

## **EXPLANATORY STATEMENT**

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

*Primary Industries (Customs) Charges Act 1999*

*Primary Industries (Customs) Charges Amendment (Almonds, Apples and Pears) Regulations 2017*

### **Legislative Authority**

Section 8 of the *Primary Industries (Customs) Charges Act 1999* (the Customs Charges Act) provides that the Governor-General may make regulations prescribing matters required or permitted by that Act or that are necessary or convenient to be prescribed for carrying out or giving effect to that Act. The Customs Charges Act provides for the ability to impose charges on almonds, apples and pears.

Part 2 of Schedule 10 to the *Primary Industries (Customs) Charges Regulations 2000* (Custom Charges Regulations) prescribes the rates of charges imposed on almonds exported from Australia. Part 3 of Schedule 15 to the Custom Charges Regulations prescribed the rates of charges on apples and pears exported from Australia.

### **Purpose**

The purpose of the *Primary Industries (Customs) Charges Amendment (Almonds, Apples and Pears) Regulations 2017* (the proposed Regulations) is to activate the Emergency Plant Pest Response (EPPR) charge on

- almonds (other than almonds of the Nonpareil variety) in their shells to 0.1 of a cent per kilogram,
- almonds of the Nonpareil variety in their shells to 0.1 of a cent per kilogram,
- shelled almonds to 0.13 of a cent per kilogram,
- apples to 0.05 of a cent per kilogram, and
- pears to 0.05 of a cent per kilogram.

Charges are introduced, administered and collected by the Australian Government, usually at the request of industry. The Department of Agriculture and Water Resources (the department) collects the charge and disburses the funds to the relevant recipient body.

### **Background**

On 8 March 2017, the Almond Board of Australia (ABA) wrote to the Minister for Agriculture and Water Resources (Minister) seeking to activate the EPPR charge on almonds. On 20 March 2017, Apple and Pear Australia Limited (APAL) wrote to the Minister seeking to activate the EPPR charge on apples and pears.

The funds raised through the EPPR charge on almonds will be used to repay the Australian Government for costs of approximately \$321,000 which were paid on behalf of ABA in relation to the response plan for the eradication of varroa mite from Queensland.

The funds raised through the EPPR charge on apples and pears will be used to repay the Australian Government for costs of approximately \$493,000 which were paid on behalf of APAL in relation to the response plan for the eradication of varroa mite from Queensland, as well as the national exotic fruit fly in Torres Strait eradication program.

The Department of Agriculture and Water Resources (the department) has assessed ABA's and APAL's requests and considers they meet the Australian Government *Levy Principles and Guidelines* for the activating of a positive rated EPPR charge.

### **Impact and Effect**

The amendments will result in the activation of the current nil-rated EPPR charge for almonds, apples and pears. For apples and pears the charge will be set at a rate of 0.05 of a cent per kilogram. For almonds in their shells the levy will be set at a rate of 0.1 of a cent per kilogram and 0.13 of a cent per kilogram for shelled almonds.

The charge rates were calculated to ensure that the industry's liability to the Australian Government is repaid within five years based on estimated production. This timeframe aligns with the requirements of the EPPR Deed. Due to varying annual production, it is difficult to predict the exact timeframe for completion of repayment. Therefore, the EPPR charges are being implemented without a specified end date. However, ABA and APAL intend requesting that the Minister reset the EPPR charges to nil, once repayment is complete.

The charge increases are a small enough percentage of the overall charge that it is very unlikely to influence the price of almond, apple and pear products.

### **Consultation**

Consistent with the Australian Government *Levy Principles and Guidelines* for the activation of an emergency response charge, ABA and APAL notified charge payers of the request to activate the EPPR charge on their respective products.

ABA held an objection period from 15 March 2017 to 30 April 2017. No objections were received.

APAL undertook an objection period from 1 April 2017 to 31 May 2017. Of approximately 310 known charge payers, one objection was received. The objection has been addressed to the satisfaction of the Minister.

### **Details / Operation**

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

The Regulations 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 [Attachment B](#).

The Regulations is a legislative instrument for the purposes of the *Legislation Act 2003*.

**Details of the *Primary Industries (Customs) Charges Amendment (Almonds, Apples and Pears) Regulations 2017***

**Section 1 – Name of Regulations**

This section provides that the name of the Regulations is the *Primary Industries (Customs) Charges Amendment (Almonds, Apples and Pears) Regulations 2017*.

**Section 2 – Commencement**

This section provides for the Regulations to commence on 1 October 2017.

**Section 3 – Authority**

This section provides that the Regulations are made under the *Primary Industries (Customs) Charges Act 1999*.

**Section 4 – Schedule**

This section provides for the *Primary Industries (Customs) Charges Regulations 2000* to be amended as set out in Schedule 1.

**Schedule 1 – Amendments**

**Item 1** replaces subclause 2.6(2) of Schedule 10 with a new subclause (2.6(2) which provides that the EPPR charge on almonds is:

- (a) 0.1 of a cent per kilogram for almonds in their shells except for Nonpareil variety in their shells;
- (b) 0.1 of a cent per kilogram for almonds of the Nonpareil variety in their shells; and
- (c) 0.13 of a cent per kilogram for shelled almonds.

**Item 2** amends paragraph 3.7(2)(a) of Schedule 10 to provide that the EPPR charge on apples is 0.05 of a cent per kilogram of apples.

**Item 3** amends paragraph 3.7(2)(b) of Schedule 10 to provide that the EPPR charge on pears is 0.05 of a cent per kilogram of pears.

## **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 (Almonds, Apples and Pears) Regulation 2017***

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 *Primary Industries (Customs) Charges Amendment (Almonds, Apples and Pears) Regulations 2017* (the Regulations) is to activate the Emergency Plant Pest Response charge on:

- almonds (other than almonds of the Nonpareil variety) in their shells to 0.1 of a cent per kilogram,
- almonds of the Nonpareil variety in their shells to 0.1 of a cent per kilogram,
- shelled almonds to 0.13 of a cent per kilogram,
- apples to 0.05 of a cent per kilogram, and
- pears to 0.05 of a cent per kilogram.

The Regulations commence on 1 October 2017.

#### **Human rights implications**

These Regulations do not engage any of the applicable rights or freedoms.

#### **Conclusion**

The measures in the Regulations are 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* as the Regulations do not engage any human rights issues.

**The Hon. Barnaby Joyce MP**  
**Deputy Prime Minister and Minister for Agriculture and Water Resources**