

EXPLANATORY STATEMENT

SELECT LEGISLATIVE INSTRUMENT No. 239, 2015

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

Customs Act 1901

Customs Amendment (Fees and Charges) Regulation 2015

The *Customs Act 1901* (the Act) concerns customs related functions and is the legislative authority that sets out the customs requirements for the importation, and exportation, of goods to and from Australia.

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

The purpose of the *Customs Amendment (Fees and Charges) Regulation 2015* (the amending Regulation) is to amend the *Customs Regulation 2015* (the Customs Regulation) as a consequence of amendments to the Customs Act by the *Customs Amendment (Fees and Charges) Act 2015*, and amendments to the *Customs Depot Licensing Charges Act 1997* by the *Customs Depot Licensing Charges Amendment Act 2015* the (the Amendment Acts).

The Amendment Acts give effect to recommendations made by the *Joint Review of Border Fees, Charges and Taxes*. The Joint Review identified and recommended to Government how charging arrangements could be improved to better support future border operations and industry outcomes. In particular, the Amendment Acts consolidate the imposition of charges payable in relation to warehouse licences and customs broker licences into the *Customs Depot Licensing Charge Act 1997*.

However, the provisions relating to how and when the licence charges are to be paid, or refunded, will remain in the Customs Act.

New section 85A of the Customs Act provides that the warehouse licence charge in respect of the grant or renewal of a warehouse licence must be paid in accordance with the regulations. The amending Regulation inserts a new section 35 of the Customs Regulation which sets out these circumstances for the purposes of section 85A in respect of the grant of a warehouse licence. The amending Regulation inserts a new section 36 of the Customs Regulation which sets out these circumstances for the purposes of section 85A in respect of the renewal of a warehouse licence.

New section 87A of the Customs Act authorises the refund of the warehouse licence charge where a warehouse licence is cancelled during its term, and provides for the amount of the refund to be worked out in accordance with the regulations. The

amending Regulation inserts a new section 37 of the Customs Regulation which sets out how the amount of the refund is calculated for the purposes of section 87A.

The amending Regulation also repeals sections 115 and 116 of the Customs Regulation. These sections prescribed the amounts of fees associated with the granting and renewal of a customs broker licence. As these fees are to be imposed as charges under the *Customs Depot Licensing Charge Act 1997*, these sections are now redundant.

There was significant industry engagement and consultation during the Fees Review throughout 2014-15. It included:

- a) The publication of an Industry Consultation Paper.
- b) The publication of Position Papers which addressed key issues raised in submissions.
- c) Workshop sessions with industry to discuss the Position Papers.
- d) Publication of the outcomes from the 2015-16 Budget in the form of external fact sheets, advising the public of the scope of the changes agreed to by Government.
- e) Once the comprehensive review of the licensing cost base was completed, the outcomes were shared with industry through information sessions, and industry was invited to provide feedback.

An interdepartmental committee was also established to undertake consultation across the Commonwealth and included all central agencies and impacted agencies.

The Amendment Regulation commences at the same time as Schedule 1 to the *Customs Amendment (Fees and Charges) Act 2015* (the Fees and Charges Amendment Act). The Fees and Charges Amendment Act is expressed to commence on 1 January 2016.

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Statement of Compatibility with Human Rights

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

Customs Amendment (Fees and Charges) 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 purpose of the *Customs Amendment (Fees and Charges) Regulation 2015* (the amending Regulation) is to amend the *Customs Regulation 2015* (the Customs Regulation) as a consequence of amendments to the Customs Act by the *Customs Amendment (Fees and Charges) Act 2015*, and amendments to the *Customs Depot Licensing Charges Act 1997* by the *Customs Depot Licensing Charges Amendment Act 2015* (the Amendment Acts).

The Amendment Acts give effect to recommendations made by the *Joint Review of Border Fees, Charges and Taxes*. In particular, the Amendment Acts consolidate the imposition of charges payable in relation to warehouse licences and customs broker licences into the *Customs Depot Licensing Charge Act 1997*.

The amending Regulation inserts a new section 35 of the Customs Regulation which sets out these circumstances in which a charge for the grant of a warehouse licence for the purposes of section is payable. The amending Regulation inserts a new section 36 of the Customs Regulation which sets out these circumstances in which the charge for the renewal of a warehouse licence is paid. The amending Regulation inserts a new section 37 of the Customs Regulation which sets out how the amount of the refund of the warehouse licence charge where a warehouse licence is cancelled during its term is calculated. The amending Regulation also repeals redundant sections of the Customs Regulations in relation to customs broker licences.

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

