

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture and Water Resources

Biosecurity Act 2015

Biosecurity Amendment (Approved Arrangements) Regulations 2018

Legislative Authority

The *Biosecurity Act 2015* (the Act) provides for the management of diseases and pests that may cause harm to human, animal or plant health or the environment.

Section 645 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted to be prescribed by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 593 of the Act provides that the regulations may prescribe persons who are liable to pay a specified cost recovery charge. Subsection 109(4) of the *Biosecurity Regulation 2016* (the Biosecurity Regulation) specifies the persons who will be liable to pay each of the charges in relation to a biosecurity matter prescribed by the table in section 9 of the *Biosecurity Charges Imposition (General) Regulation 2016* (General Regulation) or the table in section 9 of the *Biosecurity Charges Imposition (Customs) Regulation 2016* (Customs Regulation).

Purpose

The purpose of the *Biosecurity Amendment (Approved Arrangements) Regulations 2018* (the Amendment Regulations) is to amend the Biosecurity Regulation to specify the persons who are liable to pay the proposed charge in relation to a biosecurity matter prescribed by item 13A in the table in section 9 of the General Regulation and item 13A in the table in section 9 of the Customs Regulation. The Amendment Regulation adds a new paragraph, paragraph 109(4)(da), to specify that the person who is liable to pay the charge in relation to these items is the person covered by an approved arrangement who made the entry of information to which the charge relates.

Items 13A in the tables in section 9 of both the General Regulation and the Customs Regulation prescribe a charge in relation to the entry of information into the automated entry processing system, by a person covered by an approved arrangement, about goods to be brought or imported into Australian territory – the new biosecurity approved arrangement throughput charge. These items were added to the Customs Regulation and the General Regulation by the *Biosecurity Charges Imposition (General) Amendment (Approved Arrangements) Regulations 2018* and the *Biosecurity Charges Impositions (Customs) Amendment (Approved Arrangements) Regulations 2018*.

The new throughput charge is payable by the person covered by an approved arrangement who made the entry of information to which the charge relates.

Background

The Department of Agriculture and Water Resources (department) provides biosecurity services under the Act through cost recovered arrangements. A proportion of costs are recovered through fees and charges, imposed in accordance with the Australian Government Charging Framework and the Australian Government Cost Recovery Guidelines.

Charging is undertaken under the *Biosecurity Charges Imposition (Customs) Act 2015*, the *Biosecurity Charges Imposition (Excise) Act 2015* and the *Biosecurity Charges Imposition (General) Act 2015*. These Acts provide the taxing legislation framework necessary to support cost recovery charges.

Specific charges are prescribed in the Customs Regulation and the General Regulation.

Impact and Effect

The new paragraph inserted by this regulation, paragraph 109(4)(da), specifies the person who is liable to pay the new throughput charge imposed on the entry of information into the automated entry processing system (Automatic Entry Processing for Commodities (AEP)) about goods to be brought or imported into Australian territory.

Specifically, the paragraph provides that the person liable to pay the charge is the person who is covered by an approved arrangement who made the entry of information to which the charge relates. This will ordinarily be the registered AEP broker operating the biosecurity approved arrangement under the AEP scheme.

Depending on the charge and the relevant biosecurity matter to which it relates, the person who is liable to pay a charge may include the owner of goods, the person making an application, the person who is covered by an approved arrangement, or the operator of a vessel.

An agent of a person who is liable to pay a cost-recovery charge under this section is jointly and severally liable with that person to pay the charge as specified in section 112 of the Biosecurity Regulation.

It is necessary to prescribe the person who is liable to pay each of the charges so that the relevant charge is attributed appropriately, allowing costs associated with the relevant activities carried out by the department to be recovered effectively.

Consultation

Consultation with relevant departmental industry committees occurred from January 2017 to March 2018. Public consultation occurred from November 2017 to January 2018. The general theme of responses from stakeholders was that the proposed charging mechanism provided a balanced approach to cost recovery for approved arrangements. The use of the \$18 per entry throughput charge was seen by stakeholders as a more suitable way of recovering the costs of the AEP scheme from the participating brokers.

Details/ Operation

Details of the instrument are set out in the Attachment A.

Other

The Amendment 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 Attachment B.

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

Details of the *Biosecurity Amendment (Approved Arrangements) Regulations 2018*

Section 1 – Name

This section provides that the name of the Amendment Regulations is the Biosecurity Amendment (Approved Arrangements) Regulations 2018.

Section 2 – Commencement

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

Section 3 – Authority

This section provides that the Amendment Regulations are made under the Biosecurity Act 2015.

Section 4 – Schedules

This section provides that the Amendment Regulations are amended as set out in the applicable items in the Schedule.

Schedule 1 – Amendments

Item 1 - after paragraph 109(4)(d)

This item adds a new paragraph, paragraph 109(4)(da), to specify the persons who are liable to pay the new charge in relation to the biosecurity matter prescribed by item 13A in the table in section 9 of the *Biosecurity Charges Imposition (General) Regulation 2016* and by item 13A in the table in section 9 of the *Biosecurity Charges Imposition (Customs) Regulation 2016*.

Specifically, the new paragraph provides that the persons who are liable to pay the charge is the person covered by an approved arrangement who made the entry of information to which the charge relates.

It is necessary to prescribe the person who is liable to pay each of the charges prescribed in the table in section 9 of the *Biosecurity Charges Imposition (General) Regulation 2016* and the table in section 9 of the *Biosecurity Charges Imposition (Customs) Regulation 2016* so that the relevant charge is attributed appropriately, allowing costs associated with the relevant activities carried out to be recovered.

Statement of Compatibility with Human Rights

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

Biosecurity Amendment (Approved Arrangements) 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 purpose of the Biosecurity Amendment (Approved Arrangements) Regulations 2018 is to specify the persons who are liable to pay the new biosecurity approved arrangement throughput charge introduced in the *Biosecurity Charges Imposition (Customs) Regulation 2016* and the *Biosecurity Charges Imposition (General) Regulation 2016*.

The new throughput charge will be payable by the person covered by an approved arrangement who made the entry of information to which the charge relates.

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