

EXPLANATORY STATEMENT

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

Primary Industries (Customs) Charges Act 1999

Primary Industries (Customs) Charges Amendment (Sweet Potatoes) Regulations 2024

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.

Purpose

The purpose of the *Primary Industries (Customs) Charges Amendment (Sweet Potatoes) Regulations 2024* (the Amendment Regulations) is to meet current industry needs by:

- decreasing the rate of the existing marketing component of the sweet potatoes charge to nil; and
- making Australian Sweetpotato Growers Inc. (ASPG) the eligible industry body in relation to all components of the charge on sweet potatoes.

Background

Charges are generally imposed and changed under the Act on the request of industry and disbursed by the Commonwealth to certain bodies to undertake particular activities for the benefit of industry.

Clause 2 of Schedule 10 to the Act imposes a charge on certain chargeable horticultural products produced in Australia that are exported from Australia. Sweet potatoes are prescribed as chargeable horticultural products under that Schedule. Under subclauses 3(1) and (3) of Schedule 10 to the Act, the regulations may fix a rate of charge in relation to sweet potatoes that is a marketing component.

Clause 5 of Schedule 10 to the Act requires the Minister to consider certain matters before the Governor-General makes regulations for the purposes of those Schedules. This includes any relevant recommendation the industry services body makes to the Minister following consultation with the eligible industry body for the chargeable horticultural product. In relation to this:

- Horticulture Innovation Australia Limited (Hort Innovation Australia) is the industry services body declared under section 9 of the *Horticulture Marketing and Research Development Services Act 2000*; and
- ASPG is the eligible industry body for sweet potatoes under subclause 30.4(1) of Schedule 10 to the *Primary Industries (Customs) Charges Regulations 2000* (the principal Regulations).

ASPG recommended that the marketing component of the charge be reduced to nil. Hort Innovation Australia supported ASPG's recommendations but did not make any recommendations to the Minister. Therefore, there was no relevant recommendation made to

the Minister by the industry services body that the Minister was required to take into consideration under subclause 5(3) of Schedule 10 to the Act.

Under the Act, the eligible industry body must be consulted on, and may make recommendations to, the Minister in a number of circumstances in relation to charges. Such circumstances include fixing a rate for the marketing component, the research and development component of the charge and a rate of charge destined for other purposes and providing for exemptions from charges.

Clause 30.4 of Schedule 10 to the principal Regulations identified the eligible industry body for sweet potatoes as:

- ASPG in relation to a recommendation relating to the marketing component of a charge; and
- Ausveg Limited in relation to a recommendation relating to any other component of a charge.

It was proposed that ASPG – the national peak industry body for sweet potatoes – be the eligible industry body for all components of the charge on sweet potatoes.

Impact and Effect

The amendments will benefit sweet potatoes farmers by:

- decreasing the marketing component of the charge in line with current industry requirements to nil; and
- making ASPG, which is the national peak industry body for sweet potatoes, the eligible industry body for all components of the charge on sweet potatoes.

Complementary amendments to the *Primary Industries (Excise) Levies Regulations 1999* by the *Primary Industries (Excise) Levies Amendment (Sweet Potatoes) Regulations 2024* align changes in the levy rates for sweet potatoes with the changes to the customs charge.

Consultation

The decrease in the rate of the marketing component of the charge was developed with widespread consultation with sweet potatoes growers, in accordance with the Australian Government's *Levy Principles and Guidelines*. ASPG consulted with sweet potatoes growers for several months before holding a ballot which was managed by an independent third party. The majority of the votes from the ballot supported the proposal. There was a six-week objection period following the result of the ballot; no objections were received. The department assessed the proposal and considered it to meet the requirements of the *Levy Principles and Guidelines*.

The proposal to make ASPG the eligible industry body for all components of the charge on sweet potatoes is supported by ASPG and Ausveg Limited.

The Office of Impact Analysis has been consulted and has advised that a detailed analysis is not required for the change to the eligible industry body (OIA24-07379). A carve-out applies to the change in the rate of charge (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 2024. The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the *Primary Industries (Customs) Charges Amendment (Sweet Potatoes) Regulations 2024*

Section 1 – Name

This section provides that the name of the Regulations is the *Primary Industries (Customs) Charges Amendment (Sweet Potatoes) Regulations 2024* (the Regulations).

Section 2 – Commencement

Subsection 2(1) provides that each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Item 1 of the table specifies that the whole of this instrument commences on 1 July 2024.

The note to subsection 2(1) provides that this table relates only to the provisions of this instrument as originally made. It will not be 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.

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 30.2 of Schedule 10

This item amends clause 30.2 of Schedule 10 of the *Primary Industries (Customs) Charges Regulations 2000* (the principal Regulations) to omit the words “1% of the free on-board value of the sweet potatoes immediately before export”, and substitute “nil”.

Item 2 – Clause 30.4 of Schedule 10

This item repeals and substitutes clause 30.4 of Schedule 10 of the principal Regulations.

Clause 30.4 of Schedule 10 to the principal Regulations identifies the eligible industry body for sweet potatoes as:

- Australian Sweetpotato Growers Inc. in relation to a recommendation relating to the marketing component of a charge; and
- Ausveg Limited in relation to a recommendation relating to any other component of a charge.

New clause 30.4 specifies that the eligible industry body for sweet potatoes is the Australian Sweetpotato Growers Inc (ABN 82 577 850 667).

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 (Sweet Potatoes) Regulations 2024

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 (Sweet Potatoes) Regulations 2024* (the Legislative Instrument) is to make the following changes to the *Primary Industries (Customs) Charges Regulations 2000* to meet current industry needs of the sector:

- decreasing the rate of the existing marketing component of the sweet potatoes charge to nil; and
- making Australian Sweetpotato Growers Inc. (ASPG) the eligible industry body in relation to all components of the charge on sweet potatoes.

The Legislative Instrument commences on 1 July 2024.

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