EXPLANATORY STATEMENT

Select Legislative Instrument No. 54, 2014

Issued by Authority of the Minister for Agriculture

*Primary Industries (Customs) Charges Act 1999*

*Primary Industries (Customs) Charges Amendment (2014 Measures No. 1) Regulation 2014*

**Legislative Authority**

Section 8 of the *Primary Industries (Customs) Charges Act 1999* (the Act) provide that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed for carrying out or giving effect to the Act. The Act provides for the ability to impose charges on horticultural products.

**Purpose**

The purpose of the Regulation is to amend the statutory export charges as follows:

(1) for all hard onions produced in Australia:

* increase the research and development (R&D) charge from $1.60 per tonne to $2.90 per tonne;
* establish a charge for marketing and promotion at a rate of $1.00 per tonne;
* establish an Emergency Plant Pest Response (EPPR) charge set at zero; and
* establish a Plant Health Australia (PHA) membership charge set at $0.10 per tonne.

(2) for all mangoes produced in Australia:

* increase the EPPR charge from nil to 0.114 of a cent per kilogram; and
* establish a PHA membership charge set at 0.029 of a cent per kilogram.

**Background**

Levies and charges are introduced, administered and collected by the Australian Government at the request of industry. The Department of Agriculture disburses the funds collected from most of the R&D and marketing levies/charges to Horticulture Australia Limited (HAL), to PHA for funds collected from the biosecurity (PHA and EPPR) levies/charges, and to the National Residue Survey (NRS) program for funds collected from the NRS levies.

The peak industry bodies for: hard onions - Onions Australia (OA); and mangoes - the Australian Mango Industry Association (AMIA); have both lodged submissions requesting amendments to the existing levy and charge arrangements. These amendments are reflected in (1) and (2) above.

While the hard onion and mushroom submissions remain unchanged, mindful of the very marginal support from mango levy payers for these increases and a low participation rate in the ballot AMIA wrote to the Department asking for the changes in the biosecurity mango levies/charges, only, to be progressed.

HAL recommended the amendments to the hard onion charge and levy arrangements to the Minister after consultation with OA, as the eligible industry body. The Regulation gives effect to the recommendations of HAL, which are consistent with OA’s written submission.

**Impact and Effect**

The increased R&D levy and charge on hard onions would raise approximately $0.64 million annually. The additional R&D activities undertaken with these funds would be expected to attract up to $0.64 million of government matching funds subject to the prescribed cap for matched R&D funds (0.5 per cent of the gross value of production for the horticultural sector).

The new marketing and promotion levy and charge on hard onions would raise approximately $0.22 million annually. Horticulture Australia Limited (HAL) is the relevant industry services body for the administration of horticulture industry levies and charges for marketing and would manage monies collected from the marketing charge imposed on hard onion growers. With the funds HAL would provide marketing (and R&D) for the industry’s benefit.

The PHA charge on hard onions would help enable Onions Australia (OA) to meet its membership costs to PHA. The EPPR charge, set to zero, would be activated if necessary following an agreed nationally cost-shared response to an emergency plant pest incident affecting the hard onion industry. PHA membership and the ability to remain signatories of the EPPR Deed, provide valuable protection for the industry and individual onion growers.

The increased PHA and EPPR charges on mangoes would increase the total charge by 0.143 of a cent per kilogram which is an 8.1 per cent increase to the existing charge. The introduction of a PHA levy and charge will secure a funding base for the national peak representative industry body for mangoes, the Australian Mango Industry Association (AMIA) to pay its PHA membership subscription. With an activated EPPR levy and charge, AMIA will be able to accumulate funds, held by PHA, to contribute financially in the event of a nationally agreed cost-shared emergency response affecting the mango industry.

**Consultation**

The Department consulted the departments of the Prime Minister and Cabinet, Treasury, and Finance in preparing the Regulation with respect to hard onionsandmangoes. The Department also was in contact with OA, AMGA and AMIA throughout the period 2012 to 2014 to ensure the requested levy changes were still appropriate and needed.

The Office of Best Practice Regulation (OPBR) approved a Regulation Impact Statement for the hard onion levy/charge proposal (ID 14718). A copy of the Regulation Impact Statement is available from OBPR’s website at ris.finance.gov.au/category/primary-industries. With respect to mangoes, the OBPR was consulted in the preparation of the Regulation (ID 13478).

**Details/ Operation**

Details of the Regulation are set out in the Attachment A.

The Regulation is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in the Attachment B.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation is to commence on 1 July 2014.

**Attachment A**

**Details of the *Primary Industries (Customs) Charges Amendment (2014 Measures No. 1)***

***Regulation 2014***

Section 1 – Name of Regulation

This Section provides for the title of the Regulation to be the *Primary Industries (Customs) Charges Amendment (2014 Measures No. 1) Regulation 2014*.

Section 2 – Commencement

This Section provides for the Regulation to commence on 1 July 2014.

Section 3 – Authority

This Section provides for the legislative authority for making the Regulation as the *Primary Industries (Customs) Charges Act 1999*.

Section 4 – Schedule

This Section provides for the *Primary Industries (Customs) Charges Regulations 2000* to be amended as set out in Schedule 1.

Schedule 1 – Amendments

(Hard Onions)

**Item 1** corrects the heading of Clause 17.8 of Schedule 10 to EPPR charge. This clause relates to the imposition of an EPPR charge on vegetables.

**Item 2** inserts a new Division: Division 19.1 Product Charge.

**Item 3** amends the note to Clause 19.1 to reflect that Clause 19.2 is not intentionally used.

**Item 4** inserts a new Subclause 19.3 that sets the operative rate of the export charge for marketing at $1.00 per tonne of hard onions. The note states that charge is not payable if levy has already been paid on the products.

**Item 5** amendsSubclause 19.4 to set the operative rate of the export charge for R&D at $2.90 per tonne of hard onions replacing the current charge rate of $1.60.

**Item 6** inserts a new Division: Division 19.2 Special purpose charges, and inserts two new subclauses (19.6 and 19.7). Subclause 19.6 imposes a PHA charge on hard onions and sets the operative rate at 10 cents per tonne of hard onions. It also prescribes that the charge is payable by the producer of the hard onions. Subclause 19.7 imposes an EPPR charge on hard onions and sets the operative rate at $0.00 per tonne of hard onions. It also prescribes that the charge is payable by the producer of the hard onions.

(Mangoes)

**Item 7** inserts a new Subclause 21.5A that imposes a PHA charge on mangoes and sets the operative rate of the PHA membership charge at 0.029 of a cent per kilogram of mangoes. It also prescribes that the charge is payable by the producer of the mangoes.

**Item 8** changes (Part 21 of Schedule 10, item 21.6(2)) the operative rate of EPPR charge from nil to 0.114 of a cent per kilogram of mangoes.

**Attachment B**

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

***Primary Industries (Customs) Charges Amendment (2014 Measures No. 1) Regulation 2014***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

The purpose of the Regulation is to amend the statutory charges on hard onions and mangoes. The increases in the hard onion charges for marketing and R&D will provide sufficient funding for long-term needs and priorities identified in the industry strategic plan. The new Plant Health Australia (PHA) hard onion and mango charges will secure a funding base for the national peak representative industry body for hard onions and mangoes to pay industries’ PHA membership subscriptions. With an activated Emergency Plant Pest Response (EPPR) levy, the hard onion and mango industries will be able to accumulate funds, held by PHA, to contribute financially in the event of a nationally agreed cost shared emergency response affecting their industry.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon. Barnaby Joyce MP**

**Minister for Agriculture**