

## **EXPLANATORY STATEMENT**

### **SELECT LEGISLATIVE INSTRUMENT NO. 13, 2015**

Issued by the Authority of the Minister for Immigration and Border Protection

*Customs Act 1901*

*Customs (Prohibited Exports) Amendment (Chemicals)  
Regulation 2015*

Subsection 270(1) of the *Customs Act 1901* (the Act) provides, in part, that the Governor-General may make regulations not inconsistent with the Act prescribing all matters which by the Act are required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to the Act or for the conduct of any business relating to Customs.

In particular, section 112 of the Act allows the Governor-General to make regulations which prohibit the exportation of goods from Australia.

Regulation 4A of the *Customs (Prohibited Exports) Regulations 1958* (the Principal Regulations) prohibits the exportation of chemicals mentioned in Schedule 2 of those regulations unless written permission has been granted:

- under the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995* for chemicals which are an active constituent or chemical product as defined in the *Agricultural and Veterinary Chemicals Code Act 1994*; or
- in any other case by the Minister for Agriculture or an authorised officer of the Department of Agriculture, and

the permission is produced to a Collector of Customs.

This Regulation adds a pesticide chemical, azinphos-methyl (Chemical Abstracts Service (CAS) Registry Number 86-50-0), to Schedule 2 of the Principal Regulations to regulate its exportation from Australia under regulation 4A.

In 2013, azinphos-methyl (CAS Registry Number 86-50-0), was added to Annex III of the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade* (the Rotterdam Convention).

The Rotterdam Convention (to which Australia is a party) is an international treaty promoting shared responsibility and cooperative efforts in the international trade of certain hazardous chemicals. Annex III chemicals are subject to the Convention's Prior Informed Consent Procedure, which provides for information exchange

regarding the import and export of those chemicals. It aims to ensure that countries do not export listed chemicals to other countries that have not provided their consent to receive them. It does not require chemicals to be banned or phased out and does not alter domestic regulatory decisions on the chemicals.

To ensure Australia meets its obligations under the Rotterdam Convention, this Regulation adds azinphos-methyl (CAS Registry Number 86-50-0) to Schedule 2 of the Principal Regulations to regulate its exportation from Australia.

The Regulation commences on the day after it is registered on the Federal Register of Legislative Instruments.

No formal consultation was undertaken in relation to the Regulation as it is minor or machinery in nature and does not substantially alter existing arrangements.

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

OPC60991-C

## **Statement of Compatibility with Human Rights**

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

### ***Customs (Prohibited Exports) Amendment (Chemicals) Regulation 2015***

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

#### *Overview of the Regulation*

The Regulation adds a pesticide chemical, azinphos-methyl (Chemical Abstracts Service (CAS) Registry Number 86-50-0), to Schedule 2 of the *Customs (Prohibited Exports) Regulations 1958*. This will regulate its exportation from Australia under regulation 4A and ensure that Australia meets its obligations under the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*.

#### *Human Rights implications*

This legislative instrument does not engage, impact on or limit in any way, the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights at section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### *Conclusion*

This legislative instrument does not raise any human rights issues.

**Minister for Immigration and Border Protection**