**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 (Farmed Prawns and Macadamias) 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.

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 primary industries charges, 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 horticultural products that are the produce of a primary industry such as farmed prawns and macadamias.

Subclause 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.

The Australian Macadamia Society Ltd (AMS), the peak industry body for the macadamia industry, was designated as the body for macadamia nuts by the Minister through the *Primary Industries (Customs) Charges (Designated Bodies) Declaration 2017* in line with the Act. There is currently no designated body for farmed prawns.

**Purpose**

The purpose of the *Primary Industries (Customs) Charges Amendment (Farmed Prawns and Macadamias) Regulations 2020* (the proposed Regulations) is to:

* decrease the Emergency Plant Pest Response (EPPR) charge on macadamia nuts from 0.2 cents per kilogram of dried kernels of macadamia nut to nil
* decrease, for one year, the white spot disease repayment (WSDR) charge on farmed prawns from 3.01 cents per kilogram of farmed prawns, weighed before any part of the prawns is removed to nil, before reverting to 3.01 cents per kilogram on 1 January 2022.

Charges are introduced, administered and collected by the Australian Government, usually at the request of industry. The Department of Agriculture, Water and the Environment (the department) on behalf of the Commonwealth, collects the charge and disburses the funds to the relevant recipient body.

**Background**

AMS is a signatory to the Emergency Plant Pest Response Deed (EPPRD). Under that deed, the Australian Government may, on request, underwrite an industry’s contribution to an emergency response. EPPR charges may be used to pay for industry contributions to emergency responses under the EPPRD. These charges are commonly introduced at a nil rate and activated (set to a positive rate) as needed in the case of a relevant emergency response.

The EPPR charge on macadamias was activated on 1 July 2016 to repay an underwritten industry contribution to a nationally cost-shared response to Varroa mite. Following successful repayment of this debt, AMS requested on 16 March 2020 that the levy be deactivated.

The WSDR charge on farmed prawns was introduced on 1 January 2020 to facilitate repayment of an underwritten industry contribution (20 per cent) to a $20 million assistance package provided to prawn farmers affected by white spot disease in the Logan River region of Queensland. On 14 July 2020, Australian Prawn Farmers Association (APFA) requested temporary deactivation of the WSDR levy for one year to provide relief for prawn farmers impacted by Covid-19 restrictions.

**Impact and effect**

The EPPR charge on macadamias will remain at nil until needed for a relevant emergency response under the EPPRD, continuing to provide a funding mechanism for the macadamia industry under that deed. Prawn farmers will experience relief from the WSDR levy for one year, after which the repayment of the industry’s debt to the government will continue until fully repaid.

**Consultation**

The industry bodies have undertaken consultation, notification, etc, consistent with the Australian Government guidelines for the deactivation of an emergency response levy.

AMS notified levy payers of the proposed deactivation on 19 March 2020 and held an objection period from 1 April to 4 May 2020. No objections were received.

APFA notified charge payers of the proposed 12 month deactivation on 21 July 2020 and held an objection period from 22 July to 20 August 2020. No objections were received. At the industry’s request, the temporary arrangements were not applied to the research and development charge on farmed prawns, so as not to disrupt or defund relevant research activities.

**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*.

**Attachment A**

**Details of the *Primary Industries (Customs) Charges Amendment (Farmed Prawns and Macadamias) Regulations 2020***

Section 1 – Name

This section provides that the name of the Regulations is the *Primary Industries (Customs) Charges Amendment (Farmed Prawns and Macadamias) Regulations 2020*.

Section 2 – Commencement

This section provides the commencement dates of the Regulations.

Sections 1 to 4 will commence on the day after the instrument is registered.

Part 1 of Schedule 1 will commence on 1 January 2021.

Part 2 of Schedule 1 will commence on 1 January 2022.

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 for the *Primary Industries (Customs) Charges Regulations 2000* to be amended as set out in Schedule 1.

Schedule 1

Part 1 – Amendments commencing 1 January 2021

**Item 1** amends subclause 10.6(2) of Schedule 10 to provide that the rate of the EPPR charge on macadamia nuts is nil.

**Item 2** amends subclause 2.5(3) of Schedule 14 to provide that the rate of the EPPR levy on farmed prawns is nil.

Part 2 – Amendments commencing 1 January 2022

**Item 3** amends subclause 2.5(3) of Schedule 14 to provide that the rate of the EPPR charge on farmed prawns is 3.01 cents per kilogram of farmed prawns, weighed before any part of the prawns is removed.

**Attachment B**

**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 (Farmed Prawns and Macadamias) 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 (Farmed Prawns and Macadamias) Regulations 2020* (the proposed Regulations) is to:

* decrease the EPPR charge on macadamia nuts from 0.2 cents per kilogram of dried kernels of macadamia nut to nil
* decrease, for one year, the white spot disease repayment (WSDR) charge on farmed prawns from 3.01 cents per kilogram of farmed prawns, weighed before any part of the prawns is removed to nil, before reverting to 3.01 cents per kilogram on 1 January 2022.

**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, Drought and Emergency Management**