

Imported Food Control Amendment Regulations 2003 (No. 1) 2003 No. 325

EXPLANATORY STATEMENT STATUTORY RULES 2003 NO. 325

Issued by the authority of the Minister for Agriculture, Fisheries and Forestry
Imported Food Control Act 1992
Imported Food Control Amendment Regulations 2003 (No. 1)

Subsection 43(1) of the *Imported Food Control Act 1992* ("the Act") provides that the Governor-General may make regulations prescribing matters required or permitted to be prescribed by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the Act is to protect public health by ensuring that imported foods meet Australian food standards. This involves a range of measures, including the inspection and testing of imported foods. Costs for such inspection and testing services are recovered by charging fees, paid by the users of these services.

Subsection 36(1) of the Act provides that a person for whom a chargeable service is provided is liable to pay to the Commonwealth such amount ("the payable amount") in respect of the provision of that service as is prescribed. Subsection 36(2) provides that the payable amount in respect of a particular service must not exceed the direct and indirect costs that are properly attributed to the provision of that service in accordance with ordinary commercial principles.

Paragraph 33(1)(a) of the *Imported Food Control Regulations 1993* ("the Principal Regulations") provides that, for the purposes of section 36 of the Act, a person for whom there is provided a chargeable service referred to in column 2 of an item in Part 1 of Schedule 2 to the Principal Regulations is liable to pay to the Commonwealth the amount, or an amount calculated at the rate, specified in column 3 of that item for the provision of that service.

The purpose of the *Imported Food Control Amendment Regulations 2003 (No. 1)* ("the Amendment Regulations") is to decrease the amounts payable for three chargeable services in items 2, 3 and 5 of Part 1 of Schedule 2 to the Principal Regulations for a twelve-month period. The amendments are necessary to prevent an over-recovery of costs in the 2003-04 financial year. This over-recovery, which is increasing at the rate of \$1.3 million per month, is the direct result of the major and unanticipated increase in import volumes over the last couple of years.

The Australian Quarantine and Inspection Service (AQIS) business systems indicate that, compared with the 2001-02 financial year, the number of sea cargo containers coming into Australia increased by 20% in 2002-03 and by 52% in 2003-04 (to date). This unexpected growth in imports has meant that import clearance revenue in the 2002-03 financial year exceeded budget estimates by some 15 per cent, providing a surplus of \$9.789 million. At the same time, efficiencies gained in economies of scale and the ongoing adoption of more efficient inspection practices has meant that the AQIS has not had to increase its expenditure in proportion to the revenue collected through imports.

The fee reductions are a temporary measure that will apply for a twelve-month period from 12 January 2004 to 11 January 2005 inclusive. The reduced fees provide a benefit to industry in recognition of the over-recovery of costs by the Commonwealth.

The Regulations also make minor amendments to:

- redefine the entry management system used by AQIS and the Australian Customs Service, to allow the definition to apply irrespective of what that system is called; and
- refine the definition of "consignment" to reflect current practice.

Details of the Amendment Regulations are set out below:

Regulation 1 provides that the Amendment Regulations are named the *Imported Food Control Amendment Regulations 2003 (No. 1)*.

Regulation 2 provides that the Amendment Regulations commence on 12 January 2004.

Regulation 3 provides that Schedule 1 of the Amendment Regulations will amend the Principal Regulations.

Schedule 1 - Amendments

Item 1 inserts a new definition in Regulation 3 of the Principal Regulations for "Australian Customs Service entry management system". This amendment is needed as the "Joint Entry Management System" which is omitted in item 3 below is currently being redeveloped by the Australian Customs Service in conjunction with the Australian Quarantine and Inspection Service, and the new term provides a more generic description for the entry management system that will continue to be relevant irrespective of name changes to the system.

Item 2 amends the definition for "consignment" in Regulation 3 of the Principal Regulations by replacing the expression "single line import entry" with "single line in an import entry". This amendment is necessary, as the existing definition does not reflect current practice. An import entry may have multiple lines, with each line recording a separate consignment.

Item 3 removes the definition for "Joint Entry Management System", as described at Item 1, above.

Item 4 amends items 2 and 3 in Part 1 of Schedule 2 to the Principal Regulations by clarifying that the charging base of the services is "per import entry" and by creating reduced fees for the period 12 January 2004 to 11 January 2005 inclusive. These fee reductions will operate for the specified twelve-month period only.

Item 5 amends item 5 in Part 1 of Schedule 2 to the Principal Regulations by creating a reduced fee for the period 12 January 2004 to 11 January 2005 inclusive. This fee reduction will operate for the specified twelve-month period only.