

EXPLANATORY STATEMENT

SELECT LEGISLATIVE INSTRUMENT No. 221, 2015

Issued by Authority of the Minister for Agriculture and Water Resources

Primary Industries (Customs) Charges Act 1999

*Primary Industries (Customs) Charges Amendment (Sweet Potatoes and Chestnuts)
Regulation 2015*

Section 8 of the *Primary Industries (Customs) Charges Act 1999* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or that are necessary or convenient for carrying out or giving effect to the Act.

The purpose of the *Primary Industries (Customs) Charges Amendment (Sweet Potatoes and Chestnuts) Regulation 2015* (the Regulation) is to introduce a new export charge on sweet potato growers for the purpose of undertaking marketing through Horticulture Innovation Australia Limited (HIA Ltd), and increase the Emergency Plant Pest Response (EPPR) levy on chestnuts.

Previously there was no Australian Government marketing levy or charge on sweet potatoes. Part 17 of Schedule 10 of the *Primary Industries (Customs) Charges Regulation 2000* had provided for a vegetable research and development (R&D), a Plant Health Australia (PHA) and an Emergency Plant Pest Response (EPPR) component of levy/export charge, which included sweet potatoes as a chargeable vegetable. Sweet potatoes are now a separate chargeable horticultural commodity with R&D and marketing component of charge and scope for a PHA and an EPPR component of charge.

HIA Ltd is the relevant industry services body for the administration of the sweet potato industry levies and charges for marketing and is the body to manage moneys collected from these levies and charges imposed on sweet potato growers. HIA Ltd co-ordinates marketing programs for most horticultural industries. The Regulation implements an export charge, to be paid to HIA Ltd, on fresh sweet potatoes at a rate of charge of one per cent (1%) of the free on board value of the sweet potatoes immediately before export. The sweet potato marketing charge and levy are expected to raise approximately \$800 000 annually.

The Regulation specifies that the Australian Sweetpotato Growers Inc (ASPG) is the eligible peak industry body with which HIA Ltd, the relevant industry services body, must consult with ASPG in relation to the sweet potato marketing charge.

The Regulation also increases the rate of the EPPR component of the export charge for chestnuts from nil to \$10 per tonne. Chestnuts Australia Incorporated (CAI), the peak national industry body for the chestnut industry, is a signatory to the Emergency Plant Pest Response Deed (EPPRD). The EPPRD is a legally binding agreement between the Australian Government, state and territory governments and industry signatories, for the management and funding of emergency response to plant pest incursions.

ASPG undertook a thorough consultation process for the new levy/charge on sweet potatoes to fund marketing activities. A ballot was conducted by the Australian Electoral Commission and resulted in a strong vote in favour of the proposal (80 per cent of potential levy payers participated and 92.5 per cent (62 votes) of these were in support put to ballot).

EPPR levies provide a mechanism for industry to meet its financial obligations for national cost-shared emergency responses under that agreement if the need arises. CAI requested the increase to the EPPR levies on chestnut in order to repay costs incurred as part of an emergency response to chestnut blight in Victoria. Majority industry support was demonstrated for the increase.

The Department of Agriculture and Water Resources consulted the departments of the Prime Minister and Cabinet, Treasury, and Finance and Deregulation in preparing the Regulation. The Office of Best Practice Regulation (OBPR) approved a Regulation Impact Statement (ID 14851). A copy is available from OBPR's website at ris.dpmc.gov.au/category/primary-industries.

Details of the Regulation are set out in [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*.

Details of the *Primary Industries (Customs) Charges Amendment (Sweet Potatoes and Chestnuts) Regulation 2015*

Section 1 – Name of Regulation

This Section provides that the name of the Regulation is the *Primary Industries (Customs) Charges Amendment (Sweet Potatoes and Chestnuts) Regulation 2015*.

Section 2 – Commencement

This Section provides for the Regulation to commence on 1 January 2016.

Section 3 – Authority

This Section provides that the Regulation is made under the *Primary Industries (Customs) Charges Act 1999*.

Section 4 – Schedules

This Section provides that the Regulation is amended as set out in the Schedules.

Schedule 1 – Amendments relating to sweet potatoes

This Section provides for the *Primary Industries (Customs) Charges Regulations 1999* to be amended as set out in Schedule 1.

Item 1 inserts in clause 1.1 of Schedule 10 a definition for “sweet potato” to mean the starchy, tuberous roots of the genus and species known as *Ipomoëa batatas*.

Item 2 deletes “(other than sweet potatoes)” from the definition of what horticulture produce are not vegetables at paragraph 17.1(g) of Schedule 10, after potatoes.

Item 3 inserts “(ha) sweet potatoes; or” to the definition of vegetables after paragraph 17.1(h) of Schedule 10 of the Act.

Item 4 inserts a new Part 30 about sweet potatoes into Schedule 10 to the *Primary Industries (Customs) Charges Regulations 2000*.

Subclause 30.1 provides that sweet potatoes are a chargeable horticultural product for the purposes of the definition in clause 1 of Schedule 10 to the *Primary Industries (Customs) Charges Act 1999*.

Subclause 30.2 sets an initial operative rate of marketing charge on sweet potatoes of one per cent (1%) of the free on board value of the sweet potatoes immediately before export.

Subclause 30.3 sets an operative rate of research and development levy on sweet potatoes of 0.485 per cent (0.485%) of the free on board value of the sweet potatoes immediately before export.

Subclause 30.4(1) provides for the marketing component of charge for sweet potatoes, the Australian Sweetpotato Growers' Inc are the eligible industry body.

Subclause 30.4(2) provides for the research and development, Plant Health Australia and EPPR components of charge for sweet potatoes, Ausveg Limited is the eligible industry body.

Subclause 30.5 sets an operative rate of Plant Health Australia charge on sweet potatoes of 0.0150 per cent (0.0150%) of the free on board value of the sweet potatoes immediately before export.

Subclause 30.6 sets an operative rate of Emergency Plant Pest Response charge on sweet potatoes of nil (0%) of the free on board value of the sweet potatoes immediately before export.

Schedule 2 – Amendments relating to Chestnuts

This Section provides for the *Primary Industries (Customs) Charges Regulations 1999* to be amended as set out in Schedule 2.

Item 1 deletes “nil” and substitutes “\$10 per tonne of chestnuts” at Subclause 6.7(2) of Schedule 10. This change would increase the operative rate of Emergency Plant Pest Response charge on chestnuts and increase the overall levy rate to 11 cents per kilogram (\$110 per tonne of chestnuts).

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 (Sweet Potatoes) Regulation 2015

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 introduce a new export charge on sweet potato growers for the purpose of undertaking marketing through Horticulture Innovation Australia Limited and increase the operative rate of Emergency Plant Pest Response levy on chestnuts.

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.

Senator the Hon. Anne Ruston
Parliamentary Secretary to the Minister for Agriculture and Water Resources