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Biosecurity (Varroa Mite) Emergency Order (No. 47) 2023

under the

Biosecurity Act 2015

I, SHANE HETHERINGTON, Acting Chief Plant Protection Officer, with the delegated authority of the Secretary pursuant to section 379(1) of the *Biosecurity Act 2015* (**the Act**), make the following emergency order under Part 5 of the Act.

Dated this 27th day of September 2023

Time: 1130am

A handwritten signature in black ink, appearing to read 'S. D. Hetherington', with a stylized flourish at the end.

SHANE HETHERINGTON
Acting Chief Plant Protection Officer
Department of Primary Industries
Department of Regional NSW

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Part 1 Preliminary

1 Name of emergency order

This emergency order is the *Biosecurity (Varroa Mite) Emergency Order (No. 47) 2023*.

2 Commencement

This emergency order commences at the time a copy of the order is published in the NSW Government Gazette or on the Department's website, whichever occurs first.

3 Duration of emergency order [s 45(e), s 48]

This emergency order has effect until 22 December 2023.

4 Emergency zone [s 45(b), s 49]

- (1) The *Varroa mite management emergency zone*, as shown in orange on the map, are the areas:
 - (a) within a 10 kilometre radius of an infested premises, or
 - (b) not within a 10 kilometre radius of an infested premises, but:
 - (i) completely surrounded by areas that are within a 10 kilometre radius of an infested premises, or
 - (ii) surrounded on three sides by areas that are within a 10 kilometre radius of an infested premise and bounded on the fourth side by the coastline of New South Wales at mean low water.
- (2) The *Varroa mite suppression emergency zone*, as shown in green on the map, is the state of New South Wales, excluding the Varroa mite management emergency zone.

Notes.

Schedule 1 to this emergency order contains a copy of the map and is included for information purposes only.

5 Biosecurity matter and biosecurity risk [s 44(1), s 45(a)]

- (1) The biosecurity matter which is the subject of the biosecurity emergency is Varroa mite.
- (2) The biosecurity risk that is the subject of the biosecurity emergency is the risk of an adverse effect on the economy and the community that arises from the introduction, presence and spread of Varroa mite within the State.

6 Declaration of biosecurity emergency [s 44(1)]

A biosecurity emergency is declared commencing at the time this order commences and ending on 22 December 2023.

Note. A biosecurity emergency was declared by the *Biosecurity (Varroa Mite) Emergency Order 2022* dated 24 June 2022.

7 Grounds for Order [s 44(2)]

- (1) The basis for being satisfied that there is a current biosecurity risk arising from the presence of Varroa mite in the State, is:
 - (a) Varroa mite is prohibited matter throughout the State.
 - (b) On 22 June 2022, Varroa mite was detected at two properties in Mayfield and Mayfield West, City of Newcastle.
 - (c) On 24 June 2022, a biosecurity emergency was declared because of the biosecurity risk arising from the presence of Varroa mite within the State.
 - (d) Varroa mite has been detected at numerous properties in New South Wales, and it is suspected to be present at other properties across New South Wales.
 - (e) In December 2022, new infected premises were detected and testing and surveillance continued on suspect premises and trace premises and eradication continued on infected premises, making it necessary to extend the declaration of emergency for an additional 6 months.
 - (f) Since June 2023, targeted surveillance has continued to detect Varroa mite, and widespread treatment is still required to manage the risk of Varroa mite, making it necessary to extend the declaration of emergency for an additional 6 months.
- (2) Varroa mite is spread by bees, hives and apiary equipment that have been in contact with bees in the previous 10 days.
- (3) The basis for being satisfied that the biosecurity risk arising from the presence of Varroa mite in the State may have a significant biosecurity impact is that Varroa mite will have a significant economic impact on the beekeeping industry, which will in turn significantly impact pollination dependant industries and the production of horticulture in Australia.

8 Revocation of the Biosecurity (Varroa Mite) Emergency Orders 2023 [s 60(1)]

Biosecurity (Varroa Mite) Emergency Order (No. 46) 2023 dated 20 September 2023, published in the *NSW Government Gazette* No 428 of 20 September 2023 at pages 1 to 19 is revoked as is any emergency order revived because of this revocation.

9 Definitions

In this emergency order:

alcohol means 100% ethanol, isopropyl alcohol or methylated spirits.

alcohol washing means washing a sample of at least 300 bees from the brood box of a hive in alcohol to detach Varroa mites to inspect for the presence of Varroa mite.

apiary equipment means anything that has been used or is designed to be used in relation to the acquisition or keeping of bees, managing hives or for the extracting, processing, handling or storing of apiary products, but does not include:

- (a) a hive,
- (b) new apiary equipment that has never been in contact with bees, or
- (c) apiary equipment that has been treated using the irradiation treatment method and has not had contact with bees since that treatment.

Note. A number of items in this definition, including **hive** and **permitted bee feeder**, are separately defined in this clause.

apiary product means anything produced by bees and includes pollen collected by bees, but does not include:

- (a) honey that has been processed,
- (b) rendered beeswax, or
- (c) new beeswax foundation.

bee has the same meaning as in the Act.

bee-proof, in relation to a hive means securing a hive or components of a hive to ensure that that a bee from another hive cannot access the hive or hive component.

Note. Clause 13, Biosecurity Regulation 2017 provides that a person must ensure that any hive or other apiary equipment owned or operated by the person is protected so that a bee from another hive cannot take any honey that is in or on that hive or apiary equipment.

brood box means the component of the hive used by the queen to lay eggs for raising new bees and includes the frames.

destination location means the “destination location” noted in the hive movement form completed and provided to the Department.

empty honey super means a honey super empty of bees at any life stage and any debris and hive material that:

- (a) has been kept:
 - (i) in an enclosed, bee-proof space, for 21 days, or
 - (ii) in cold storage at -15 degrees Celsius or colder, for 72 hours, and
- (b) has had no subsequent contact with bees.

extract, in relation to honey, means the process of removing honey from honeycomb so that it is isolated in a liquid form.

hive means an artificial receptacle designed for housing living bees and includes the contents of the receptacle, but does not include:

- (a) a new hive that has never been in contact with bees, or
- (b) a hive that has been treated using the irradiation treatment method and has not had contact with bees since that treatment.

Note. A hive includes a nucleus beehive and a flow hive.

hive material includes honey, wax and any live or dead insect material contained in or on the honey super or any apiary equipment or that has leaked from the honey super or apiary equipment.

hive movement form means the hive movement form available at www.dpi.nsw.gov.au/varroa.

honey drum means a drum used for mass handling, transport and storage of up to 300 litres of honey.

honey super means the honey super component of the hive that is used to store a bee's honey and includes the frames and honey.

infested premises are premises where a mite species of the genus *Varroa* has been detected by either:

- (a) being observed by a person who is a technical expert, or a person who has undergone training by a technical expert in the field of identification of *Varroa* mite, or
- (b) diagnostic samples from a site have been received at a Department laboratory and confirmed positive by a diagnostician.

intermediate bulk container means an industrial-grade container engineered for the mass handling, transport and storage of up to 1000 litres of honey.

irradiation treatment method means treatment by irradiation at a gamma radiation dose of at least 10 kilo Gray.

map means the map published on the NSW Department of Primary Industries website at <https://www.dpi.nsw.gov.au/emergencies/biosecurity/current-situation/varroa-mite-emergency-response> when this order commences.

new beeswax foundation means a flat sheet of beeswax that:

- (a) is embossed with the shape of the base of the cell,
- (b) is manufactured either by casting or rolling,
- (c) has had any impurities removed and which was done in such a way that ensured that any *Varroa* mite, if present, would also be removed, and
- (d) has not been in contact with bees after its manufacture.

NSW means the State of New South Wales.

pail means an industrial-grade container engineered for the mass handling, transport and storage of up to 25 litres of honey.

permitted bee feeder means a device for feeding bees installed in or attached to a hive and that can only be accessed from inside that hive by the bees living in that hive that is:

- (a) new, or
- (b) has not had contact with bees in the 10 days before it is installed or attached.

Note. Sugar and sugar syrup left in the open for bees to access from other than a hive is not a permitted bee feeder.

person in charge, in relation to premises, an animal or thing includes:

- (a) the owner of the premises, animal or thing,
- (b) a person who has the premises, animal or thing in their possession, care, custody or control.

pick-up location means the “pick-up location” noted in the hive movement form completed and provided to the Department.

premises means:

- (a) a parcel of land,
- (b) several parcels of land which:
 - (i) are contiguous with one another or are separated from one another only by a road, river, creek or other watercourse, and
 - (ii) constitute or are worked as a single property, or
- (c) a single apiary site or apiary range, identified on the NSW Government BPass map at <https://bpass.dpi.nsw.gov.au/s/view-sites-public>.

processed, for honey, means:

- (a) honey that is for human consumption and suitable for retail sale or purchase at a food business, as defined in the *Food Act 2003*, section 6,
- (b) honey in an intermediate bulk container,
- (c) honey in a honey drum,
- (d) honey in a pail, and
- (e) any other honey that has been processed and packaged in such a way as to exclude Varroa mite.

qualified pest controller means the holder of a pest management technician licence issued by the Environment Protection Authority (NSW).

registered beekeeper means a person who has been granted biosecurity registration under Part 12 of the Act to engage in the registrable dealing of dealing with bees.

registered commercial beekeeper means a person who has been granted biosecurity registration under Part 12 of the Act to engage in the registrable dealing of dealing with bees, where that registration is a business registration, or a person who is registered to keep bees under a corresponding law (within the meaning of clause 1, Schedule 4 to the Act).

rendered beeswax means raw beeswax that has been rendered using water and has not been in contact with bees after its manufacture.

soapy water washing means washing a sample of at least 300 bees from the brood box of a hive in one of the following solutions to detach Varroa mites to inspect for the presence of Varroa mite:

- (a) 2 tablespoons (40 millilitres) of dishwashing soap in 3.5 litres of water, or
- (b) non-sudsy soapy water made using as automotive windshield washer fluid as per the manufacturer’s instructions.

sugar shake means shaking a sample of at least 300 bees from the brood box of a hive in fine sugar to dislodge Varroa mite to inspect for the presence of Varroa mite.

surveillance action means any of the following:

- (a) sugar shake,
- (b) soapy water washing,
- (c) alcohol washing, or
- (d) an authorised officer inserting miticide strips and sticky mats into a hive to dislodge Varroa mite onto the sticky mats for inspecting for the presence of Varroa mite in a laboratory.

the Act means the *Biosecurity Act 2015*.

Total Varroa mite online training is the online course located at <https://courses.tocal.nsw.edu.au/courses/varroa-mite-online-training>.

Varroa mite means *Varroa destructor*.

Varroa mite management emergency zone – see clause 4.

Varroa mite suppression emergency zone – see clause 4.

Part 2 Emergency measures – all emergency zones

10 Persons or class of persons to whom the measures in this Part apply [s 45(d)]

- (1) All persons in the Varroa mite suppression emergency zone and the Varroa mite management emergency zone must comply with and implement the emergency measures specified in this Part.
- (2) If this Part specifies that another person or class of persons must comply with and implement an emergency measure, then the measure only applies to that person or class of person.

11 Movement of bees and hives– movement declaration form [s 50, s 51(c)]

- (1) If this emergency order permits a person to move bees or hives, the person must comply with this clause.
- (2) A registered beekeeper must not move bees or hives and any bees housed within those hives unless the beekeeper has:
 - (a) completed the Tocal Varroa mite online training in the 12 months before the date of the movement, and
 - (b) completed at least one surveillance action in accordance with the general surveillance requirements in clause 12 and notified the Department in accordance with that clause.
- (3) A registered beekeeper who moves bees, hives or apiary equipment must:
 - (a) provide details of the movement to the Department by completing the hive movement form before the bees, hives or apiary equipment are moved,
 - (b) ensure the person transporting the bees, hives or apiary equipment has a copy of the hive movement form with all details completed, and
 - (c) retain details of the movement for 5 years.

- (4) The person transporting the bees, hives or apiary equipment must:
 - (a) have a copy of the hive movement form with the bees, hives or apiary equipment while they are in transit, and
 - (b) if requested by an authorised officer, produce the copy of the hive movement form to that authorised officer.

Note. A person may have and produce an electronic form of the hive movement form (section 10, *Electronic Transactions Act 2000*).

- (5) If after the registered beekeeper completes the hive movement form the proposed destination location changes, the registered beekeeper may proceed to the new destination using the completed hive movement form, but must, no later than 72 hours after reaching the new destination, provide to the Department a new hive movement form recording the new destination.

Note. Clause 13, Biosecurity Regulation 2017 provides that a person must ensure that any hive or other apiary equipment owned or operated by the person is protected so that a bee from another hive cannot take any honey that is in or on that hive or apiary equipment.

12 Testing and surveillance [s 50, s 51(a), (i)]

- (1) A person in charge of hives must comply with this clause unless an authorised officer has undertaken a surveillance action of the hives in the previous 16 weeks.
- (2) A person in charge of hives must:
 - (a) at least once every 16 weeks, complete a surveillance action on the hives and any bees housed in those hives in accordance with the general surveillance requirements, and
 - (b) no later than 7 days after completing the surveillance action, report the results of the surveillance action to the Department by electronic communication, using the form at www.dpi.nsw.gov.au/alcohol-wash.
- (3) If a person is in charge of hives at multiple premises, that person must satisfy the general surveillance requirements at each premises.
- (4) The person in charge must:
 - (a) keep the photographic record of the surveillance action for 5 years, and
 - (b) if requested by an authorised officer, provide a copy of the photographic record to the authorised officer.

- (5) In this clause:

general surveillance requirements means the person in charge of hives must:

- (a) carry out a surveillance action on the hives:
 - (i) if the person is in charge of less than 10 hives at a premises – on all hives, or
 - (ii) if the person is in charge of more than 10 hives at a premises – on the greater of 10 hives or 10 percent of the hives, and

- (b) report the results of the surveillance action to the Department by electronic communication, using the form at www.dpi.nsw.gov.au/alcohol-wash, and
- (c) make a record of each surveillance action which consists of a photograph that:
 - (i) is time and date stamped,
 - (ii) shows the approximate location of hives for which the surveillance action was conducted, and
 - (iii) shows the sample of bees on which the surveillance actions was conducted in the substance in which the action was completed.

13 Testing and surveillance by authorised officers and qualified pest controllers [s 50, s 51(a), (i), s 91(1)(a), s 122(1)(a)]

- (1) A person in charge of hives must not move, remove or interfere with any testing material or equipment placed in a hive by an authorised officer as part of surveillance for Varroa mite.
- (2) A person in charge of hives must not move, remove or interfere with any testing material or equipment the person was directed to place in the hive by an authorised officer as part of surveillance for Varroa mite.
- (3) An authorised officer or qualified pest controller is authorised to collect and move dead bees or a Varroa mite carrier for the purpose of undertaking diagnostic testing or any other testing.
- (4) Any dead bees or Varroa mite carriers that are moved under this clause must be double bagged or wrapped in a way that does not allow contact with bees and remains in that state until it reaches the place where the diagnostic testing or other testing is to be carried out.
- (5) An authorised officer is authorised to destroy bees in the process of undertaking testing that is a surveillance action.
- (6) In this clause, a *Varroa mite carrier* includes:
 - (a) apiary equipment,
 - (b) an apiary product, and
 - (c) a hive.

14 Treatment measures [s 50, s 51(e)]

If required by an authorised officer, a person in charge of bees and hives that are infested premises must:

- (a) permit an authorised officer to insert miticide strips into all hives in the person's care, custody or control, or
- (b) place miticide strips into all hives in the person's care, custody or control.

Note. The use of miticide strips in beehives is regulated by Australian Pesticides and Veterinary Medicines Authority Permit PER92635.

15 Destruction of bees and disposal of hives [s 50, s 51(l), s 55(1), s 91(1)(a), s 122(1)(a)]

An authorised officer is authorised to destroy any bees and any hive by:

- (a) euthanising the bees,
- (b) making the dead hive bee-proof,
- (c) cleaning the location of the hive at the premises to remove the dead bees and any apiary products,
- (d) burning or otherwise destroying the hive at the premises,
- (e) moving the hive to another premises and then burning or otherwise destroying the hive, and
- (f) any other destruction or disposal functions necessary to manage all hosts of Varroa mite and to prevent the survival of undetected hosts within the Varroa mite management emergency zone and Varroa mite suppression emergency zone.

16 Authorised officer authorisations [s 50, s 122(1)(a), s 131]

At any place in an emergency zone specified in this Order, an authorised officer is authorised to direct a person to:

- (a) stop a vehicle so that the authorised officer may inspect the vehicle and anything in it,
- (b) permit the authorised officer to inspect the vehicle and any thing in that vehicle, and
- (c) permit the authorised officer to inspect any fittings in the vehicle.

Part 3 Emergency measures - Varroa mite management emergency zone

17 Persons or class of persons to whom the measures in this Part apply [s 45(d)]

- (1) All persons in charge of bees, hives, apiary equipment or premises in the Varroa mite management emergency zone must comply with and implement the emergency measures specified in this Part.
- (2) If this Part specifies that another person or class of persons must comply with and implement an emergency measure, then the measure applies to that person or class of person.

18 Movement – bees, hives, permitted bee feeders [s 50, s 51(c)]

- (1) Unless otherwise permitted by this emergency order, a person must not move any bees, hives, apiary equipment or permitted bee feeders out of the Varroa mite management emergency zone.

- (2) If directed to do so by an authorised officer, a person may move any of the following out of the Varroa mite management emergency zone for the purposes of disposal or destruction:
 - (a) bees,
 - (b) a hive, or
 - (c) a permitted bee feeder.

19 Movement of apiary equipment [s 50, s51(c)]

A person may move apiary equipment out of the Varroa mite management emergency zone if the person:

- (a) cleans any hive material off the apiary equipment, and
- (b) ensures that the apiary equipment is free from live bees.

20 Movement of honey supers [s 50, s 51(a), (c)]

- (1) A person may move:
 - (a) a honey super within the Varroa mite management emergency zone for the purpose of honey extraction, or
 - (b) an empty honey super within the Varroa mite management emergency zone or into the Varroa mite suppression emergency zone.
- (2) Before moving a honey super that is not an empty honey super, the person in charge of the honey super must:
 - (a) take all practical measures to clear bees from the honey super before loading the honey super onto a vehicle for transport, and
 - (b) seal the honey super to make it bee-proof and prevent leakage of apiary product.
- (3) The person transporting a honey super or empty honey super under this clause must ensure that the honey super remains sealed or bee-proof until it reaches its destination.
- (4) After transporting the honey super, the person responsible for the transport must, before leaving the premises to which the honey super was transported:
 - (a) decontaminate the vehicle that was used to transport the honey super and any apiary equipment used for the extraction of honey that was on the vehicle when the honey super was transported or that may have otherwise had contact with bees or honey by:
 - (i) scraping and cleaning any hive material that has leaked from the honey super or apiary equipment,
 - (ii) placing that material into a disposable garbage bag which must be sealed and stored in a way that ensures that the contents of the bag do not come into contact with bees for 21 days, and

- (iii) removing any honey or wax from the interior or exterior of the vehicle by washing with warm, soapy water to remove honey and apiary product, and
 - (b) take all reasonable measures to ensure that any clothing worn by the person is free from bees and mites.
- (5) A honey super from which honey has been extracted may be:
 - (a) stored in a bee-proof manner,
 - (b) transported back to the same premises from which it was removed and placed on a hive at those premises, or
 - (c) if the honey super is an empty honey super, placed on any hive.

Notes.

1. Once a honey super has been stored in a bee-proof manner for 21 days or stored in cold storage at -15 degrees Celsius or colder, for 72 hours and has had no subsequent contact with bees, it becomes an empty honey super.
2. Clause 13 of the Biosecurity Regulation 2017 requires a person to ensure that any hive or other apiary equipment owned or operated by the person is protected so that a bee from another hive cannot take any honey that is in or on that hive or apiary equipment.

21 Movement of hives for irradiation [s 50, s 51(c)]

A person may move a hive within and out of the Varroa mite suppression emergency zone for the purpose of treatment using the irradiation treatment method if the hive:

- (a) has had no contact with bees for 21 days before the date of movement, and
- (b) is double bagged or wrapped in a way that does not allow contact with bees and remains in that state until it reaches the place at which the treatment will be conducted.

22 Notification of bees [s 50, s 51(a)]

- (1) A person in charge of any bees must notify the Department of the location of those bees.
- (2) Notifications under this clause must be made:
 - (a) by telephone, to the Exotic Plant Pest Hotline 1800 084 881, or
 - (b) by electronic transmission, using a form at the location www.dpi.nsw.gov.au/varroa.

Note. Under the Act Varroa mite is prohibited matter throughout the State. Section 30 of the Act imposes a biosecurity duty on the owner or person in charge of an animal or thing to immediately notify the Department if the person suspects the presence of prohibited matter in the State.

Notifications may be made by telephone to the Exotic Plant Pest Hotline 1800 084 881.

Part 4 Emergency measures – Varroa mite suppression emergency zone

23 Persons or class of persons to whom the measures in this Part apply [s 45(d)]

- (1) All persons in charge of bees, hives, apiary equipment or premises in the Varroa mite suppression emergency zone must comply with and implement the emergency measures specified in this Part.
- (2) If this Part specifies that another person or class of persons must comply with and implement an emergency measure, then the measure applies to that person or class of person.

Division 1 – General measures

24 Movement of bees, hives, apiary equipment and honey supers

A person may move bees, hives, apiary equipment and honey supers into, within and out of the Varroa mite suppression emergency zone if the person complies with this emergency order.

Note: Part 2 of this emergency order contains measures with which all persons must comply before moving bees, hives, apiary equipment and honey supers.

Division 2 – Infested premises within the Varroa mite suppression emergency zone

25 Persons or class of persons to whom the measures in this Division apply [s 45(d)]

All persons in charge of bees, hives, apiary equipment or premises in the Varroa mite suppression emergency zone that are infested premises must comply with and implement the emergency measures specified in this Division.

Note. Under the Act Varroa mite is prohibited matter throughout the State. Section 30 of the Act imposes a biosecurity duty on the owner or person in charge of an animal or thing to immediately notify the Department if the person suspects the presence of prohibited matter in the State.

Notifications may be made by telephone to the Exotic Plant Pest Hotline 1800 084 881.

26 Movement of bees and hives after treatment measures [s50, s51(c), (i)]

- (1) A registered beekeeper in the Varroa mite suppression emergency zone at premises that are infested premises may move bees and hives out of the Varroa mite suppression emergency zone if the beekeeper complies with this clause.
- (2) A registered beekeeper may move bees and hives if:
 - (a) the beekeeper has complied with the treatment measures in clause **Error! Reference source not found.**,
 - (b) an authorised officer advises the beekeeper that the bees and hives may be moved from the infested premises.
- (3) The person in charge of bees and hives must keep the miticide strips in the hives for a period:

- (a) no shorter than 42 days after the miticide strips are placed in the hive, and
- (b) no longer than 56 days after the miticide strips are placed in the hive.

Schedule 1 – Emergency Zones

