for transport bulk material to packing/processing facilities, must be:</p> <ul style="list-style-type: none"> i. Transported in secure conditions to avoid spillage ii. To a PS 14 accredited facility iii. Consignment accompanied with a PTC, as per ICA 43 <p>Any other packages leaving the property must be:</p> <ul style="list-style-type: none"> i. Cleaned to remove earth material and organic matter ii. Accompanied by a PHC issued by DEPI
<p>Ornamentals (interstate)</p>	<p>Movement of ornamental stock grown on infested land must hold and active accreditation under:</p> <ul style="list-style-type: none"> i. Ground grown product is prohibited, and ii. PS 27 – Property Accreditation 	<p>Movement of ornamental stock(interstate) must adhere to:</p> <ul style="list-style-type: none"> i. PS 27 – Property Accreditation

Attachment 1 – Infested and Linked Land Conditions Schedule

<p>Ornamentals (intrastate)</p>	<p>Movement of ornamental stock grown on infested land must hold and active accreditation under:</p> <ul style="list-style-type: none"> i. PS 27 – Property Accreditation 	<p>Movement of ornamental stock must comply with the following:</p> <p>Potting stock and Advanced Containerised Trees, must:</p> <ul style="list-style-type: none"> i. Potted plants grown in a soil free potting media ii. Measures put in place to ensure growing material and pots do not come in direct contact with soil <p>Bare-Rooted Stock must be:</p> <ul style="list-style-type: none"> i. Washed practically free of soil ii. Not in direct contact with the ground post washing <p>Bulbs must be:</p> <ul style="list-style-type: none"> i. Brushed or washed free of soil ii. Packaged in new containers <p>Advance Trees grown in the ground must be:</p> <ul style="list-style-type: none"> i. Soil tested around the production area and found free of PCN prior to distribution/annually <p><i>Solanaceae</i> stock is not grown on the property</p>
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Model Legislation: Interstate Entry Requirements

The entry of potato cyst nematode host material into (insert State/Territory) is prohibited unless;

- (1) Potatoes for propagation/planting meet the requirements of the National Certified Seed Scheme or have VICSPA Accreditation and have accompanying Certified Seed Tags
 - a. In the case of one-off seed or potatoes for propagation/planting –
 - i. Tested and found free of potato cyst nematode during the current growing season
- (2) Ware and potatoes for Processing, were grown on, or sourced from a property that is not infested with potato cyst nematode or not linked to a property that has had detection of potato cyst nematode; or
- (3) Potatoes (ware and processing), root vegetables/bulbs on linked land are –
 - a. actively operating under an approved accreditation program
- (4) Agricultural equipment used on infested or linked land in the production of potatoes is –
 - a. free of soil and plant material; and
 - b. Sprayed with steam in all accessible areas to further ensure cleanliness from earth material and organic matter and decontamination from PCN, or
 - c. Any other treatment approved by the Chief Inspector
- (5) Nursery stock grown on infested land is –
 - a. Produced in accordance with an approved accreditation program, and
 - b. grown in soil-free media, and the plants, pots and potting mix have not been in contact with soil, and
 - c. Ground grown produce can't be consigned interstate.
- (6) Nursery stock grown on linked land is –
 - a. produced in accordance with an approved accreditation program, or
 - b. bare rooted, visually free of soil; or
 - c. grown in soil-free media, and the plants, pots and potting mix have not been in contact with soil.

Evidence Required: Potato cyst nematode host material prepared for interstate movement under Clauses 1(a)(i), 3 to 6 inclusive, must be accompanied by a Plant Health Assurance Certificate or Plant Health Certificate or National Certified Seed Tag

Definitions

“approved accreditation program” means an recognised operational agreement

“un-infested land” means any clearly defined paddock or area which is not infested or linked land.

“linked land” means land that –

- has been tested and found negative for potato cyst nematode during the current growing season in accordance with the National Potato Cyst Nematode (PCN) Testing Standard; and
- has been farmed with equipment used on known PCN infested land; or
- borders PCN infested areas; or
- receives direct drainage from PCN infested areas; or
- is currently or has previously been planted with seed sourced from PCN infested land or land exposed to PCN as a result of a regulatory violation.

“infested land” means any defined paddock or area which has had a positive PCN detection or untested linked land

“nursery stock” means all commercially produced plant life excluding potatoes

“root vegetables/bulbs” means all root vegetables including bulbs and corms