

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture and Water Resources

Biosecurity Charges Imposition (Customs) Act 2015

Biosecurity Charges Imposition (Customs) Amendment (International Vessel Arrival) Regulations 2018

Legislative Authority

The *Biosecurity Charges Imposition (Customs) Act 2015* (the Act) imposes, as taxes, charges in relation to matters connected with the administration of the *Biosecurity Act 2015* (the Biosecurity Act), so far as those charges are duties of customs, and provides other provisions for related purposes.

Section 12 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by this Act to be prescribed; or necessary or convenient to be prescribed for carrying out or giving effect to this Act. Section 7 of the Act provides that the Governor-General may prescribe in regulation a charge in relation to a prescribed matter connected with the administration of the Biosecurity Act.

Subsection 8(2) of the Act provides that before the Governor-General makes a regulation under subsection 7(1) prescribing a charge in relation to a matter, the Minister must be satisfied that the amount of the charge is set at a level that is designed to recover no more than the Commonwealth's likely costs in connection with the matter.

Purpose

The purpose of the *Biosecurity Charges Imposition (Customs) Amendment (International Vessel Arrival) Regulations 2018* (the Regulations) is to increase the existing international vessel arrival charge to cost recover the expenses of the expanded ballast water biosecurity activities and the most recent vessel arrival volume projections available to the Department of Agriculture and Water Resources (the Department). The increased cost recovery charge will ensure that the Department's biosecurity operations for vessels are able to be sustainably funded.

Background

The Department provides biosecurity services under the Biosecurity Act through cost recovered arrangements. Costs are recovered through both fees and charges, imposed in accordance with the Australian Government Charging Framework and the Australian Government Cost Recovery Guidelines.

Charging is undertaken under the Act, the *Biosecurity Charges Imposition (Excise) Act 2015* and the *Biosecurity Charges Imposition (General) Act 2015* (the General Act). These Acts provide the taxing legislation framework necessary to support cost recovery charges. Under the legislative framework for biosecurity cost recovery, charges are imposed under both the Act and the General Act. For the avoidance of any doubt as to the technical classification of

the charge in the customs and taxation context, all charges appear in identical form in regulations made under each of the Acts.

Ballast water has been regulated by the Australian Government since 2001, and has been regulated under the Biosecurity Act since 16 June 2016. The Biosecurity Act has a chapter devoted to the management of ballast water and sediments within Australian seas. This chapter provides assessment and management powers to certain biosecurity officials specific to vessels intending to discharge ballast water.

On 17 May 2017, an amendment to the Biosecurity Act relating to ballast water received the Royal Assent. The *Biosecurity Amendment (Ballast Water and Other Measures) Act 2017* (the amendment Act), strengthened Australia's ability to manage ballast water in ships, and broadened existing powers to destroy exotic vectors of human disease on vessels and aircraft arriving in Australia. It was also a necessary step in ratifying the International Convention for the Control and Management of Ships' Ballast Water and Sediments (Ballast Water Management Convention) which came into force internationally and in Australia on 8 September 2017. On this day, the amendment Act and the *Biosecurity (Ballast Water and Sediment) Determination 2017* also came into effect.

As part of the 2017–18 Budget, the Department is required to cost recover the expenses of the expanded ballast water biosecurity activities from an increase in the international vessel arrival charge. This has resulted in the need for changes to the price of the existing vessel arrival charge (imposed under taxing legislation).

Impact and Effect

The Regulations increase the price of the vessel arrival charge from \$720 to \$920 per arrival. This is expected to raise additional revenue of \$3.4 million per annum to offset the modelled expense base of the biosecurity activities of the seaports program, and the most recent vessel arrival volume projections available to the Department.

Consultation

The Department has undertaken consultation with its industry consultative committee on the details of the expense base, the cost recovery charge points, and the extent of the cost recovery charges payable by each vessel. The industry committee consists of representatives from the Customs Brokers and Forwarders Council of Australia Inc, the Australian Federation of International Forwarders Ltd, Shipping Australia Limited and the Conference of Asia Pacific Express Carriers.

The Office of Best Practice Regulation has been consulted and considers that the ballast water legislation will have minor impact (ID 16609).

Details/ Operation

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

Other

The Regulations are 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.

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

Details of the *Biosecurity Charges Imposition (Customs) Amendment (International Vessel Arrival) Regulations 2018*

Section 1 – Name

This section provides that the name of the Regulations is the *Biosecurity Charges Imposition (Customs) Amendment (International Vessel Arrival) Regulations 2018*.

Section 2 – Commencement

This section provides for the Regulations to commence on 1 April 2018.

Section 3 – Authority

This section provides that the Regulation are made under the *Biosecurity Charges Imposition (Customs) Act 2015*.

Section 4 – Schedules

This section provides that the instrument specified in the Schedule to the proposed Regulations is amended as set out in the applicable items in the Schedule.

Schedule 1 – Amendments

Item 1 amends the price of the vessel arrival charge (at Section 9 (table item 14, column 2, paragraph (a) of the *Biosecurity Charges Imposition (Customs) Regulation 2016*) from \$720 to \$920.

Statement of Compatibility with Human Rights

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

*Biosecurity Charges Imposition (Customs) Amendment (International Vessel Arrival)
Regulations 2018*

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 regulation would amend the existing charging regulation to increase the price of the vessel arrival charge from \$720 to \$920 per arrival.

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. David Littleproud MP
Minister for Agriculture and Water Resources**