

## **EXPLANATORY STATEMENT**

Issued by Authority of the Deputy Prime Minister and Minister for Agriculture and Water Resources

*Administrative Decisions (Judicial Review) Act 1977*  
*Aviation Transport Security Act 2004*  
*Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*  
*Civil Aviation Act 1988*  
*Customs Act 1901*  
*Electronic Transactions Act 1999*  
*Fisheries Management Act 1991*  
*Gene Technology Act 2000*  
*Imported Food Charges (Imposition—Customs) Act 2015*  
*Imported Food Charges (Imposition—General) Act 2015*  
*Legislation Act 2003*  
*Maritime Powers Act 2013*  
*Maritime Transport and Offshore Facilities Security Act 2003*  
*National Health Act 1953*  
*National Health Security Act 2007*  
*Quarantine Act 1908*  
*Quarantine Charges (Collection) Act 2014*  
*Quarantine Charges (Imposition—Customs) Act 2014*  
*Quarantine Charges (Imposition—General) Act 2014*  
*Torres Strait Fisheries Act 1984*

*Biosecurity (Consequential Amendments and Transitional Provisions) Regulation 2016*

### **Legislative background**

The *Administrative Decisions (Judicial Review) Act 1977* (the ADJR Act) provides for review of certain administrative decisions (on questions of law) by either the Federal Court or Federal Circuit Court. Subsection 13(8) of the ADJR Act provides that regulations under the ADJR Act may declare a class or classes of decisions to be decisions that are not decisions to which this section applies.

The *Aviation Transport Security Act 2004* (the Aviation Transport Security Act) safeguards against unlawful interference with aviation, and for other purposes. Section 133 of the Aviation Transport Security Act provides for regulations to be made prescribing matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out of giving effect to that Act.

The *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015* (Biosecurity Consequential Amendments and Transitional Provisions Act) deals with consequential and transitional matters arising from the enactment of the *Biosecurity Act 2015* (Biosecurity Act), and for related purposes. Item 84 of Schedule 4 to the Biosecurity Consequential Amendments and Transitional Provisions Act provides that regulations may be made prescribing matters that are of a transitional nature (including prescribing any saving or application provisions) and relate to amendments or repeals made by that Act or the enactment of the Biosecurity Act.

As the regulation-making provisions of the Biosecurity Consequential Amendments and Transitional Provisions Act commence on 16 June 2016, section 4 of the *Acts Interpretation Act 1901* is relied upon to make this regulation before the commencement date.

Section 4 of the *Acts Interpretation Act 1901* provides that, where an Act would confer a power to make a legislative instrument, that power may be exercised before the commencement of the Act as if the relevant commencement had occurred.

The *Civil Aviation Act 1988* (the Civil Aviation Act) establishes the Civil Aviation Safety Authority with functions relating to civil aviation, in particular the safety of civil aviation, and for related purposes. Paragraphs 98(1)(a) and (b) of the Civil Aviation Act provide for regulations to be made that are not inconsistent with that Act, to prescribe matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

The *Customs Act 1901* (the Customs Act) provides for matters relating to customs, including the control of goods that are imported into or exported from Australia, and for related purposes. Section 270 of the Customs Act provides for regulations to be made that are not inconsistent with that Act, prescribing all matters which by that Act are required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to that Act.

Paragraph 64AF(5)(b) of the Customs Act provides that an authorised officer must only access an operator's passenger information for the purposes of performing his or her functions in accordance with a law of the Commonwealth prescribed by regulations for the purposes of that paragraph.

Paragraph 163(1)(b) of the Customs Act provides that refunds, rebates and remissions of duty under the Customs Act may be made in such circumstances, and subject to such conditions and restrictions (if any) as prescribed in the regulations.

Subparagraph 186A(1)(b)(ii) of the Customs Act provides that an officer of Customs may make a copy of, or take an extract from, the document, or arrange for another officer of Customs or other person having the necessary experience, to make such a copy or take such an extract if a document is examined under section 186 or 186AA of the Customs Act and as a result of that examination, an officer of Customs is satisfied that the document or part of the document may contain information relevant to the commission or attempted commission of any offence against a prescribed Act.

The *Electronic Transactions Act 1999* (the Electronic Transactions Act) facilitates electronic transactions, and related matters. Subsection 7A(2) of the Electronic Transactions Act provides that regulations may provide that all or specified provisions of that Act do not apply to specified laws of the Commonwealth.

The *Fisheries Management Act 1991* (the Fisheries Management Act) gives effect to the Government's policies with respect to Commonwealth fisheries management. Paragraph 54(1)(d) of Schedule 1A to the Fisheries Management Act provides that the Australian Fisheries Management Authority (AFMA) may authorise, in writing, the disclosure of

identifying information of the kind specified in the authorisation to Commonwealth bodies prescribed in the regulations.

The *Gene Technology Act 2000* (the Gene Technology Act) regulates activities involving gene technology and related matters. Paragraphs 50 (3)(c) and 52 (3)(c) of the Gene Technology Act provide that the regulator under the Gene Technology Act must seek advice on matters relevant to the preparation of a risk assessment and risk management plan with Commonwealth authorities and agencies prescribed by the regulations.

The *Imported Food Charges (Imposition–Customs) Act 2015* (Imported Food Charges (Imposition–Customs) Act) and the *Imported Food Charges (Imposition–General) Act 2015* (Imported Food Charges (Imposition–General) Act) impose, as taxes, charges in relation to matters connected with the administration of the *Imported Food Control Act 1992* and for related purposes. Section 9 of the Imported Food Charges (Imposition–Customs) Act and Section 9 of Imported Food Charges (Imposition–General) provide that regulations under those Acts may provide for exemptions from a charge imposed under those Acts.

The *Legislation Act 2003* (the Legislation Act) provides for public access to Acts and instruments, for the making, parliamentary scrutiny and sunset of legislative instruments and for the repeal of spent instruments and provisions, and for other purposes. Paragraph 44(2)(b) of the Legislation Act provides that section 42 of the Legislation Act (disallowance of legislative instruments) does not apply to a legislative instrument prescribed by the regulations.

The *Maritime Powers Act 2013* (the Maritime Powers Act) provides for the administration and enforcement of Australian laws in maritime areas, and for related purposes. Section 8 of the Maritime Powers Act defines monitoring law as including a law prescribed by the regulations.

The *Maritime Transport and Offshore Facilities Security Act 2003* (the Maritime Transport and Offshore Facilities Security Act) safeguards against unlawful interference with maritime transport and offshore facilities, and deals with related purposes. Section 209 of the Maritime Transport and Offshore Facilities Security Act provides that regulations may be made to prescribe matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

Paragraphs 115(2)(b) and 115(2)(c) of the Maritime Transport and Offshore Facilities Security Act provide that the regulations may authorise persons who may pass through a screening point without being screened or enter an area or board a vessel other than through a screening point.

Subparagraphs 120(1)(c)(iii) and 127(1)(d)(iii) of the Maritime Transport and Offshore Facilities Security Act provide that the regulations may authorise persons to have a weapon or prohibited item in their possession while in a maritime security zones.

Subparagraphs 121(1)(c)(ii) and 128(1)(c)(ii) of the Maritime Transport and Offshore Facilities Security Act provide that the regulations may authorise persons to pass through a screening point with a weapon or prohibited item in their possession.

Paragraphs 122(1)(d), 123(1)(d), 129(1)(d) and 130(1)(d) of the Maritime Transport and Offshore Facilities Security Act provide that the regulations may authorise persons to carry, or otherwise have in his or her possession, a weapon or prohibited item on board a regulated Australian ship or a ship regulated as an offshore facility.

The *National Health Act 1953* (the National Health Act) deals with the provision of pharmaceutical, sickness and hospital benefits, and of medical and dental services. Section 99YBA of the National Health Act provides that the regulations may make provision in relation to services provided by the Commonwealth in relation to the exercise of a power by the Minister under section 9B or a provision in Part VII (not prescribed in regulations) of that Act. Paragraph 99YBA(2)(f) of the National Health Act provides that, specifically, the regulations may make provision for exemptions from prescribed fees for certain services.

The *National Health Security Act 2007* (the National Health Security Act) provides for national health security, and for related purposes. Paragraph 40(1)(b) of the National Health Security Act provides that an exempt entity, in relation to an entity that handles security of sensitive biological agents, includes an entity or kind of entity prescribed by the regulations.

The *Quarantine Act 1908* (Quarantine Act) provides for matters relating to quarantine, including the prevention and control of the introduction, establishment or spread of diseases or pests that will cause significant damage to human beings, animals, plants, environment or economic activities, and related purposes. Section 87 of the Quarantine Act provides for regulations to be made to prescribe matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

The *Quarantine Charges (Collection) Act 2014* (Quarantine Charges Collection Act) provides for the collection of quarantine charges and related purposes. Section 45 of the Quarantine Charges Collection Act provides for regulations to be made to prescribe matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

The *Quarantine Charges (Imposition–Customs) Act 2014* (Quarantine Charges (Imposition–Customs) Act) and the *Quarantine Charges (Imposition–General) Act 2014* (Quarantine Charges (Imposition–General) Act) impose, as taxes, charges in relation to matters connected with the administration of the *Quarantine Act 1908* and for related purposes. Section 12 of the Quarantine Charges (Imposition–Customs) Act and Section 12 of Quarantine Charges (Imposition–General) Act provide for regulations to be made to prescribe matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

The *Torres Strait Fisheries Act 1984* (the Torres Strait Fisheries Act) deals with fisheries in certain waters between Australia and the Independent State of Papua New Guinea. Paragraph 54(1)(d) of Schedule 2 to the Torres Strait Fisheries Act provides that AFMA may authorise, in writing, the disclosure of identifying information of the kind specified in the authorisation to Commonwealth bodies prescribed in the regulations.

## **Purpose**

The purpose of the *Biosecurity (Consequential Amendments and Transitional Provisions) Regulation 2016* (the Regulation) is to deal with the consequential and transitional matters in

relation to various regulations arising from the transition of the quarantine legislative framework (Quarantine Act, the Quarantine Charges Collection Act, the Quarantine Charges (Imposition—Customs) Act, the Quarantine Charges (Imposition—General) Act and related delegated legislation) to the biosecurity legislative framework (Biosecurity Act, the *Biosecurity Charges Imposition (Customs) Act 2015*, the *Biosecurity Charges Imposition (General) Act 2015* and related subordinate legislation) on commencement of the Biosecurity Act.

Schedule 1 to the Regulation repeals the *Quarantine Charges (Collection) Regulation 2014*, the *Quarantine Charges (Imposition—Customs) Regulation 2014*, the *Quarantine Charges (Imposition—General) Regulation 2015* and the *Quarantine Regulations 2000*. Due to the repeal of the Quarantine Act and the *Quarantine Charges (Collection) Act 2014*, and the amendment of the Quarantine Charges (Imposition—Customs) Act and the Quarantine Charges (Imposition—General) Act to the *Biosecurity Charges Imposition (Customs) Act 2015* and the *Biosecurity Charges Imposition (General) Act 2015*, respectively, these regulations will no longer have effect. The Biosecurity Regulation 2016, the Biosecurity Charges Imposition (Customs) Regulation 2016 and the Biosecurity Charges Imposition (General) Regulation 2016 will form part of the new biosecurity legislative framework.

Schedule 2 to the Regulation amends the following Commonwealth subordinate legislation:

- *Administrative Decisions (Judicial Review) Regulations 1985*
- *Aviation Transport Security Regulations 2005*
- *Civil Aviation Safety Regulations 1998*
- *Customs Regulation 2015*
- *Electronic Transactions Regulations 2000*
- *Fisheries Management Regulations 1992*
- *Gene Technology Regulations 2001*
- *Imported Food Charges (Imposition—Customs) Regulation 2015*
- *Imported Food Charges (Imposition—General) Regulation 2015*
- *Legislation (Exemptions and Other Matters) Regulation 2015*
- *Maritime Powers Regulation 2014*
- *Maritime Transport and Offshore Facilities Security Regulations 2003*
- *National Health (Pharmaceuticals and Vaccines—Cost Recovery) Regulations 2009*
- *National Health Security Regulations 2008*
- *Torres Strait Fisheries Regulations 1985*

to reflect the repeal of the Quarantine Act and replace relevant references and provisions with those under the Biosecurity Act.

Schedule 3 to the Regulation includes transitional provisions that will act in concert with the transitional provisions in the Biosecurity (Consequential Amendments and Transitional Provisions) Act. It provides for the cost recovery of fees and charges in relation to biosecurity activities and biosecurity matters connected with the administration of the Biosecurity Act to be continued uninterrupted when the legislative framework transitions from the quarantine legislative framework to the biosecurity legislative framework.

Schedule 3 to the Regulation covers two scenarios whereby the liability for paying fees or charges is not preserved by section 7 of the *Acts Interpretation Act* on the repeal of the quarantine legislative framework. The first is when a service is provided under the Quarantine Act or in relation to a matter connected with the administration of Quarantine Act, is completed before the commencement of the biosecurity legislative framework, but no demand

for payment is issued before repeal of the quarantine legislative framework. In this circumstance, a demand for payment cannot be issued under the Biosecurity Act because there is no longer an activity to be provided under the Biosecurity Act or a matter connected with the administration of the Biosecurity Act. The second is where late payment fees are accruing, have accrued or should accrue for a service provided or a matter administered under the Quarantine Act at the time of its repeal.

Schedule 3 to the Regulation also provides transitional provisions for how an import risk analysis in progress under the *Quarantine Regulations 2000* will be continued under the Biosecurity Act.

## **Background**

Biosecurity is the management of the risk of pests and diseases entering or present in Australian territory and causing harm to animal, plant and human health, the environment and the economy. Biosecurity is managed under the Biosecurity Act and related delegated legislation, which commences on 16 June 2016 to replace the *Quarantine Act 1908* and related delegated legislation. The Department of Agriculture and Water Resources (the department) undertakes biosecurity activities to assess and manage biosecurity risk associated with people, goods and conveyances entering or in Australian territory.

Shifting global demands, growing traveller and trade volumes, increasing imports from a growing number of countries and population expansion all contribute to the complexity of the modern biosecurity environment. In recent years, the department has taken a risk-based approach to biosecurity management, informed by scientific analysis, intelligence and surveillance that enables higher risk goods, travellers and mail to be targeted for intervention. This has allowed the department to better manage biosecurity risk associated with the increasing volumes of trade and travellers across and within the Australian border without compromising biosecurity risk outcomes. It also reduces the cost of delivering frontline biosecurity services and saves time and money for importing businesses with flow-on benefits to the broader economy.

The Biosecurity Act, *Biosecurity Regulation 2016* (Biosecurity Regulation) and other related subordinate legislation provides the legislative framework for the exercise of powers and conduct of activities to assess and manage biosecurity risk. The Biosecurity Act provide for fees to be imposed to recover the costs for providing biosecurity services. The amount of fees are set in the *Biosecurity Regulation 2016* (Biosecurity Regulation).

The *Biosecurity Charges Imposition (Customs) Act 2015* and the *Biosecurity Charges Imposition (General) Act 2015* provide the legislative framework to impose charges to recover the costs in relation to prescribed matters connected with the administration of the Biosecurity Act. The amount of the charges are prescribed in the *Biosecurity Charges Imposition (Customs) Regulation 2016* and the *Biosecurity Charges Imposition (General) Regulation 2016*.

The *Biosecurity Charges Imposition (Customs) Regulation 2016* and the *Biosecurity Charges Imposition (General) Regulation 2016* operate together with provisions in the Biosecurity Regulation, which provides for other matters in relation to the payment of the prescribed charges. These matters include who is liable to pay a charge, when a charge is due and payable, the liability for a person to pay a late payment fee for an unpaid charge and the

amount of the late payment fee, the liability of a person's agent to pay charges on behalf of that person and the recovery of such charges by the agent.

### **Impact and Effect**

The Regulation will operate in conjunction with the Biosecurity (Consequential Amendments and Transitional Provisions) Act to deal with consequential and transitional issues during the transition from the quarantine legislative framework to the biosecurity legislative framework. The Regulation will provide for the department to continue to recover the costs for providing biosecurity services and to progress import risk analysis that has not been completed at the commencement of the Biosecurity Act. It does not change the impact or effect on industry as it does not change the amount of the fees and charges, the types of services the fees and charges relate to and exemptions from paying those fees and charges. It also makes minor technical amendments and repeals to other legislation for administrative purpose only to reflect the transition from the Quarantine Act to the Biosecurity Act.

### **Consultation**

Extensive consultation with stakeholders was undertaken during the development to redesign the department's cost recovery fees and charges arrangements in 2015 and during the 2015-16 implementation of the Biosecurity Act and related charging legislation.

The department provided extensive opportunities for clients and stakeholders to become informed about the changes to the legislative framework so that they understood their obligations and the implications of the changes on their business. Stakeholders and clients were consulted and engaged throughout the development of the draft regulations and the delegated legislation, and were encouraged to provide feedback. Fact sheets supporting the release of draft regulations for public consultation were available on the department's website, and were distributed to stakeholders to provide additional clarity.

The department has consulted with the Attorney-General's Department, Department of Health, Department of Immigration and Border Protection and the Department of Infrastructure and Regional Development on developing the amendments and repeals to the legislation administered by them. Industry consultation was not appropriate for the consequential and transitional matters of this nature.

Details of the Regulation are set out in the [Attachment A](#).

The Office of Best Practice Regulation (OBPR) was consulted in the preparation of the Regulatory Impact Statement (RIS) for the department's redesigned fees and charges cost recovery arrangements (ID: 17726) and for the Biosecurity Bill 2014 (ID: 16609). The OBPR advised on 31 March 2016 that a further RIS is not required for the regulations. The department consulted with the Office of Parliamentary Counsel in the drafting of this Regulation.

### **Details/Operations**

The details of the Regulation is 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 purpose of the *Legislation Act 2003*.

**Details of the *Biosecurity (Consequential Amendments and Transitional Provisions) Regulation 2016***

**Section 1 – Name**

This section provides that the name of the Regulation is the *Biosecurity (Consequential Amendments and Transitional Provisions) Regulation 2016*.

**Section 2 – Commencement**

This section provides for the Regulation to commence at the same time as when section 3 of the *Biosecurity Act 2015* (Biosecurity Act) commences. Section 3 of the Biosecurity Act commences on 16 June 2016.

**Section 3 – Authority**

This section provides that the Regulation is made under the following Acts:

- the *Administrative Decisions (Judicial Review) Act 1977*;
- the *Aviation Transport Security Act 2004*;
- the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*;
- the *Civil Aviation Act 1988*;
- the *Customs Act 1901*;
- the *Electronic Transactions Act 1999*;
- the *Fisheries Management Act 1991*;
- the *Gene Technology Act 2000*;
- the *Imported Food Charges (Imposition–Customs) Act 2015*;
- the *Imported Food Charges (Imposition–General) Act 2015*;
- the *Legislation Act 2003*;
- the *Maritime Powers Act 2013*;
- the *Maritime Transport and Offshore Facilities Security Act 2003*;
- the *National Health Act 1953*;
- the *National Health Security Act 2007*;
- the *Quarantine Act 1908*;
- the *Quarantine Charges (Collection) Act 2014*;
- the *Quarantine Charges (Imposition–Customs) Act 2014*;
- the *Quarantine Charges (Imposition–General) Act 2014*;
- the *Torres Strait Fisheries Act 1984*.

**Section 4 – Schedules**

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in applicable items in that Schedule. Any other item in a Schedule to this instrument has effect according to its terms.

## **Schedule 1 – Repeals**

### **Items 1 to 4 – *Quarantine Charges (Collection) Regulation 2014, Quarantine Charges (Imposition–Customs) Regulation 2014, Quarantine Charges (Imposition–General) Regulation 2015, Quarantine Regulations 2000***

These items repeal the *Quarantine Charges (Collection) Regulation 2014*, the *Quarantine Charges (Imposition–Customs) Regulation 2014*, the *Quarantine Charges (Imposition–General) Regulation 2015* and the *Quarantine Regulations 2000*.

The above mentioned regulations contain provisions that will cease to have effect because they will be replaced by provisions in the *Biosecurity Regulation 2016* (Biosecurity Regulation), the *Biosecurity Charges Imposition (Customs) Regulation 2016* and the *Biosecurity Charges Imposition (General) Regulation 2016*, on commencement of the Biosecurity Act.

## **Schedule 2 – Consequential Amendments**

### **Item 1 – *Administrative Decisions (Judicial Review) Regulations 1985***

This item amends paragraphs 3(h) and (i) of the *Administrative Decisions (Judicial Review) Regulations 1985*, by repealing the references to decisions made under the relevant sections of the Quarantine Act relating to proclamation of an epidemic, which are not subject to judicial review under the *Administrative Decisions (Judicial Review) Act* (ADJR Act). It would also substitute these with the decisions under Parts 1 and 2 of Chapter 8 of the Biosecurity Act in relation to biosecurity emergency and human biosecurity emergency provisions that would need to be excluded from judicial review under the ADJR Act.

### **Items 2 and 3 – *Aviation Transport Security Regulations 2005***

Item 2 amends regulation 1.03 of the *Aviation Transport Security Regulations 2005* (Aviation Transport Security Regulations) to insert the definition of ‘biosecurity official’, which is to be used in the subregulation 4.62(1) of that regulation. It provides that ‘biosecurity official’ has the same meaning as in the Biosecurity Act.

Item 3 amends column 2 of item 6 of the table in subregulation 4.62(1) of the Aviation Transport Security Regulations by substituting the words “of an officer of the Australian Quarantine and Inspection Service or”, with “a biosecurity official or an officer of”. This provides that a biosecurity official is authorised to have prohibited items that are tools of trade in possession of sterile areas under the Aviation Transport Security Regulations.

### **Item 4 – *Civil Aviation Safety Regulations 1998***

This item amends paragraph 92.160(2)(c) of the *Civil Aviation Safety Regulations 1998* (Civil Aviation Safety Regulations) by substituting with a new paragraph that provides that conditions in relation to carriage of dangerous goods under regulations 92.020, 92.025, 92.030 and 92.035 do not apply to the carriage of dangerous goods by an Australian aircraft, or by a person on an Australian aircraft, operated by the Department administered by the Minister administering Part 1 of Chapter 8 of the Biosecurity Act, which is the Agriculture

Department, to be recognised as one of the Australian law enforcement authorities for the purpose of that paragraph.

### **Items 5 to 10 – *Customs Regulation 2015***

These items repeal reference in the *Customs Regulation 2015* (Customs Regulation) to quarantine and the Quarantine Act and substitute appropriate references to biosecurity and the Biosecurity Act.

Item 5 substitutes the words “released from quarantine” in item 3 of the table in subsection 109(2) of the Customs Regulation 2015 (Customs Regulation) with “released from biosecurity control under the Biosecurity Act 2015 or released from quarantine under the Quarantine Act 1908 as in force before 16 June 2016”. This provides for an application for a refund or rebate of duty to be made in relation to the goods that have been released from biosecurity control under the Biosecurity Act or that have been released from quarantine under the Quarantine Act as in force before 16 June 2016.

Item 6 inserts the Biosecurity Act as a prescribed Act after item 3 of the table in section 118 of the Customs Regulation.

Item 7 amends reference to the Quarantine Act in item 17 of the table in section 118 of the Customs Regulation, to include ‘as in force before 16 June 2016’.

Both items 6 and 7 allow an officer of Customs to make a copy of, or take an extract from, a document, or arrange for another officer of Customs or other person having the necessary experience, to make such a copy or take such an extract, if that officer is satisfied that the document, or part of the document, may contain information relevant to the commission or attempted commission of any offence against the Biosecurity Act or the Quarantine Act at the time when it was in force.

Item 8 inserts the Biosecurity Act as a prescribed law in the table to Clause 1 of Schedule 2 to the Customs Regulation. This would provide that an authorised officer under the Customs Act can access an operator’s passenger information for the purposes of performing his or her functions in accordance with the Biosecurity Act.

Item 9 repeals the reference to the Quarantine Act in item 30 of the table to Clause 1 of Schedule 2 of the Customs Regulation because the reference would be redundant.

Item 10 repeals item 4 of the table to Clause 1 of Schedule 6 of the Customs Regulation and substitute with a new item 4 of the table. This item allows, if the other conditions under the Customs Regulation are met, a refund, rebate or remission of duty may be made by a Collector (as defined in the Customs Act) on or after 16 June 2016, in relation to goods that:

- would have deteriorated or been damaged or destroyed while undergoing treatment;  
or
- would have been destroyed

under the Biosecurity Act or the Quarantine Act as in force before 16 June 2016, if the goods were subject to customs control under the Customs Act at the time they were destroyed.

### **Item 11 – *Electronic Transactions Regulations 2000***

This item repeals reference to regulation 58 of the *Quarantine Regulations 2000* as a regulation to which *Electronic Transactions Act 1999* does not apply. This reference (provision of an incoming passenger and master and crew declaration cards) would be redundant due to the repeal of the Quarantine Act and commencement of the Biosecurity Act. Unlike under the Quarantine Act, the Biosecurity Act does not prescribe the manner in which this information is to be provided under the regulation.

### **Item 12 – *Fisheries Management Regulations 1992***

This item removes reference to the Australian Quarantine Inspection Service in item 5 of the table in regulation 19K of the *Fisheries Management Regulations 1992*, which is redundant due to the repeal of the Quarantine Act and commencement of the Biosecurity Act.

### **Item 13 – *Gene Technology Regulations 2001***

This item amends paragraph 9(b) of the *Gene Technology Regulations 2001* by substituting the “Australian Quarantine and Inspection Service” with “Department administered by the Minister administering Part 1 of Chapter 8 of the Biosecurity Act”. This would provide that the Agriculture Department is a prescribed authority for the purposes of paragraphs 50 (3)(c) and 52 (3)(c) of the Gene Technology Act.

### **Items 14 to 17 – *Imported Food Charges (Imposition—Customs) Regulation 2015 and Imported Food Charges (Imposition—General) Regulation 2015***

Items 14 and 16 removes reference to compliance agreements and approvals in force under the Quarantine Act in paragraphs 8(1)(b) and (c) of the *Imported Food Charges (Imposition—Customs) Regulation 2015* (Imported Food Charges (Imposition—Customs) Regulation) and the *Imported Food Charges (Imposition—General) Regulation 2015* (Imported Food Charges (Imposition—General) Regulation). These are replaced with reference to approved arrangements under the Biosecurity Act.

Items 15 and 17 removes reference to charges prescribed under the *Quarantine Charges (Imposition—Customs) Regulation 2014* and *Quarantine Charges (Imposition—General) Regulation 2015* in paragraphs 8(2)(c) and (d) of the Imported Food Charges (Imposition—Customs) Regulation and Imported Food Charges (Imposition—General) Regulation. These are replaced with references with the equivalent charges under the *Biosecurity Charges Imposition (Customs) Regulation 2016* and the *Biosecurity Charges Imposition (General) Regulation 2016*.

These amendments reflect the transition to the *Biosecurity Charges Imposition (Customs) Act 2015* and the *Biosecurity Charges Imposition (General) Act 2015* and that approvals and compliance agreements under sections 46A and 66B of the Quarantine Act are approved arrangements under the Biosecurity Act.

### **Item 18 – *Legislation (Exemptions and Other Matters) Regulation 2015***

This item repeals in item 28 of the table of section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the reference to legislative instruments made under the Quarantine Act which were exempted from disallowance. Legislative instruments that can be

made under the Biosecurity Act do not need to be exempted from disallowance under this section as all exemptions are included in the relevant provisions of the Biosecurity Act itself.

#### **Items 19 and 20 – *Maritime Powers Regulation 2014***

Items 19 and 20 add the Biosecurity Act, the regulations and other legislative instruments made under the Biosecurity Act to sections 6 and 8 of the *Maritime Powers Regulation 2014* (Maritime Powers Regulation) as laws that are monitoring laws for the purpose of the *Maritime Powers Act 2013* (Maritime Powers Act).

These amendments allow officers authorised under the Maritime Powers Act to exercise maritime powers for the purposes of administering or ensuring compliance with the Biosecurity Act and its subordinate legislation.

#### **Items 21 to 24 *Maritime Transport and Offshore Facilities Security Regulations 2003***

These items amend paragraphs 7.25(3)(i), 7.40(2)(d) and (e), 7.45(2)(e) and (f), and 7.50(2)(d) and (e) of the *Maritime Transport and Offshore Facilities Security Regulations 2003* (Maritime Transport and Offshore Facilities Security Regulations), to update references from “quarantine officer” to “biosecurity officer”. These will provide that a biosecurity officer is authorised to do the following, subject to limitations in regulations 7.25, 7.40, 7.45, and 7.50 of the Maritime Transport and Offshore Facilities Security Regulations:

- pass through screening points without being screened;
- enter an area or board a vessel other than through a screening point;
- pass through a screening point with a weapon or prohibited item in their possession; and
- have a weapon or prohibited item in their possession in a maritime security zone or on a regulated Australian ship.

The term “quarantine officer” is redundant due to the repeal of the Quarantine Act and commencement of the Biosecurity Act.

#### **Item 25 – *National Health (Pharmaceuticals and Vaccines—Cost Recovery) Regulations 2009***

This item amends subparagraph 5.1(1)(c)(ii) of the *National Health (Pharmaceuticals and Vaccines—Cost Recovery) Regulations 2009* by substituting the reference to sections 2B or 12A of the Quarantine Act with references to the relevant biosecurity emergency and human biosecurity emergency provisions of the Biosecurity Act. This reflects the repeal of the Quarantine Act and the commencement of the Biosecurity Act.

#### **Items 26 and 27 – *National Health Security Regulations 2008***

Item 26 removes the definition of the Australian Quarantine and Inspection Service in subregulation 1.03(1) of the *National Health Security Regulations 2008* (National Health Security Regulations).

Item 27 amends subregulation 3.03(3) of the National Health Security Regulations by substituting “Australian Quarantine and Inspection Service” with “the Department

administered by the Minister administering Part 1 of Chapter 8 of the Biosecurity Act which deals with biosecurity emergencies”.

This provides that the Agriculture Department is an exempt entity for the purpose paragraph 40(1)(b) of the National Security Act. The term Australian Quarantine and Inspection Service would be redundant due to the repeal of the Quarantine Act and commencement of the Biosecurity Act.

### **Item 28 *Torres Strait Fisheries Regulations 1985***

This item repeals item 5 in the table to regulation 25 of the *Torres Strait Fisheries Regulations 1985* (Torres Strait Fisheries Regulation) to remove the references to the Australian Quarantine and Inspection Service. The term Australian Quarantine and Inspection Service is redundant due to the repeal of the Quarantine Act and commencement of the Biosecurity Act. No replacement is required as the Department of Agriculture and Water Resources is already listed in the table.

## **Schedule 3 – Transitional Provisions**

### **Item 1 – Definitions**

This section provides for the definitions used in the Regulation.

#### ***Biosecurity Act***

This definition provides that references to ‘Biosecurity Act’ means the *Biosecurity Act 2015*.

#### ***commencement day***

This definition provides that ‘commencement day’ means the day on which section 3 of the Biosecurity Act commences. The Biosecurity Act commences on 16 June 2016.

#### ***Quarantine Act***

This definition provides that references to ‘Quarantine Act’ means the *Quarantine Act 1908* as in force before the commencement day.

#### ***quarantine charge***

This definition provides that ‘quarantine charge’ means a charge imposed under:

- section 7 of the *Quarantine Charges (Imposition–Customs) Act 2014*, as in force before the commencement day; or
- section 7 of the *Quarantine Charges (Imposition–General) Act 2014*, as in force before the commencement day.

#### ***quarantine matter***

This definition provides that ‘quarantine matter’ means a matter connected with the administration of the Quarantine Act prescribed by:

- section 6 of the *Quarantine Charges (Imposition–Customs) Regulation 2014*, as in force before the commencement day; or
- section 6 of the *Quarantine Charges (Imposition–General) Regulation 2015*, as in force before the commencement day

### ***Quarantine Regulations***

This definition provides that references to ‘Quarantine Regulations’ means the *Quarantine Regulations 2000*, as in force before the commencement day.

### ***Quarantine Service Fees Determination 2005***

This definition provides that references to ‘Quarantine Service Fees Determination 2005’ means the *Quarantine Service Fees Determination 2005*, as in force under section 86E of the Quarantine Act before the commencement day.

### **Item 2 – Import risk analysis in progress under the Quarantine Regulations**

Sub-item (1) provides for the application of the transitional arrangements set out in this item for an import risk analysis (IRA) started under the Part 6A of the Quarantine Regulations but had not been completed before the commencement day.

Sub-item (2) provides that the Director of Biosecurity may treat an existing IRA as if it were a BIRA and, for that purpose, a requirement in the process prescribed by regulations made for the purposes of paragraph 169(1)(a) of the Biosecurity Act is taken to have been complied with, provided that the Director is satisfied that an equivalent requirement had been complied with in the course of conducting the existing IRA under the Quarantine Regulations. The note clarifies that Division 1 of part 4 of Chapter 2 of the *Biosecurity Regulation 2016* (Biosecurity Regulation) sets out the process for conducting a BIRA, for the purposes of paragraph 169(1)(a) of the Biosecurity Act.

Sub-item (3) provides that the Director of Biosecurity must publish a notice on the Agriculture Department’s website that:

- identifies the existing IRA,
- states that the existing IRA will continue to be conducted as a BIRA in accordance with the process prescribed by regulations made for the purpose of paragraph 169(1)(a) of the Biosecurity Act, and
- specifies the requirements (if any) in the prescribed process that are taken to have been complied with in relation to the BIRA.

Subitem (3) is intended to promote transparency in providing stakeholders with the relevant information on how an existing IRA will be finalised in accordance with the BIRA requirements.

Subitem (4) provides that for the purpose of continuing to conduct the existing IRA as a BIRA, section 31 of the Biosecurity Regulation has effect as if the words “within the period of 30 months commencing on the day the notice in relation to the BIRA was given under section 24” in subsection 31(1) were omitted and the words “as soon as practicable after the report is prepared” were substituted, and subsections 31(2) to (8) were omitted. This is intended to provide the Director of Biosecurity with flexibility in publishing the final BIRA report for an existing IRA.

### **Item 3 – Fees for quarantine services for which no demand for payment had been made before commencement day**

Subitem (1) provides that this item applies in relation to a service referred to in the table in subsection 6(1) of the *Quarantine Service Fees Determination 2005* that was provided before the commencement day, if the fee for, or in relation to the service was payable under that

Determination and a demand for payment of the fee had not been made before the commencement day.

Subitem (2) provides that the fee is due and payable when a demand for payment of the fee is made. Subitem (3) provides that the person who is liable to pay the fee is the person for whom the service was provided.

Subitem (4) clarifies that the Biosecurity Act applies in relation to the fee as if it were a cost-recovery charge if a demand for payment of the fee is made under subitem (2). This means that the Divisions 3 and 4 of Part 3 of Chapter 11 of the Biosecurity Act in relation to rules for the recovery of charges will apply, including those set under Part 2 of Chapter 9 of the Biosecurity Regulation. This includes that an agent of the person who is liable to pay a cost-recovery charge is jointly and severally liable with that person to pay the charge (see section 112 of the Biosecurity Regulation) and for a late payment fee to apply if the cost-recovery charge is not paid by the time that is due and payable as prescribed by the Biosecurity Regulation.

This item provides that where no demand for payment is made for the purpose of collecting fees referred to in the table in subsection 6(1) of the *Quarantine Service Fees Determination 2005*, a demand for payment can still be issued under subitem (2) upon the commencement of the Biosecurity Act.

The purpose of this item is to provide that all fees are recoverable after commencement of the Biosecurity Act, in particular, where no demand for payment is issued before commencement and where no activity exists on commencement. While section 7 of the *Acts Interpretation Act* generally preserves liability for fees for transitioning legislation, where there is no demand issued prior to commencement of the Biosecurity Act, there is no liability for section 7 of the *Acts Interpretation Act* to preserve. This section enables the department's legislative framework to continue to recover the costs for providing biosecurity services to users of the biosecurity system.

#### **Item 4 – Charges for quarantine matters for which no demand for payment had been made before commencement day**

Subitem (1) provides that this item applies to a quarantine matter in relation to which a quarantine charge referred to in the table in section 6 of the *Quarantine Charges (Imposition–Customs) Regulation 2014* or in the table in section 6 of the *Quarantine Charges (Imposition–General) Regulation 2015*, was payable and if a demand for payment of the charge had not been made before the commencement day.

Subitem (2) provides that the quarantine charge is due and payable when a demand of the charge is made. Subitem (3) provides that the person who is liable to pay the fee is the person is the person prescribed by:

- section 7 of the *Quarantine Charges (Imposition–Customs) Regulation 2014*, as in force before the commencement day; or
- section 7 of the *Quarantine Charges (Imposition–General) Regulation 2015*, as in force before the commencement day.

Subitem (4) clarifies that the Biosecurity Act applies in relation to the quarantine charge as if it were a cost-recovery charge if a demand for payment of the fee is made under subitem (2).

This means that the Divisions 3 and 4 of Part 3 of Chapter 11 of the Biosecurity Act in relation to rules for the recovery of charges will apply, including those set under Part 2 of Chapter 9 of the Biosecurity Regulation. This includes that an agent of the person who is liable to pay a cost-recovery charge is jointly and severally liable with that person to pay the charge (see section 112 of the Biosecurity Regulation) and for a late payment fee to apply if the cost-recovery charge is not paid by the time that is due and payable as prescribed by the Biosecurity Regulation.

This item provides that where no demand for payment is made for the purpose of collecting quarantine charges prescribed in section 6 of the *Quarantine Charges (Imposition-General) Regulation* or section 6 of the *Quarantine Charges (Imposition – Customs) Regulation*, a demand for payment can still be issued under subitem (2) upon the commencement of the Biosecurity Act.

The purpose of this item is to provide that all charges are recoverable after commencement of the Biosecurity Act, in particular, where no demand for payment is issued before commencement and where no ‘biosecurity matter’ exists on commencement. Section 7 of the *Acts Interpretation Act* generally preserves liability for charges for transitioning legislation. Where there is no demand issued prior to commencement of the Biosecurity Act, there is no liability for section 7 of the *Acts Interpretation Act* to preserve, nor is there a ‘right’ to demand payment for a service previously provided and completed. This section enables the department’s legislative framework to continue to recover the costs for biosecurity services that were provided.

#### **Item 5 – Late payment fees**

Subitem (1) provides that the Biosecurity Act applies to the following as if the fee or charge were a cost-recovery charge:

- a fee referred to in subparagraph 75(1)(a)(i) of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*;
- a late payment fee referred to in subparagraph 75(1)(a)(ii) of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*;
- a late payment fee referred to in subparagraph 75(1)(a)(iii) of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*;
- a fee for which a demand for payment is made under subitem 3(2) of this Schedule;
- a quarantine charge for which a demand for payment is made under subitem 4(2) of this Schedule.

Subparagraph 5(1)(a), (b) and (c) provide for the accrual or continuing accrual of a late payment fee from any unpaid fee under the Quarantine Service Fees Determination 2005, or unpaid charge under the *Quarantine Charges (Imposition–Customs) Regulation 2014* or the *Quarantine Charges (Imposition–General) Regulation 2015*, for which a demand for payment had been made before the commencement day.

Subparagraph 5(1)(d) and (e) provide for the accrual of late payment fee for a fee that is due and payable and for which a demand for payment is made under subitem 3(2) of this Schedule, or for a quarantine charge that is due and payable and for which a demand for payment is made under subitem 4(2) of this Schedule.

Subitem (2) provides that section 110 of the Biosecurity Regulation applies in relation to the late payment fee as if it were a cost-recovery charge referred to in section 108 of that instrument.

Subitem (3) provides that the person who is liable to pay any late payment fee under the Biosecurity Regulation in relation to the cost recovery charge is:

- if the cost-recovery charge was a fee referred to in paragraph (1)(a) or (b) of this item—the person referred to in paragraph 75(1)(d) of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*. This person is the person to whom the service was provided;
- if the cost-recovery charge was a fee referred to in paragraph (1)(c) of this item—the person referred to in paragraph 75(1)(e) of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*. This person is the person who is prescribed by section 7 of the *Quarantine Charges (Imposition—Customs) Regulation 2014* or section 7 of the *Quarantine Charges (Imposition—General) Regulation 2015*, as in force before the commencement day;
- if the cost-recovery charge was a fee referred to in paragraph (1)(d) of this item—the person who is liable to pay the fee under subitem 3(3) of this Schedule. This person is the person to whom the service was provided;
- if the cost-recovery charge was a quarantine charge referred to in paragraph (1)(e) of this item—the person who is liable to pay the quarantine charge under subitem 4(3) of this Schedule. This person is the person who is prescribed by section 7 of the *Quarantine Charges (Imposition—Customs) Regulation 2014* or *Quarantine Charges (Imposition—General) Regulation 2015*, as in force before the commencement day.

The note to subitem (3) clarifies that an agent of a person who is liable to pay a late payment fee under this item is jointly and severally liable with that person to pay the late payment fee (see section 112 of the Biosecurity Regulation).

The purpose of this section is to provide for any late payment fees that accrued prior to commencement of the Biosecurity Act, or that should accrue after commencement, to continue to accrue and be collected after commencement of the Biosecurity Act.

#### **Item 6 – Fee for assessment of application for import permit not decided before commencement day**

Subitem (1) provides that this item applies in relation to an application that is referred to in item 30 of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*, for an import permit that is made before commencement day, in accordance with regulations made for the purposes of subparagraph 87(1)(ra)(i) of the Quarantine Act. Item 30 of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015* provides that if no decision had been made on the application before the commencement day, then the application is taken, on and after the commencement day, to be an application made under section 177 of the Biosecurity Act at the beginning of the commencement day, for a permit authorising the import of goods into Australian territory.

Subitem (2) provides that if the initial assessment fee in relation to the application had been paid or if demand for payment had been made under the *Quarantine Service Fees*

*Determination 2005* before the commencement day, the initial assessment fee may not be charged under Part 2 of Chapter 9 of the Biosecurity Regulation.

The purpose of this item is to make clear that for an import permit application that transitions from being processed under the Quarantine Act to the Biosecurity Act, any initial assessment fee in relation to that application that has been paid must not be charged again.

#### **Item 7 – Charge for application for co-regulatory approval not decided before commencement day**

Subitem (1) provides that this item applies in relation to an application that is referred to in subitem 51(2) of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*, for an approval under section 46A of the Quarantine Act that is made before the commencement day. Subitem 51(2) of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015* provides that if any prescribed fee under the Quarantine Act in relation to the application had been paid before the commencement day, and no decision has been made before commencement day, then the application is taken, on and after the commencement day, to be an application to the relevant Director under section 405 of the Biosecurity Act. Section 405 of the Biosecurity Act provides for approval of a proposed arrangement to carry out the activities and at a place specified in the application for the purpose of managing biosecurity risks associated with the class of goods or other things specified in the application.

Subitem (2) provides that neither of the following charges apply in relation to the application:

- the charge referred to in item 12 of the table in section 9 of the *Biosecurity Charges Imposition (Customs) Regulation 2016*,
- the charge referred to in item 12 of the table in section 9 of the *Biosecurity Charges Imposition (General) Regulation 2016*.

The note to the item clarifies that no fee may be charged in relation to the application under Part 2 of Chapter 9 of the Biosecurity Regulation because of the operation of subitem 51(5) of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*, which provides that any fees required to be paid under Biosecurity Act in relation to an application under section 405 of that Act is taken to have been paid.

The purpose of this item is to make clear that for an application for an approval that transitions from being processed under the Quarantine Act to being processed as a proposed arrangement under the Biosecurity Act, any fees and charges in relation to that application that have been paid must not be charged again.

#### **Item 8 – Charge for application to enter compliance agreement not decided before commencement day**

Subitem (1) provides that this item applies in relation to an application that is referred to in subitem 56(2) of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*, to enter into a compliance agreement with the Commonwealth under section 66B of the Quarantine Act that is made before the commencement day. Subitem 56(2) of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015* provides that if no decision has been made before commencement day, then the application is taken, on and after the commencement day, to be an application to the relevant

Director under section 405 of the Biosecurity Act. Section 405 of the Biosecurity Act provides for approval of a proposed arrangement to carry out the activities and at a place specified in the application for the purpose of managing biosecurity risks associated with the class of goods or other things specified in the application.

Subitem (2) provides that neither of the following charges apply in relation to the application:

- the charge referred to in item 12 of the table in section 9 of the *Biosecurity Charges Imposition (Customs) Regulation 2016*,
- the charge referred to in item 12 of the table in section 9 of the *Biosecurity Charges Imposition (General) Regulation 2016*.

The note to the item clarifies that no fee may be charged in relation to the application under Part 2 of Chapter 9 of the Biosecurity Regulation because of the operation of subitem 56(5) of Schedule 4 to the *Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015*, which provides that any fees required to be paid under Biosecurity Act do not apply in relation to the application. This is because an application for a proposed arrangement under section 405 of the Biosecurity Act will replace both the applications for approval of a place and compliance agreement under sections 46A and 66B of the Quarantine Act. Therefore, there will only be the one application fee applicable under the Biosecurity Act, rather than the two separate application fees under the Quarantine Act.

The purpose of this item is to make clear that for an application for a compliance agreement that transitions from being processed under the Quarantine Act to being processed as a proposed arrangement under the Biosecurity Act, any fees and charges in relation to that application that have been paid must not be charged again.

#### **Items 9 and 10 – Charges for compliance agreement under the *Imported Food Charge (Imposition–Customs) Regulation 2015* and the *Imported Food Charge (Imposition–General) Regulation 2015***

These items provide that a person is not liable to pay the charge prescribed by item 2 of the table in section 6 in either the *Imported Food Charges (Imposition–Customs) Regulation 2015* or the *Imported Charges (Imposition–General) Regulation 2015*, for the 2015-16 financial year, or a part of that financial year, in relation to a compliance agreement, if the person has paid either of the following:

- the charge prescribed by item 13 or 15 of the table in section 6 of the *Quarantine Charges (Imposition–Customs) Regulation 2014*, as in force before the commencement day, for that financial year or that part of the financial year
- the charge prescribed by item 13 or 15 of the table in section 6 of the *Quarantine Charges (Imposition–General) Regulation 2015*, as in force before the commencement day, for that financial year or that part of the financial year

The purpose of these items are to preserve the charges exemptions provided under section 8 of the *Quarantine Charges (Imposition–Customs) Regulation 2014* and the *Quarantine Charges (Imposition–General) Regulation 2015*, for when the approval under section 46A Quarantine Act and a compliance agreement in force under section 66B of the Quarantine Act transition into an approved arrangement under the Biosecurity Act. These exemptions are in recognition that the cost to the department to develop and manage these arrangements is at the entity level rather than in relation to each approval. In circumstances where a person is already covered by an approval under section 46A of the Quarantine Act or is a party to a compliance

agreement under Quarantine Act or the *Imported Food Control Act 1992*, the department does not incur additional costs when considering subsequent applications from that person for another proposed arrangement or to enter into a compliance agreement.

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

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

### **Biosecurity (Consequential Amendments and Transitional Provisions) Regulation 2016**

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**

This *Biosecurity (Consequential Amendments and Transitional Provisions) Regulation 2016* operates in conjunction with the Biosecurity (Consequential Amendments and Transitional Provisions) Act to deal with the consequential and transition matters in relation to the transition from the Quarantine Act 1908 Act (Quarantine Act) and related legislation to the Biosecurity Act 2015 (Biosecurity Act) and related legislation. It provides for the department to continue to recover the costs for providing biosecurity services and to progress import risk analysis that has not been completed at the commencement of the Biosecurity Act. It also makes minor technical amendments and repeals to other legislation for administrative purpose only to reflect the transition from the Quarantine Act to the Biosecurity Act.

#### **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**  
**Deputy Prime Minister and Minister for Agriculture and Water Resources**