



<b>Part 1</b>	<b>Preliminary .....</b>	<b>3</b>
1	Name of emergency order .....	3
2	Commencement .....	3
3	Duration of emergency order .....	3
4	Emergency zone.....	3
5	Declaration of biosecurity emergency .....	3
6	Biosecurity matter and biosecurity risk.....	3
7	Grounds for emergency order .....	3
8	Definitions.....	4
9	Persons to whom this control order applies .Error! Bookmark not defined.	
<b>Part 2</b>	<b>Emergency Measures .....</b>	<b>5</b>
10	Movement of a fire ant carrier out of a fire ant movement control area .....	5
<b>Part 3</b>	<b>Authorised officer powers.....</b>	<b>6</b>
11	Authorised officer authorisations.....	6
<b>Schedule</b>	<b>Fire ant movement control area.....</b>	<b>7</b>

## Part 1 Preliminary

### 1 Name of emergency order

This emergency order is the *Biosecurity (Fire Ant – New South Wales) Emergency Order 2023*.

### 2 Commencement

This emergency order commences at the time a copy of the order is published on the Department's website or in the Gazette.

**Note.** The Secretary must give notice of this emergency order by causing a copy of the order to be published on the website of the Department or in the Gazette (or both).

### 3 Duration of emergency order

This emergency order has effect for a period of 6 months from the date the order is first published on the Department's website or in the Gazette.

**Note.** The Secretary must give notice of this emergency order by causing a copy of the order to be published on the website of the Department or in the Gazette (or both).

### 4 Emergency zone

The emergency zone in which the measures in this emergency order are to be implemented is the whole of the State of New South Wales (*Emergency Zone*).

### 5 Declaration of biosecurity emergency

A biosecurity emergency is declared commencing on the date this emergency order is first published and ending on 16 February 2024.

**Note.** A biosecurity emergency was declared by the Biosecurity (Fire Ant) Emergency Order dated 16 August 2023, published in NSW Government Gazette No. 358 of 16 August 2023.

### 6 Biosecurity matter and biosecurity risk

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

### 7 Grounds for emergency order

The basis for being satisfied that there is a current biosecurity risk that may have a significant biosecurity impact is as follows:

- (a) In July 2023 fire ants were detected in Tallebudgera, Queensland, within six kilometres of the New South Wales border. Between November 2022 and November 2023, fire ant nests (124 nests in total) were detected at 6 locations south of the area

in Queensland established as a biosecurity zone for fire ants under the *Biosecurity Act 2014 (Qld)* and within 18 km of the New South Wales border.

- (b) On 24 November 2023, fire ants were detected in South Murwillumbah in New South Wales.
- (c) Fire ants are prohibited matter throughout New South Wales, and it is an offence to deal with fire ants.
- (d) There is a current and imminent risk that fire ants will move, or be moved via fire ant carriers, into other parts of New South Wales.
- (e) The movement of fire ant carriers within New South Wales, through has the potential to spread fire ants into New South Wales.
- (f) The presence and spread of fire ants in New South Wales may have a significant biosecurity impact to the economy, the environment, and the community because of the ability of fire ant colonies to harm ecosystems, reduce crop yields, harm human health, damage infrastructure, and prevent the use of outdoor and amenity areas.

## 8 Definitions

In this emergency order:

***agricultural equipment*** means equipment or machinery used in agricultural production, cultivation, harvesting or processing that has had contact with a fire ant or fire ant carrier.

**Note.** ***Agricultural equipment*** includes a tractor, harvester (including a comb or front), planter, bin, and baler.

***compost*** means decayed organic matter used as a soil conditioner, fertiliser or growing media.

***earth moving equipment*** means equipment and machinery used for scraping, digging, levelling, or carrying soil and other soft materials that has had contact with a fire ant or fire ant carrier.

**Note.** ***Earth moving equipment*** includes a dozer, grader, excavator, dump truck, loader, trencher, compactor, scraper and backhoe.

***fire ant*** means the red imported fire ant *Solenopsis invicta*.

***fire ant carrier*** means any of the following carriers of fire ant:

- (a) organic mulch,
- (b) compost,
- (c) growing media,
- (d) manure
- (e) soil and anything with soil on it,
- (f) hay,
- (g) potted plants,
- (h) turf,
- (i) agricultural equipment,
- (j) earth moving equipment,

- (k) mining and quarrying materials,
- (l) grass,
- (m) park and garden vegetation and clippings.

***fire ant movement control area*** means any area, shown on the map in the Schedule to this order, within a 5-kilometre radius of the nests found at the points with the following GPS co-ordinates:

- (a) 28.33792, 153.41783,
- (b) 28.33783, 153.41768,
- (c) 28.33767, 153.41800,
- (d) 28.33775, 153.41699,
- (e) 28.33821, 153.41777,

***growing media*** means material used to grow plants by providing physical support to the plant, facilitating root growth, and delivering aeration, nutrients and water to the plant and includes potting mixes and manufactured soil products.

***hay*** means hay, straw, chaff and silage.

***manure*** means bulk manure from an animal used as a soil conditioner or fertiliser.

***mining and quarrying materials*** includes chitters, coal fines, coal stone, decomposed granite, sand, gravel and overburden.

***organic mulch*** means mulch made from plant materials and includes bark, wood chips, sugarcane, sawdust and bagasse.

***potted plant*** means a plant in a container that was grown or re-potted in growing media, and includes the container, the plant and the growing media, but does not include:

- (a) bare-rooted plants,
- (b) tissue culture, or
- (c) seedlings in plugs or cells used to grow or transport plants, with a volume of no more than 0.1 litres.

***the Act*** means the *Biosecurity Act 2015*.

## Part 2 Emergency Measures

### 9 Persons to whom the emergency measures in this part apply

The emergency measure in this Part apply to any person who deals with a fire ant carrier.

### 10 Movement of a fire ant carrier out of a fire ant movement control area

A person must not move a fire ant carrier out of the fire ant movement control area into the rest of the Emergency Zone.

## **Part 3      Authorised officer powers**

### **11      Persons to whom the emergency measures in this part apply**

The emergency measures in this Part apply to authorised officers.

### **12      Authorised officer authorisations**

- (1) An authorised officer is authorised to destroy a fire ant carrier.
- (2) An authorised officer is authorised to direct a person to destroy a fire ant carrier.
- (3) An authorised officer is authorised to move a fire ant carrier out of a fire ant movement control area for the purpose of undertaking diagnostic testing or any other testing.
- (4) At any place within the Emergency Zone, an authorised officer is authorised to issue an individual biosecurity direction in the case of an emergency to direct a person to:
  - (a) stop a vehicle so that the authorised officer may inspect the vehicle and anything in it or on it, and
  - (b) permit the authorised officer to inspect the vehicle and any thing in or on that vehicle.
- (5) An authorised officer is only authorised to exercise the powers set out in subclause (4) with respect to the fire ant biosecurity emergency to which this emergency order relates.

**Note.** Section 122(1)(a) of the Act provides that an authorised officer can include certain directions in an individual biosecurity direction in the case of an emergency. The directions that can be included in the case of an emergency are set out in section 131 of the Act and include, directing a person to stop a vehicle and permit the vehicle to be inspected for biosecurity matter or a carrier.

Section 128 of the Act sets out the circumstances in which an authorised officer can issue an individual biosecurity direction. The authorised officer can give a direction if the officer reasonably believes the direction is necessary for a number of purposes, including:

- (a) to prevent eliminate or minimise a biosecurity risk,
- (b) to prevent, manage or control a biosecurity impact that has occurred, is occurring or is likely to occur,
- (c) to prevent, eliminate, minimise or manage a biosecurity risk posed by a dealing of the person, or suspected dealing of the person, with biosecurity matter, a carrier or a potential carrier,
- (d) to enforce, administer or execute the Act and any instrument made under the Act (such as this emergency order).

Schedule Fire ant movement control area

