

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture, Fisheries and Forestry

Primary Industries (Customs) Charges Act 1999

Primary Industries (Customs) Charges Amendment (Stone Fruit) Regulations 2023

Legislative Authority

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

Clause 2 to Schedule 10 to the Act imposes a charge on certain chargeable horticultural products that are produced in Australia that are exported from Australia. Part 15 of Schedule 10 to the *Primary Industries (Customs) Charges Regulations 2000* (the Customs Regulations) prescribes stone fruit as a chargeable horticultural product for the purposes of the definition of that term in clause 1 of Schedule 10 to the Act.

Subclauses 3(3) and 3(5) of Schedule 10 to the Act provide that the regulations may fix a rate of charge in relation to a class of chargeable horticultural products that is a marketing component or a research and development component.

Purpose

The purpose of the *Primary Industries (Customs) Charges Amendment (Stone Fruit) Regulations 2023* (the Regulations) is to make the following changes to the Customs Regulations to better reflect the current research and development needs of the sector:

- reduce the marketing component of the stone fruit charge from 0.441 cents per kilogram of stone fruit to 0.00 cents per kilogram;
- increase the research and development component of the stone fruit charge from 0.539 cents per kilogram of stone fruit to 0.98 cents per kilogram.

Background

Clause 5 of Schedule 10 to the Act provides matters that the Minister must take into consideration before the Governor-General makes regulations for the purposes of those subclauses, including any relevant recommendation made to the Minister by the industry services body following consultation with the eligible industry body for the leviable horticultural product.

Horticulture Innovation Australia Limited is the industry services body declared under section 9 of the *Horticulture Marketing and Research Development Services Act 2000*. Summerfruit Australia Limited (SAL) is the eligible industry body for stone fruit prescribed in clause 15.5 of Part 15 of Schedule 10 to the Customs Regulations.

While Horticulture Innovation Australia Limited did not make any recommendations to the Minister regarding the rate of the charge on stone fruit, SAL did recommend that the marketing component of the charge on stone fruit be reduced from 0.441 cents per kilogram

of stone fruit to 0.00 cents per kilogram and that the research and development component be increased from 0.539 cents per kilogram of stone fruit to 0.98 cents per kilogram. These recommendations are supported by Horticulture Innovation Australia Limited.

There is no change to the net charge on stone fruit from 1 cent per kilogram under Part 15 of Schedule 10 to the Customs Regulations.

Impact and Effect

These Regulations will support the relevant industry bodies in leveraging export opportunities for stone fruit and will deliver returns for growers.

While there is no net impact on the charges paid by the stone fruit industry, there will be an impact on the government's underlying cash balance. An increase in the research and development charges will increase the Australian Government's matched funding for industry research and development charges.

Consultation

The measures in the Regulations were developed with extensive consultation with stone fruit growers, in accordance with the Australian Government's *Levy Principles and Guidelines*. Interested parties were informed of the changes through multiple outreach and media outlets. The consultation and voting process was conducted by SAL, with 83.3 percent of votes supportive of the proposal. A six-week objection period was held from 19 October 2022 to 25 November 2022 to raise any concerns about the proposal and no objections were received.

The Office of Impact Analysis has been consulted and has advised that an Impact Assessment is not required for changes to existing charges (OBPR ID: 22416).

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 will commence on 1 July 2023. The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the *Primary Industries (Customs) Charges Amendment (Stone Fruit) Regulations 2023*

Section 1 – Name

This section provides that the name of the Regulations is the *Primary Industries (Customs) Charges Amendment (Stone Fruit) Regulations 2023* (the Regulations).

Section 2 – Commencement

This section provides for the Regulations to commence on 1 July 2023.

The note following subsection 2(1) highlights that the table only relates to the provisions of this instrument as originally made. The table is not amended to deal with any later amendments of this instrument.

Subsection 2(2) provides that any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument. Column 3 contains relevant dates and details.

Section 3 – Authority

This section provides that this instrument is made under the *Primary Industries (Customs) Charges Act 1999*.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Primary Industries (Customs) Charges Regulations 2000

Item 1 – Clause 15.3 of Schedule 10

This item omits the existing rate of charge in relation to the marketing component of 0.441 of a cent per kilogram of stone fruit and substitutes a nil rate of charge.

Item 2 – Clause 15.4 of Schedule 10

This item omits the existing rate of charge in relation to the research and development component of 0.539 of a cent per kilogram of stone fruit and substitutes a new rate of 0.98 of a cent per kilogram of stone fruit.

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 (Stone Fruit) Regulations 2023

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 (Stone Fruit) Regulations 2023* (the Legislative Instrument) is to make the following changes to the *Primary Industries (Customs) Charges Regulations 2000* to better reflect the current research and development needs of the sector:

- reduce the marketing component of the stone fruit charge from 0.441 cents per kilogram of stone fruit to 0.00 cents per kilogram;
- increase the research and development component of the stone fruit charge from 0.539 cents per kilogram of stone fruit to 0.98 cents per kilogram.

The Legislative Instrument commences on 1 July 2023.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

The measures in the Legislative Instrument 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 Legislative Instrument does not engage any human rights issues.

Senator the Hon. Murray Watt

Minister for Agriculture, Fisheries and Forestry