

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture, Drought and Emergency Management

Primary Industries (Customs) Charges Act 1999

Primary Industries (Customs) Charges Amendment (Dairy Cattle) Regulations 2020

Legislative Authority

The *Primary Industries (Customs) Charges Act 1999* (the Act) provides for the imposition of primary industries charges that are duties of customs within the meaning of section 55 of the Constitution.

Clause 8 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 the Act.

Each of the Schedules 1 to 13 to the Act imposes a particular charge (or charges) in relation to different products of primary industry and makes provision for the rate or method of determining the charge (including by providing for the rate to be an amount prescribed in regulations) the person who is liable to pay the charge, and any exemptions from the charge.

The *Primary Industries (Customs) Charges Amendment (Dairy Cattle) Regulations 2020* (the Regulations) amends clause 2 of Schedule 2 to the *Primary Industries (Customs) Charges Regulations 2000* (the principal Regulations) to prescribe the rate of charge on the export of dairy cattle.

Purpose

The purpose of the Regulations is to set the amount of the charge that applies to export of dairy cattle.

The *Primary Industries (Customs) Charges Amendment (Dairy Cattle Export Charge) Act 2020* (Amendment Act), amended Schedule 2 to the Act with effect from 1 January 2021 to impose charge on the export of dairy cattle. The Amendment Act also amended the Act to provide for the rate of charge on the export of dairy cattle to be an amount prescribed per head of cattle so exported.

The Regulations prescribed the amount of the charge at \$6 per head, being \$5 as the amount for purposes relating to marketing (for the purposes of subparagraph 3(1)(a)(ii) of Schedule 2 to the Act), and \$1 as the amount for purposes relating to research and development (for the purposes of subparagraph 3(1)(b)(ii) of Schedule 2 to the Act).

The amounts of charge received by the Commonwealth:

- because of paragraph 3(1)(a) Schedule 2 to the Act are to be paid to the live-stock export marketing body (see paragraph 64A(1)(a) of the *Australian Meat and Live-stock Industry Act 1997* (AMLI Act));

- because of paragraph 3(1)(b) Schedule 2 to the Act are to be paid to the live-stock export research body (see paragraph 64B(1)(a) of the AMLI Act).

The Australian Livestock Export Corporation (LiveCorp) is both the declared live-stock export marketing body and live-stock export research body.

A charge is also imposed on cattle (other than dairy cattle) under Schedule 2 to the Act, with amounts of that charge prescribed for the purposes of subparagraphs 3(1)(a)(i) and 3(1)(b)(i) of Schedule 2 to the Act also paid to LiveCorp for the purposes of paragraphs 64A(1)(a) and 64B(1)(a) of the AMLI Act, respectively.

These charges have been imposed at the request of the dairy cattle export industry to allow primary producers to manage their own investment in research and development and marketing.

Background and Consultation

A range of statutory agricultural levies and charges are imposed, collected and disbursed on behalf of Australia's primary industries. These levies and charges are imposed at the request of relevant industries to enable the funding of essential services including research and development and marketing through the 15 research and development corporations.

In 2006, Australian Livestock Exporters' Council (ALEC) members voted to introduce a voluntary export charge on dairy cattle, payable to and collected by LiveCorp, as the declared live-stock export marketing body and live-stock export research body, at a rate of \$3 per head of dairy cattle exported. The voluntary charge was established by industry to enable the implementation of the Dairy Cattle Export Program (the Program).

The Program's aim is to improve research and development specific to dairy cattle exports, focusing on animal health and welfare; supply chain efficiency and regulatory performance; and market access for dairy cattle exports.

In 2014, ALEC members agreed to increase the voluntary charge to \$6 per head of dairy cattle exported. However, due to the voluntary characteristic of the charge, significant under-collection and free rider issues, the charge remained insufficient for industry needs. In 2017, ALEC requested the government consider implementing a statutory Dairy Cattle Export Charge. Stakeholder consultation was undertaken from 31 May to 13 October 2017 and in December 2017, an industry ballot was held. The majority of eligible registered voters voted in support of a statutory charge.

At the request of government, ALEC undertook a further six-week objection period with industry, commencing 5 October and concluding 16 November 2018, to ensure all charge payers and interested stakeholders had an opportunity to express their views on the implementation of a statutory Dairy Cattle Export Charge. There were no objections received to the implementation of the Dairy Cattle Export Charge.

In February 2020, given the passage of time, the Department of Agriculture, Water and the Environment liaised with key dairy stakeholders including Livecorp, ALEC, Dairy Australia and Australian Dairy Farmers, to ensure continued support by industry for the charge's implementation. All confirmed their continued support.

The Dairy Cattle Export Charge was announced in the 2019-20 Mid-Year Economic and Fiscal Outlook.

On 17 September 2020, amendments to the Act were passed by Parliament and commenced on 1 January 2021. The amendments to the Act provide for the imposition of a charge on the export of dairy cattle in Schedule 2 to the Act. As Schedule 2 already provided for the imposition of a charge on the export of cattle (other than dairy cattle), the amendments to the Schedule provide for two different rates of charges to be prescribed in the Regulations – a per head charge on dairy cattle and a per kilogram charge on cattle other than dairy cattle.

Impact and Effect

The charge allows for the continued funding of the Dairy Cattle Export Program, which aims to improve research and development specific to dairy cattle exports, focusing on animal health and welfare, supply chain efficiency and regulatory performance and market access for dairy cattle exports. Assured funding allows the dairy cattle export industry to appropriately plan activities across years and into the future.

The dairy cattle export industry is valued at over \$200 million, with over 100,000 cattle exported in 2019 to a number of markets, including China, Indonesia, Pakistan and Japan. Australian dairy cattle are highly sought after. Export of dairy cattle is an important alternate source of income for many dairy farmers, particularly those affected by drought. The charge is critical to the growth of the industry and in supporting the government's goal of agriculture being a \$100 billion industry by 2030.

Costs associated with the collection and administration of the Dairy Cattle Export Charge are cost-recovered from industry (through payments from LiveCorp) by the Department of Agriculture, Water and the Environment.

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 (Dairy Cattle) Regulations 2020*

Section 1 – Name

This section provides that the name of the Regulations is the *Primary Industries (Customs) Charges Amendment (Dairy Cattle) Regulations 2020*.

Section 2 – Commencement

This section provides for the Regulations to commence on 1 January 2021.

Section 3 – Authority

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

Section 4 – Schedules

This section provides that items repealed or amended in the *Primary Industries (Customs) Charges Regulations 2000* through this instrument are set out in the attached schedule to the instrument.

Schedule 1 – Amendments

Primary Industries (Customs) Charges Regulations 2000

Item 1 - Clause 2 of Schedule 2 (heading)

This item clarifies that the amount of charge imposed by clause 2 of Schedule 2 applies to cattle other than dairy cattle. This is a consequential amendment to item 4 below which prescribes the amounts of the charge for dairy cattle for the purposes of subparagraphs 3(1)(a)(ii) and 3(1)(b)(ii) of Schedule 2 to the *Primary Industries (Customs) Charges Act 1999* (the Act) (as amended by the *Primary Industries (Customs) Charges Amendment (Dairy Cattle Export Charge) Act 2020*) (the Amendment Act).

Item 2 - Subclause 2(1) of Schedule 2

This is a consequential amendment to the amendment made to the Act by item 3 of Schedule 1 to the Amendment Act, which omitted paragraph 3(1)(a) and paragraph 3(1)(b) of Schedule 2 to that Act and substituted new subparagraphs 3(1)(a)(i) and (ii). The new provisions in the Act provide separate rates to be prescribed for the export of dairy cattle and cattle other than dairy cattle. (The amount prescribed for dairy cattle is the amount per head of cattle so exported, while the amount prescribed for cattle other than dairy cattle is the amount prescribed per kilogram of cattle so exported).

Item 3 - Subclause 2(2) of Schedule 2

This is a consequential amendment to the amendment made to the Act by item 3 of the Amendment Act, which relevantly repealed paragraph 3(1)(b) of the Act and substituted subparagraphs 3(b)(i) and (ii). The effect of the amendment is that for subparagraph 3(1)(b)(i) of Schedule 2 of the Act, the amount of the charge for cattle other than dairy cattle is 0.1587 of a cent per kilogram (unchanged from the previous amount).

Item 4 - At the end of Schedule 2

This item prescribes the amounts of the charge for the export of dairy cattle for the purposes of new subparagraph 3(1)(a)(ii) and subparagraph 3(1)(b)(ii) of the Act. The amount of the charge is \$5 per head to be paid to the live-stock export marketing body and \$1 per head to be paid to the live-stock export research body under the *Australian Meat and Live-stock Industry Act 1997* (the AMLI Act).

The amount of the charge received by the Commonwealth because of paragraph 3(1)(a) of Schedule 2 to the Act are to be paid to the live-stock export marketing body, in accordance with paragraph 64A(1)(a) of the AMLI Act. The amount of the charge received by the Commonwealth because of paragraph 3(1)(b) of Schedule 2 to the Act are to be paid to the live-stock export research body in accordance with paragraph 64B(1)(a) of the AMLI Act.

The Australian Livestock Export Corporation (LiveCorp) is both the declared live-stock export marketing body and live-stock export research body.

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 (Dairy Cattle Export Charge) Regulations 2020

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 (Dairy Cattle) Regulations 2020* is to prescribe the amount of the levy or charge that applies to the export of dairy cattle. The Regulations are necessary to implement the request from the dairy cattle export industry for a mandatory charge on exported dairy cattle, and the amount of the charge to be directed to each of research and development, and marketing.

The regulations commence on 1 January 2021.

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, Drought and Emergency Management**