

## **EXPLANATORY STATEMENT**

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

*Primary Industries Levies and Charges Collection Act 1991*

*Primary Industries Levies and Charges Collection Amendment (Dairy Cattle) Regulations 2020*

### **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 within the meaning of section 55 of the Constitution.

The *Primary Industries Levies and Charges Collection Act 1991* (the Collection Act) makes provision for the efficient and effective collection of primary industry levies and charges.

Subsection 30(1) of the Collection Act provides that the Governor-General may make regulations not inconsistent with the Act, 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.

Subsection 30(2) of the Collection Act relevantly provides that the matters that may be prescribed include, but are not limited to:

- making provision in relation to the payment of levy or charge, of amounts on account of levy or charge and of other amounts payable to the Commonwealth under the Act; and
- requiring producers of collection products, intermediaries in relation to such producers, and any other person prescribed, to make and keep accounts and other records in respect of prescribed products.

### **Purpose**

The purpose of the *Primary Industries Levies and Charges Collection Amendment (Dairy Cattle) Regulations 2020* (Amendment Regulations) is to amend the *Primary Industries Levies and Charges Collection Regulations 1991* (the principal Regulations) to require information to be provided and records to be kept relating to the charge imposed on the export of dairy cattle.

The *Primary Industries (Customs) Charges Amendment (Dairy Cattle Export Charge) Act 2020* (Amendment Act), amended Schedule 2 to the Customs Charges Act with effect from 1 January 2021 to impose a charge on the export of dairy cattle. The Amendment Act also amended the Customs Charges 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 *Primary Industries (Customs) Charges Amendment (Dairy Cattle) Regulations 2020* amended clause 2 of Schedule 2 to the *Primary Industries (Customs) Charges Regulations*

2000 to prescribe the rate of charge on the export of dairy cattle, also with effect from 1 January 2021.

A charge is also imposed on cattle (other than dairy cattle) under Schedule 2 to the Act, with amounts of that charge prescribed per kilogram on cattle so exported.

These charges were 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 Australian Livestock Export Corporation (LiveCorp), as the declared live-stock export marketing body and the declared 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 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.

In 2014, ALEC members agreed to increase the voluntary charge to \$6 per head of dairy cattle exported. Due to the voluntary characteristic of the charge, significant under-collection and free rider issues, the charge remained insufficient for industry needs and led to the temporary suspension of the Program. 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, a 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 for the charge.

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

On 17 September 2020, amendments to the primary legislation, the *Primary Industries (Customs) Charges Act 1999*, were passed by Parliament. 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.

The Department of Agriculture, Water and the Environment consulted with Livecorp regarding the amendments to be made to the Regulations to ensure that the purpose of the amendments fulfilled industry's requirements.

### **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 Levies and Charges Collection Amendment (Dairy Cattle) Regulations 2020***

**Section 1 – Name**

This section provides that the name of the Regulation is the *Primary Industries Levies and Charges Collection 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 Levies and Charges Collection Act 1991*.

**Section 4 – Schedules**

This section provides for the *Primary Industries Levies and Charges Collection Regulations 1991* to be amended as set out in Schedule 1.

**Schedule 1 – Amendments**

***Primary Industries Levies and Charges Collection Regulations 1991***

**Item 1 - At the end of clause 2 of Schedule 5 (at the end of the definition of *chargeable cattle*)**

This item adds a note at the end of the definition of ‘chargeable cattle’ to clarify that charge imposed on the export of cattle includes charge imposed on the export of dairy cattle.

**Item 2 - Clause 2 of Schedule 5**

This item inserts a definition of ‘dairy cattle’ so that it has the same meaning given by clause 1 of Schedule 2 to the Customs Charges Act.

**Item 3 - Clause 9 of Schedule 5**

This item repeals clause 9 of Schedule 5, which currently describes what must be included in a return relating to the existing charge on the export of cattle other than dairy cattle, and replaces it with a new clause which requires details to be included in a return which are relevant to the charges on the export of dairy cattle and cattle other than dairy cattle, respectively.

#### **Item 4 – Paragraph 10(1)(b) of Schedule 5**

This item amends paragraph 10(1)(b) of Schedule 5 so that it only describes what records must be kept relating to the charge imposed on the export of cattle other than dairy cattle. This is a consequential amendment to the amendment made by item 5 below which specifies the records that must be kept relating to the charge imposed on the export of dairy cattle.

#### **Item 5 – After paragraph 10(1)(b) of Schedule 5**

This item inserts a new paragraph 10(1)(ba) to specify the records that must be kept relating to the charge imposed on the export of dairy cattle.

#### **Item 6 – Paragraph 10(1)(d)**

This item amends paragraph 10(1)(d) to omit the word ‘cattle’ and insert ‘chargeable cattle’, as all exported cattle are now subject to either a charge on the export of cattle other than dairy cattle or a dairy cattle export charge.

**Statement of Compatibility with Human Rights**

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

***Primary Industries Levies and Charges Collection Amendment (Dairy Cattle) 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 Levies and Charges Collection Amendment (Dairy Cattle) Regulations 2020* is to add definitions relevant to the new dairy cattle export charge imposed under the *Primary Industries (Customs) Charges Act 1999* (Customs Act), which are consistent with those in the Customs Act, and to describe what information must be kept by exporters and included in a return for the purposes of collection of the charge.

The Regulations commence on 1 January 2021.

**Human rights implications**

These Regulations do not engage any of the applicable rights or 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](#).

**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, Drought and Emergency Management**