

Imported Food Charges (Imposition—Customs) Regulation 2015

Select Legislative Instrument No. 192, 2015

I, General the Honourable Sir Peter Cosgrove AK MC (Ret’d), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 26 November 2015

Peter Cosgrove

Governor‑General

By His Excellency’s Command

Barnaby Joyce

Minister for Agriculture and Water Resources

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Part 1—Preliminary

1 Name

This is the *Imported Food Charges (Imposition—Customs) Regulation 2015*.

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | 1 December 2015. | 1 December 2015 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Imported Food Charges (Imposition—Customs) Act 2015*.

4 Simplified outline of this instrument

This instrument prescribes the following:

(a) charges in relation to certain matters connected with the administration of the *Imported Food Control Act 1992*;

(b) the persons who are liable to pay the prescribed charges;

(c) exemptions from the prescribed charges.

The prescribed charges are imposed as taxes (see the *Imported Food Charges (Imposition—Customs) Act 2015*).

This instrument prescribes a charge only so far as that charge is a duty of customs within the meaning of section 55 of the Constitution. To the extent that the charge is neither a duty of customs nor a duty of excise, it is prescribed by the *Imported Food Charges (Imposition—General) Regulation 2015*.

5 Definitions

In this instrument:

***Act*** means the *Imported Food Charges (Imposition—Customs) Act 2015*.

***compliance agreement*** has the same meaning as in the *Imported Food Control Act 1992*.

***imported food matter*** means a matter connected with the administration of the *Imported Food Control Act 1992*.

Part 2—Charges

6 Charges for imported food matters

For subsection 6(1) of the Act, the charge in relation to an imported food matter referred to in column 1 of an item in the following table is the amount set out in column 2 of the item.

| Charges | | |
| --- | --- | --- |
| Item | Column 1 Imported food matter | Column 2 Amount |
| 1 | Application to enter into a compliance agreement | $180 |
| 2 | Development and management of arrangements for the performance of activities by a person on behalf of the Commonwealth in accordance with a compliance agreement | For each financial year, or part of a financial year, during which the compliance agreement is in force:  (a) if the compliance agreement was in force on or before 1 January in the financial year—$2 900; or  (b) if the compliance agreement is entered into after 1 January in the financial year—$1 450 |

Note: A person may be exempt from liability to pay a prescribed charge (see section 7).

7 Persons liable to pay charges

For section 8 of the Act, the persons who are liable to pay the charge in relation to an imported food matter prescribed by an item of the table in section 6 of this instrument are as follows:

(a) in relation to the imported food matter prescribed by item 1—the person who made the application to which the charge relates;

(b) in relation to the imported food matter prescribed by item 2—the person with whom the Commonwealth has entered into the compliance agreement to which the charge relates.

Note: An agent of a person who is liable to pay a charge under this section is jointly and severally liable with that person to pay the charge (see section 6 of the *Imported Food Charges (Collection) Regulation 2015*).

8 Exemptions from charges

(1) For section 9 of the Act, a person is not liable to pay the charge prescribed by item 1 of the table in section 6 of this instrument in relation to an application to enter into a compliance agreement if the person:

(a) is a party to another compliance agreement in force under section 35A of the *Imported Food Control Act 1992*; or

(b) is a party to a compliance agreement in force under section 66B of the *Quarantine Act 1908*; or

(c) is the holder of an approval in force under section 46A of the *Quarantine Act 1908*.

(2) For section 9 of the Act, a person is not liable to pay the charge prescribed by item 2 of the table in section 6 of this instrument for a financial year, or a part of a financial year, in relation to a compliance agreement if the person has paid any of the following:

(a) the charge prescribed by item 2 of the table in section 6 of this instrument for that financial year, or that part of the financial year, in relation to another compliance agreement;

(b) the charge prescribed by item 2 of the table in section 6 of the *Imported Food Charges (Imposition—General) Regulation 2015* for that financial year or that part of the financial year, in relation to another compliance agreement;

(c) the charge prescribed by item 13 or 15 of the table in section 6 of the *Quarantine Charges (Imposition—Customs) Regulation 2014* for that financial year or that part of the financial year;

(d) the charge prescribed by item 13 or 15 of the table in section 6 of the *Quarantine Charges (Imposition—General) Regulation 2015* for that financial year or that part of the financial year.

Part 3—Application and transitional provisions

9 Transitional provisions relating to new charges

(1) The charge prescribed by item 1 of the table in section 6 applies in relation to an application to enter into a compliance agreement that is made on or after 1 December 2015.

(2) If:

(a) a person is liable to pay the charge prescribed by item 2 of the table in section 6 of this instrument in relation to a compliance agreement for the financial year ending on 30 June 2016; and

(b) the person had, before 1 December 2015, paid the fee referred to in item 6 of Part 2 of Schedule 2 to the *Imported Food Control Regulations 1993*, as in force immediately before 1 December 2015, in relation to that compliance agreement for the financial year ending on 30 June 2016;

then the person is taken to have paid the charge prescribed by item 2 of the table in section 6 of this instrument in relation to that compliance agreement for that financial year.

(3) If:

(a) an application to enter into a compliance agreement is made on or after 1 December 2015 and before 1 January 2016; and

(b) the compliance agreement is entered into on or before 1 January 2016;

then item 2 of the table in section 6 has effect in relation to the compliance agreement and the financial year ending on 30 June 2016 as if the amount of $2 900 were omitted from paragraph (a) of column 2 of that item and the amount of $1 450 were substituted.

10 Repeal of this Part

This Part is repealed at the start of 1 July 2016.