

## **EXPLANATORY STATEMENT**

Issued by Authority of the Minister for Agriculture and Water Resources

*Primary Industries (Customs) Charges Act 1999*

*Primary Industries (Customs) Charges Amendment (Potatoes and Vegetables) Regulations 2018*

### **Legislative Authority**

The *Primary Industries (Customs) Charges Act 1999* (the Customs Charges Act) authorises the imposition of primary industries charges, that are duties of customs.

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

Schedule 14 of the Customs Charges Act provides that regulations may impose charges on primary industry products, set the rate of the charge and specify the person liable to pay the charge. Schedule 10 of the Customs Charges Act imposes a charge on unprocessed potatoes and vegetables.

Section 13(2) of Schedule 14 of the Customs Charges Act provides that if there is a single body that is a designated body in relation to a particular product, then, before the Governor-General makes a regulation in relation to the product, the Minister must take into consideration any relevant recommendation made to the Minister by the body. AUSVEG, the peak industry for the Australian potato and vegetable industry, was designated as the body for unprocessed potatoes and vegetables by the Minister through the *Primary Industries (Customs) Charges (Designated Bodies) Declaration 2017* in line with the Act.

### **Purpose**

The purpose of the *Primary Industries (Customs) Charges Amendment (Potatoes and Vegetables) Regulations 2018* (the Regulations) is to activate an Emergency Plant Pest Response (EPPR) charge on:

- unprocessed potatoes to 10 cents per tonne; and
- vegetables to 0.01 per cent of the free on board value of the vegetables immediately before export.

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 21 December 2017 AUSVEG advised that it would request that the department activate the EPPR charge on unprocessed potatoes and vegetables and set the charge at a rate of 10 cents per tonne on unprocessed potatoes and 0.01 per cent of the free on board value of the vegetables immediately before export. On 16 January 2018 AUSVEG formally made the request.

The funds raised through the EPPR charge on unprocessed potatoes and vegetables will be used to repay the Australian Government for costs paid on behalf of AUSVEG for the emergency response plan to manage the tomato potato psyllid incursion in Western Australia.

The department has assessed the AUSVEG request and considers that it meets the Australian Government *Levy Principles and Guidelines* for the activation of an EPPR charge.

### **Impact and Effect**

The amendments will result in the activation of the EPPR charges for unprocessed potatoes and vegetables. The charge will be set at a rate of:

- 10 cents per tonne on unprocessed potatoes, and
- 0.01 per cent of the free on board value of the vegetables immediately before export.

The charge rates for unprocessed potatoes and vegetables were calculated to ensure that the industries' liability to the Australian Government will be repaid within approximately three years, at which time AUSVEG intends to request that the charges are reset to a nil rate.

The charge increases are a small amount that is unlikely to influence the price of potato and vegetable products.

### **Consultation**

Consistent with the Australian Government *Levy Principles and Guidelines* for the activation of an EPPR charge, AUSVEG notified charge payers of its intention to activate the charge through notifications on their website, via email (3051 in database), articles in their weekly update (3051 subscribers) and e-bulletin (2935 receivers) and emails to charge agents (669 agents).

AUSVEG held an objection period from 29 January 2018 to 14 March 2018 and received three objections. AUSVEG wrote to the stakeholders to explain the intent of the charges, to clarify that the EPPR charge would not be collected in perpetuity and detailed how information on the proposed changes had been made available.

### **Details / Operation**

Details of the Regulations are set out in Attachment A.

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 Attachment B.

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

**Details of the *Primary Industries (Customs) Charges Amendment (Potatoes and Vegetables) Regulations 2018***

**Section 1 – Name of Regulations**

This section provides that the name of the Regulations is the *Primary Industries (Customs) Charges Amendment (Potatoes and Vegetables) Regulations 2018*.

**Section 2 – Commencement**

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

**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** amends subclause 14.7(2) of Schedule 10 to provide that the EPPR charge on unprocessed potatoes is 10 cents per tonne.

**Item 2** amends subclause 17.8(2) of Schedule 10 to provide that the EPPR charge on vegetables is 0.01% of the free on board value of the vegetables immediately before export.

## **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 (Potatoes and Vegetables) 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 *Primary Industries (Customs) Charges Amendment (Potatoes and Vegetables) Regulations 2018* (the Regulations) is to activate an Emergency Plant Pest Response (EPPR) charge on:

- unprocessed potatoes to 10 cents per tonne, and
- vegetables to 0.01 per cent of the free on board value of the vegetables immediately before export.

The Regulations commence on 1 October 2018.

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