

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture

Biosecurity Charges Imposition (General) Act 2015

Biosecurity Charges Imposition (General) Amendment (Various Charges) Regulations 2019

Legislative Authority

The *Biosecurity Charges Imposition (General) Act 2015* (the Act) imposes, as taxes, charges in relation to matters connected with the administration of the *Biosecurity Act 2015* (Biosecurity Act), so far as those charges are neither duties of customs nor duties of excise, and includes other provisions for related purposes.

Section 12 of the 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 this Act. Section 7 of the Act provides that a regulation may prescribe 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 (General) Amendment (Various Charges) Regulations 2019* (the Regulations) is to amend the *Biosecurity Charges Imposition (General) Regulation 2016* (the General Regulation) to increase the prices of four existing charges to implement Government's decision to require the Department of Agriculture (the department) to cost recover a range of expenses that were previously funded through appropriation.

There is a 16.7% increase on the price for sea Full Import Declaration (FID), a 15.2% increase for air FID, a 16.9% increase for commercial vessels and a 20% increase for small vessels. The expenses are allocated across charging points using the Department's cost recovery expense modelling.

The expenses which the department is now be required to cost recover include the costs of:

- a) assurance and verification activities that allow the department to understand the efficiency and effectiveness of the biosecurity system, provide confidence in compliance controls and support enforcement of regulation. These activities include:
 - i. applying best practice regulatory procedures and monitoring their implementation to verify ongoing effectiveness of regulatory activity
 - ii. implementing and maintaining a decision making tool that allows the department to calculate benefits and risks of change in regulatory activity

- iii. investigations of importer compliance with biosecurity regulations to maintain the integrity of the biosecurity system, including provision and monitoring of corrective actions
- b) analytics and intelligence activities, including the use of data to identify trends to inform intervention and compliance activities. These activities include the application, maintenance and refinement of algorithms and work processes that analyse biosecurity data and inform coordination of biosecurity risk management measures and compliance controls.
- c) The intelligence helps the Department identify which imports are most likely to expose Australia to exotic pests and/or diseases, and allows for more targeted risk management activities. This will minimise the risk of biosecurity incursions and prevent harm to Australia's agricultural production and environment.
- d) the provision of technical and scientific advice to maintain up to date biosecurity risk management information within the department's Biosecurity Import Condition (BICON) system. Through BICON, the department provides a single source of truth for biosecurity officers and importers to quickly and easily identify goods, relevant import conditions and further biosecurity risk management options for the safe import of goods.
- e) import pest and disease risk mitigation planning, which ensures that the department has the capability to mitigate the impact of pest and disease incursions that result from the import of goods. The activities include the development and maintenance of risk mitigation processes and plans, including the maintenance of the capability required to implement actions in those plans, which facilitates the import of goods.

The increased charges for these services would enable the Department to maintain the services expected by stakeholders to minimise the risk of biosecurity incursions into Australia and safeguard Australia's agricultural production and environment.

Assurance and verification services are necessary to ensure that import conditions and the procedures put in place at the border to implement them are effective and appropriate. Preparedness plans are taken into account in the risk management policy applicable to the import in question and will inform what activities are applied to/services provided to imports at the border as part of managing risk.

Biosecurity predictive analytics and intelligence capability is necessary to underpin the biosecurity services provided to importers, and enables more efficient and effective clearance of goods. The provision of scientific and technical advice to biosecurity officers and to importers is necessary to ensure that importers' goods are processed efficiently and effectively.

Background

The department undertakes biosecurity regulatory functions through cost recovered arrangements. Under these 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 Act, the *Biosecurity Charges Imposition (Excise) Act 2015* (the Excise Act) and the *Biosecurity Charges Imposition (Customs) Act 2015* (the Customs Act). These Acts provide the taxing legislation framework necessary to support cost recovery charges.

Specific charges (including the existing biosecurity approved arrangement charge) are prescribed in the General Regulation and the Customs Regulation.

The department's financial modelling has confirmed that the increased price of the biosecurity charges is designed to recover no more than the Commonwealth's likely costs in connection with the prescribed matter to which the charge relates.

If there is an unexpected over-recovery (for example, due to an unexpected increase in volumes of vessel arrivals or import declarations), the department will make remissions under section 613 of the *Biosecurity Act 2015* to reduce prices to ensure an ongoing alignment between costs and revenue.

Impact and Effect

The proposed price changes are:

- a) Import Declaration (air) - \$33 per declaration increases to \$38 per declaration;
- b) Import Declaration (sea) - \$42 per declaration increases to \$49 per declaration;
- c) Vessel arrival charge (25 metres or more long) - \$920 per arrival increases to \$1,100 per arrival; and
- d) Vessel arrival charge (under 25 metres) - \$100 per arrival increases to \$120 per arrival.

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 import declaration, the person who is covered by an approved arrangement, or the operator of a vessel.

Consultation

Due to the timeframes set in the government's decision on biosecurity funding arrangements, it has not been possible to undertake extensive consultation with industry about the price changes. The department will work with affected stakeholders to explain the changes and address any transitional issues.

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 [Attachment B](#).

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

Details of the Biosecurity Charges Imposition (General) Amendment (Various Charges) Regulations 2019

Section 1 – Name

This section provides that the name of the Regulations is the *Biosecurity Charges Imposition (General) Amendment (Various Charges) Regulations 2019*.

Section 2 – Commencement

This section provides for the Regulations to commence on 1 January 2020.

Section 3 – Authority

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

Section 4 – Schedules

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

Schedule 1 – Amendments

Biosecurity Charges Imposition (General) Regulation 2016

Item 1 – Section 9 (table item 1, column 2)

This item provides that the price of the charge applying to import declarations for goods that have been brought into Australia by air (set out at table item 1, column 2 of Section 9 of the Regulation) is increased from \$33 per declaration to \$38 per declaration.

Item 2 – Section 9 (table item 2, column 2)

This item provides that the price of the charge applying to import declarations for goods that have been brought into Australia by sea (set out at table item 2, column 2 of Section 9 of the Regulation) is increased from \$42 per declaration to \$49 per declaration.

Item 3 – Section 9 (table item 14, column 2, paragraph (a))

This item provides that the price of the charge applying to the first mooring of a vessel that is 25 metres or more long at a port in Australian territory after the vessel enters Australian territory (set out at table item 14, column 2, paragraph (a) of Section 9 of the Regulation) is increased from \$920 per arrival to \$1,100 per arrival.

Item 4 – Section 9 (table item 14, column 2, paragraph (b))

This item provides that the price of the charge applying to the first mooring of a vessel that is less than 25 metres long at a port in Australian territory after the vessel enters Australian territory (set out at table item 14, column 2, paragraph (b) of Section 9 of the Regulation) is increased from \$100 per arrival to \$120 per arrival.

Statement of Compatibility with Human Rights

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

Biosecurity Charges Imposition (General) Amendment (Various Charges) Regulations 2019

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 Charges Imposition (General) Amendment (Various Charges) Regulations 2019* is to increase the price of certain charges applicable to import declarations and vessel arrivals.

The proposed price changes are:

- e) Import Declaration (air) - \$33 per declaration increases to \$38 per declaration;
- f) Import Declaration (sea) - \$42 per declaration increases to \$48 per declaration;
- g) Vessel arrival charge (25 metres or more long) - \$920 per arrival increases to \$1,100 per arrival; and
- h) Vessel arrival charge (under 25 metres) - \$100 per arrival increases to \$120 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.

**Senator The Hon. Bridget McKenzie
Minister for Agriculture**