



Australian Government

Department of Agriculture, Fisheries and Forestry

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# Department of Agriculture, Fisheries and Forestry

## Submission to the Senate Legal and Constitutional Affairs Committee's Inquiry into the Law Enforcement Integrity Legislation Amendment Bill 2012

October 2012

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## Scope of DAFF Response

The Law Enforcement Integrity Legislation Amendment Bill 2012 introduces a range of measures which seek to prevent corruption in Commonwealth law enforcement agencies, and to enhance the response of law enforcement agencies in cases of suspected corruption.

The three key measures contained in the Bill are:

- the introduction of targeted integrity testing for the Australian Federal Police, the Australian Crime Commission, and the Australian Customs and Border Protection Service;
- extension of the jurisdiction of the Australian Commission for Law Enforcement Integrity to cover the Australian Transactions Reporting and Analysis Centre, the CrimTrac Agency, and prescribed staff members in the Department of Agriculture, Fisheries and Forestry; and
- the introduction of measures to bring the Australian Custom and Border Protection Service's powers to act against corruption and misconduct into line with those of the Australian Federal Police and the Australian Crime Commission.

The submission by the Australian Government Department of Agriculture, Fisheries and Forestry is focused on the following measure contained in the Bill:

- extension of the jurisdiction of the Australian Commission for Law Enforcement Integrity to cover the Australian Transactions Reporting and Analysis Centre, the CrimTrac Agency, and prescribed staff members in the Department of Agriculture, Fisheries and Forestry.

## DAFF Operating Context

DAFF works to sustain the way of life and prosperity of all Australians. We advise the government and our stakeholders how to improve the productivity, competitiveness and sustainability of our portfolio industries. We help people and goods move in and out of Australia while managing the risks to the environment and animal, plant and human health.

Our goals are :

**Resources** - Ensuring the sustainable use of natural resources

**Productivity** - Improving the competitiveness of portfolio industries

**Markets** - Enabling trade in goods

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The organisational structure of DAFF comprises 16 operating divisions, several overseas posts and five regional structures which substantially deliver biosecurity services. The range of biosecurity services is responsible for managing quarantine controls at Australia's borders to minimise the risk of exotic pests and diseases entering the country. The department also provides import and export inspection and certification to assure trading partners of Australia's highly favourable animal, plant and human health status, and to build and retain wide access to overseas export markets.

In 2011-12, the delivery of biosecurity, inspection and certification services comprised approximately 3,000 staff out of a total DAFF staff in the order of 4,500. DAFF's biosecurity staff are predominantly involved in regulation activities. Not all DAFF biosecurity staff have responsibilities for border control or have access to sensitive information or work in potentially high corruption risk environments. DAFF has approximately 1,000 biosecurity staff who operate directly on border compliance activities, including cargo operations, passenger clearance activities, international mail or freight clearance and commercial cargo clearance.

Business programmes within biosecurity divisions are responsible for the effective delivery of programme management, service delivery, influencing client compliance behaviour and reporting incidents of alleged breaches of legislation.

The primary legislation utilised by biosecurity divisions include the *Quarantine Act 1908*, *Export Control Act 1982*, *Imported Food Control Act 1992* and the *Australian Meat & Livestock Industry Act 1997*. Investigations which detect criminal offences which meet the *Prosecution Policy of the Commonwealth* are referred to the Commonwealth Director of Public Prosecution.

Departmental biosecurity officers do not have intrusive powers that have the potential to expose them to corrupt behaviour.

Biosecurity officers staff do not have:

- powers of arrest
- power to search individuals
- power to undertake intrusive processes

Biosecurity officers do not:

- routinely undertake surveillance activities
- routinely utilise informants
- carry firearms
- routinely handle or seize cash or any types of drugs.

The department has no evidence of widespread or systemic corruption within the organisation.

The department is currently in the process of developing new legislation to replace the *Quarantine Act 1908*. This change is likely to result in a slight expansion of enforcement activities which may result in civil proceedings. Draft legislation has been released for public comment, expected to close on 24 October 2012.

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## **DAFFs Contribution into the Law Enforcement Integrity Legislation Amendment Bill 2012**

The department has contributed to the Australian Government response to recommendations of the Parliamentary Joint Committee of the Australian Commission for Law Enforcement Integrity in the Final Report on the Inquiry into the Operation of the *Law Enforcement Integrity Commissioner Act 2006*.

The department has also participated in the Attorney-General's Department's (AGD) commissioned scoping study undertaken by Mr Ian Carnell AM '*The inclusion of AUSTRAC, CrimTrac and DAFF Biosecurity within the jurisdiction of ACLEI*'.

Senior departmental officers have liaised with counterparts from the Australian Commission for Law Enforcement Integrity (ACLEI) and the AGD on the recommendations of the finalised scoping study and the implementation of inter-agency supported policies and legislative amendments.

### **DAFF Comments in Relation to the Law Enforcement Integrity Legislation Amendment Bill 2012 and Associated Policies**

DAFF supports the implementation of measures proposed in the Bill which are intended to strengthen Commonwealth law enforcement agencies against the risk of infiltration and corruption.

DAFF emphasises that the extension of ACLEI jurisdiction to include limited DAFF officers is based on the potential corruption risk posed by the activities and locations where some DAFF officers work, not based on any systemic corruption within DAFF. The department has no evidence of widespread or systemic corruption within the agency.

Not all DAFF staff have responsibilities for border control, access to sensitive information or work in potentially high corruption risk environments. DAFF supports the proposed extent of prescribed staff members initially to those staff who perform functions in relation to border control and compliance activities. This approach aligns with the targeted waterfront focus announced by the Hon. Minister Jason Clare MP, Minister for Home Affairs and Minister for Justice.

Due to the complexity in biosecurity operations at the border, it will be necessary that DAFF is engaged in developing the regulations which identifies those classes of staff intended to be prescribed in ACLEI legislation.

DAFF supports a July 2013 implementation date as it will enable DAFF to continue undertaking interagency consultation and establish policies and procedures for the management and reporting of corruption as required under the proposed regime. DAFF expects that any future extension of the regime will be supported by a thorough corruption risk assessment, and supports an appropriate review.

The extension of ACLEI jurisdiction to include DAFF officers will have financial implications for the department. The ongoing financial impact on the department should be identified in the post implementation review.