

2013-2014

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**EXPORT LEGISLATION AMENDMENT BILL 2014**  
**EXPORT INSPECTION (QUANTITY CHARGE) AMENDMENT BILL 2014**  
**EXPORT INSPECTION (SERVICE CHARGE) AMENDMENT BILL 2014**  
**EXPORT INSPECTION (ESTABLISHMENT REGISTRATION CHARGES)**  
**AMENDMENT BILL 2014**

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**EXPLANATORY MEMORANDUM**

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(Circulated by authority of the Minister for Agriculture,  
the Hon. Barnaby Joyce MP)

**Export Legislation Amendment Bill 2014**  
**Export Inspection (Quantity Charge) Amendment Bill 2014**  
**Export Inspection (Service Charge) Amendment Bill 2014**  
**Export Inspection (Establishment Registration Charges) Amendment Bill 2014**

***General Outline***

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The four Bills amend the following Acts:

- *Australian Meat and Live-stock Industry Act 1997*
- *Export Control Act 1982*
- *Export Inspection and Meat Charges Collection Act 1985*
- *Export Inspection (Quantity Charge) Act 1985*
- *Export Inspection (Service Charge) Act 1985*
- *Export Inspection (Establishment Registration Charges) Act 1985*
- *Imported Food Control Act 1992*

The amendments will remedy technical defects in these Acts and facilitate appropriate and equitable cost recovery for the performance of certain export services by the Department of Agriculture.

The *Export Control Act 1982* (Export Control Act) provides the basis for ensuring that exports meet requirements of importing countries. The Export Control Act and the *Export Inspection Meat Charges and Collection Act 1985* (Collection Act) provide the Department with the authority to provide regulatory services to exporters of ‘prescribed goods’ and—consistent with the Australian Cost Recovery Guidelines—to collect costs from exporters for services carried out in relation to these goods, these charges are imposed by three Imposition Acts.

The Export Control Act sets out a very broad definition for ‘prescribed good’, this is further defined in the various Orders which allows the Department to carry out export certification and regulatory services for those goods.

However, the Collection Act, which allows the Department to collect charges for regulatory services carried out under the Export Control Act, is very prescriptive and unless the good is listed in the Collection Act, there is no legislative power to collect the relevant charges for the regulatory services.

The *Export Control (Plants and Plant Products) Order 2011* and *Export Control (Wild Game Meat and Wild Game Meat Products) Orders 2010* prescribe a number of goods whose definitions are not included in the Collection Act.

Due to inconsistent definitions between the Collection Act and prescribed goods for the purposes of the Export Control Act, the Department is unable to recover registration charges for establishments and export inspection service charges for those goods.

### **The Export Legislation Amendment Bill 2014**

The Export Legislation Amendment Bill 2014 will remove definitional inconsistencies between the Collection Act and the Export Control Act and ensure that the definition of ‘prescribed good’ in the Collection Act has the same meaning as in the Export Control Act. These amendments will ensure consistent cost recovery for services provided by the Department to exporters.

The Bill will also amend the *Australian Meat and Live-stock Industry Act 1997* (AMLI Act) to enable the Department to recover costs relating to the provision of services, such as issuing quota certificates, for export quota that is administered by other countries.

The Bill does not create a fee for issuing quota certificates. It enables delegated legislation to be made setting out the fees. Any fees relating to issuing quota certificates will be subject to a cost recovery impact statement process and consultation with relevant industries.

The Bill will also make minor amendments to:

- correct a referencing error in section 10E of the Export Control Act relating to issuing a warrant by telephone, facsimile or electronically
- the *Imported Food Control Act 1992* (Import Food Control Act) and the Collection Act to reflect the retirement of the Australian Quarantine Inspection Service (AQIS) brand.

### **Export Inspection (Quantity Charge) Amendment Bill 2014**

### **Export Inspection (Service Charge) Amendment Bill 2014**

### **Export Inspection (Establishment Registration Charges) Amendment Bill 2014**

The Collection Act contains administrative provisions for the Department to collect charges imposed by three Imposition Acts (*Export Inspection (Quantity Charge) Act 1985*, *Export Inspection (Service Charge) Act 1985* and *Export Inspection (Establishment Registration Charges) Act 1985*) for export related services carried out under the Export Control Act.

As these Acts are incorporated and read as one with the Collection Act, consequential amendments are required to ensure consistency with the amended Collection Act.

The three Imposition Acts will be amended by three separate Bills as they relate to charges within the meaning of section 55 of the *Constitution*.

### ***Financial Impact Statement***

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The proposed amendments to the Collection Act and the three Imposition Acts (and corresponding amendments to delegated legislation) will enable the Department to recover approximately \$1.9 million per annum for exporters of cut flowers, dried fruit, fodder, nursery stock, nuts, seed, timber products, tissue culture, and rabbit and ratite meat for the provision export services.

The proposed amendments to the AMLI Act will not impose any financial or regulatory impact as the amount of the quota fee will be detailed in delegated legislation.

## ***Statement of Compatibility with Human Rights***

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

### **Export Legislation Amendment Bill 2014**

This Bill 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 Bill**

The Bill will remedy technical defects in the *Export Control Act 1982*, *Export Inspection and Meat Charges Collection Act 1985* and the *Imported Food Control Act 1992* and facilitate appropriate and equitable cost recovery for the performance of export services by the Department of Agriculture (Department).

The Bill will amend the *Australian Meat and Live-stock Industry Act 1997* to enable the Department to recover costs relating to quota arrangements administered by other countries.

#### **Human rights implications**

This Bill does not engage any of the applicable rights or freedoms as the amendments are minor and technical in nature.

#### **Conclusion**

This Bill is compatible with human rights as it does not raise any human rights issues.

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**Minister for Agriculture,  
the Hon. Barnaby Joyce MP**

## ***Statement of Compatibility with Human Rights***

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

### **Export Inspection (Quantity Charge) Amendment Bill 2014**

This Bill 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 Bill**

The Bill amends the *Export Inspection (Quantity Charge) Act 1985*. It is part of a package that will align the definitions in the *Export Inspection and Meat Charges Collection Act 1985* with the definitions in the *Export Control Act 1982* to facilitate appropriate and equitable cost recovery for the performance of export services by the Department of Agriculture.

#### **Human rights implications**

This Bill does not engage any of the applicable rights or freedoms as the amendments are minor and technical in nature.

#### **Conclusion**

This Bill is compatible with human rights as it does not raise any human rights issues.

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**Minister for Agriculture,  
the Hon. Barnaby Joyce MP**

## ***Statement of Compatibility with Human Rights***

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

### **Export Inspection (Service Charge) Amendment Bill 2014**

This Bill 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 Bill**

The Bill amends the *Export Inspection (Service Charge) Act 1985*. It is part of a package that will align the definitions in the *Export Inspection and Meat Charges Collection Act 1985* with the definitions in the *Export Control Act 1982* to facilitate appropriate and equitable cost recovery for the performance of export services by the Department of Agriculture.

#### **Human rights implications**

This Bill does not engage any of the applicable rights or freedoms as the amendments are minor and technical in nature

#### **Conclusion**

This Bill is compatible with human rights as it does not raise any human rights issues.

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**Minister for Agriculture,  
the Hon. Barnaby Joyce MP**

## ***Statement of Compatibility with Human Rights***

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

### **Export Inspection (Establishment Registration Charges) Amendment Bill 2014**

This Bill 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 Bill**

The Bill amends the *Export Inspection (Establishment Registration Charges) Act 1985*. It is part of a package that will align the definitions in the *Export Inspection and Meat Charges Collection Act 1985* with the definitions in the *Export Control Act 1982* to facilitate appropriate and equitable cost recovery for the performance of export services by the Department of Agriculture.

#### **Human rights implications**

This Bill does not engage any of the applicable rights or freedoms as the amendments are minor and technical in nature.

#### **Conclusion**

This Bill is compatible with human rights as it does not raise any human rights issues.

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**Minister for Agriculture,  
the Hon. Barnaby Joyce MP**

# EXPORT LEGISLATION AMENDMENT BILL 2014

## NOTES ON CLAUSES

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### **Clause 1 Short title**

This clause provides for the short title of the Act to be the *Export Legislation Amendment Act 2014*.

### **Clause 2 Commencement**

This clause provides for the Act to commence on the day it receives the Royal Assent.

### **Clause 3 Schedule(s)**

The clause provides that *Australian Meat and Live-stock Industry Act 1997*, *Export Control Act 1982*, *Export Inspection and Meat Charges Collection Act 1985* and the *Imported Food Control Act 1992* are amended as set out in the applicable items in the Schedule.

## **Schedule 1—Amendments**

### ***Australian Meat and Live-stock Industry Act 1997* (AMLI Act)**

#### **Item 1**

This item inserts a new definition of the word ‘quota’ in section 3 of the AMLI Act which gives quota the same meaning as in the *Australian Meat and Live-stock (Quotas) Act 1990* (Quota Act).

The Quota Act provides the Secretary may impose a limitation on the total quantity of goods, or a specified class of goods, that may be exported to a specified country. The secretary may grant a quota authorising the holder(s) to make a specified proportion of those exports.

This definition gives effect to the addition of a new subsection 17(3) made by item 2 relating to power for the Department to collect or waive fees for services provided to exporters of goods such as issuing quota certificates, who export under quota arrangements for which Australia does not allocate or manage the quota.

#### **Item 2**

This item inserts a new paragraph 17(3)(c) at the end of subsection 17(3) of the AMLI Act. New paragraph 17(3)(c) provides that an order made under section 17 of the AMLI Act may require payment or waiver of a fee if the power or performance of a duty or exercise of a power relates to a consignment for export other than in accordance with a quota under this legislation.

This item addresses the current limitation where the department cannot charge for administration services that are undertaken in meeting importing country requirements for quota arrangements that Australia does not allocate or manage. For example, the European Union (EU) requires the Department to provide quota certificates to exporters accessing the EU high quality grain fed beef quota. As Australia does not manage this quota, it is unable to recover costs for issuing quota certificates.



The purpose of this amendment is to allow the Department to recover costs for performing services relating to some quotas used to access overseas markets, where the quota is allocated by the importing country but certified by the Department.

**Item 3**

This item provides that the amendments made by item 2 only apply in relation to fees payable for powers exercised, or duties performed, on or after the first day of the first financial year on or after commencement of item 2.

Commencing at the start of the financial year will enable exporters to plan ahead and transition to the new cost recovery arrangements for export services carried out by the Department in relation to international quota arrangements.

***Export Control Act 1982*** (Export Control Act)

**Item 4**

This item substitutes the reference to section 10F in subsection 10E(7) of the Export Control Act with a reference to section 10G.

The purpose of the amendment is to correct a typographical error.

***Export Inspection and Meat Charges Collection Act 1985*** (Collection Act)

**Item 5**

This item repeals the following definitions in subsection 3(1) of the Collection Act: ‘animal reproductive material’, ‘dairy produce’, ‘dried fruit’, ‘dried fruit product’, ‘edible game offal’, ‘egg product’ and ‘eggs’.

The purpose of this amendment along with items 8 and 12 is to remove the definitions of all the prescribed commodities listed in the Collection Act. These definitions are no longer required as the definition of ‘prescribed commodity’ will be repealed by this Bill (see item 10) and replaced with a definition of ‘prescribed good’ (see item 11) which will align the definitions in the Collection Act with the Export Control Act.

**Item 6**

This item substitutes the words ‘prescribed commodities’ in the definition of ‘establishment’ in subsection 3(1) of the Collection Act with ‘prescribed goods’.

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by items 10 and 11.

**Item 7**

This item substitutes the definition of ‘exporter’ in subsection 3(1) of the Collection Act with a new definition. The only change to the definition is substituting the words ‘prescribed commodities’ with ‘prescribed goods’.

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by items 10 and 11.

**Item 8**

This item repeals the following definitions in subsection 3(1) of the Collection Act: ‘fish’, ‘fish product’, ‘fruit juice’, ‘fruit product’, ‘game animal’, ‘game meat’, ‘game meat product’, ‘grain’, ‘meat’ and ‘meat product’, ‘milk product’, ‘poultry’, ‘poultry meat’ and ‘poultry meat product’.

The purpose of this amendment is to align the definitions in Collection Act with the Export Control Act and its purpose is consistent with items 5 and 12.

**Item 9**

This item substitutes each mention of the words ‘prescribed commodities’ in the definition of ‘preparation’ in subsection 3(1) of the Collection Act, with ‘prescribed goods’.

The purpose of this amendment is to update references to ‘prescribed commodity’ with references to ‘prescribed goods’ consistent with the amendments made by items 10 and 11.

**Items 10 and 11**

These items repeal the definition of ‘prescribed commodity’ in subsection 3(1) of the Collection Act and replace it with a new definition of ‘prescribed good’ in subsection 3(1) of the Collection Act. The definition of ‘prescribed good’ will provide that a prescribed good for the purposes of the Collection Act is a ‘prescribed good’ within the meaning of the Export Control Act.

The purpose of these amendments is to align the definitions of ‘prescribed good’ in Collection Act with the Export Control Act. This will ensure consistency across the export legislation framework so that a prescribed good for the purposes of the Export Control Act will also be a prescribed good for the purposes of the Collection Act. As a consequence of these amendments, the definitions of all commodities in the Collection Act can be repealed (items 5, 8 and 12).

The amendments will make the Collection Act more flexible and allow the Department to recover costs for carrying out export services in relation to goods prescribed for the purposes of the Export Control Act.

Aligning the definitions in the Collection Act with the Export Control Act will enable consistency with current cost-recovery policies and practices for services provided by the Department to exporters.

**Item 12**

This item repeals the definitions of ‘rabbit’, ‘rabbit meat’, ‘rabbit meat product’, ‘vegetable juice’ and ‘vegetable product’ in subsection 3(1) of the Collection Act.

The purpose of this amendment is to align the definitions in Collection Act with the Export Control Act and its purpose is consistent with items 5 and 8.

**Items 13 and 14**

These items substitute the words ‘a prescribed commodity’ in subparagraph 3A(1)(b)(ii) of the Collection Act and ‘the prescribed commodity’ in paragraph 3A(1)(b) of the Collection Act with ‘prescribed goods’ and ‘the prescribed goods’.

The purpose of these amendments is to update the references to ‘prescribed commodity’ with a references to ‘prescribed goods’ consistent with the amendments made by items 10 and 11.

**Items 15 and 16**

These items substitute the words ‘a prescribed commodity’ and ‘that prescribed commodity’ in subsection 5(1) of the Collection Act with ‘prescribed goods’ and ‘the prescribed goods.’

The purpose of these amendments is to update the references to ‘prescribed commodity’ with a references to ‘prescribed goods’ consistent with the amendments made by items 10 and 11.

**Item 17**

This item substitutes sections 6 and 6A of the Collection Act with new sections 6 and 6A which provide that an exporter of prescribed goods must in respect of a quantity or service charge give the Secretary a return for each month in which export permits are granted or export inspection services are conducted in respect of the goods and that contains the particulars prescribed by the regulations.

The information required by the Secretary in order to process a quantity charge or service charge return is set out in the *Export Inspection and Meat Charges Collection Regulations 1985*.

The purpose of this amendment is to redraft sections 6 and 6A for clarity and update references to ‘prescribed commodity’ with references to ‘prescribed goods’ consistent with the amendments made by items 10 and 11.

**Item 18**

This item substitutes the words ‘prescribed commodity shall’ in subsection 9(1) of the Collection Act with ‘prescribed goods must’.

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by items 10 and 11.

**Item 19**

This item substitutes the words ‘that prescribed commodity’ in subsection 9(1) of the Collection Act with ‘the prescribed goods’.

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by items 10 and 11.

**Item 20**

This item substitutes the reference to subsection 6(1) in subsection 9(1) of the Collection Act with a reference to section 6.

The purpose of this amendment is to update the reference consistent with the amendments made by items 17.

**Item 21**

This item substitutes the words ‘a prescribed commodity’ in paragraph 12(1)(a) of the Collection Act with ‘prescribed goods.’

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by items 10 and 11.

**Item 22**

This item substitutes the words ‘that prescribed commodity’ in paragraph 12(1)(b) of the Collection Act with ‘the prescribed goods.’

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by items 10 and 11.

**Item 23**

This item substitutes section 16B of the Collection Act with a new section 16B which provides that the Secretary may delegate his powers under section 12A of the Collection Act to an SES Employee, an acting SES Employee.

The purpose of this amendment is to reflect the retirement of the Australian Quarantine Inspection Service (AQIS) brand. ‘SES Employee’ is defined in the *Acts Interpretation Act 1901*.

**Item 24**

This item substitutes the words ‘a prescribed commodity’ in paragraph 17(c) of the Collection Act with ‘prescribed goods.’

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by items 10 and 11.

**Item 25**

This item inserts a note at the end of section 17 of the Collection Act stating that regulations may prescribe something by class.

The purpose of the amendment is to clarify that subsection 13(3) of the *Legislative Instruments Act 2003* applies to regulations made under the Collection Act.

**Item 26**

Subitem 26(1) provides that the amendments made by items 5, 7, 8, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22 and 24 apply in relation to export permits granted on or after the first day of the first financial year starting on or after the commencement of those items.

Subitem 26(2) provides that amendments made by items 6 and 9 apply in relation to registrations (including renewals of registrations) made on or after the first day of the first financial year starting on or after the commencement of those items.

Subitem 26(3) provides that amendments made by items 13 and 14 apply in relation to export inspection services provided on or after the first day of the first financial year starting on or after the commencement of those items.

Having these amendments apply to export permits issued, export inspection services performed or registration or renewals made on or after the start of the financial year will enable exporters to plan ahead and transition to any new or changed cost recovery arrangements which may be imposed by regulation for export services carried out by the Department in relation to 'prescribed goods'.

**Item 27**

Subitem 27(1) provides that that this item applies to the *Export Inspection and Meat Charges Collection Regulations 1985* (the Regulations) as is in force immediately before the commencement of the item.

Subitem 27(2) provides that the Regulations to the extent that they specify or refer to commodities only have effect, after the commencement of this item, as if any of the commodities that are not a prescribed goods within the meaning of the Export Control Act are disregarded. If the commodities listed in the Regulations are not prescribed goods, then charges cannot be collected.

Subitem 27(3) provides that subitem 27(2) does not apply to the extent that the Regulations relate to a charge imposed by the *Domestic Meat Premises Charge Act 1993*.

Subitem 27(4) provides that the Regulations have effect, after the commencement of this item, as if a reference to prescribed commodity is a reference to a prescribed good within the meaning of the Export Control Act.

Subitem 27(5) provides that the Regulations, to the extent that they were made for the purposes of sections 6 and 6A of the Collection Act have effect, after the commencement of this item, as if they were made for the purposes of that section as amended by item 17.

The purpose of this item is to ensure that the collection functions continue in relation to prescribed goods while the necessary amendments are made to the Regulations.

***Imported Food Control Act 1992*** (Imported Food Control Act)

**Item 28**

This item repeals the definition for ‘AQIS’ in subsection 3(1) of the Imported Food Control Act to reflect the retirement of the AQIS brand.

**Item 29**

This item substitutes the words ‘officer of AQIS’ in paragraph (b) of the definition of ‘authorised officer’ in subsection 3(1) of the Imported Food Control Act with ‘an APS employee in the Department’. APS Employee’ is defined in the *Acts Interpretation Act 1901*.

The purpose of this amendment is to reflect the retirement of the AQIS brand consistent with the amendment made by item 28.

Authorised officers perform day-to-day functions under the Imported Food Control Act such as issuing food control certificates for imported consignments and monitoring compliance through executing monitoring warrants. It is appropriate that these officers are at all APS levels as authorised officer receive specific training to allow them to carry out their regulatory functions.

**Item 30**

This item substitutes the words ‘officer of AQIS’ in subsection 40(1) of the Imported Food Control Act with ‘an APS employee in the Department’.

The purpose of this amendment is to update references consistent with the amendment made by item 29.

**Item 31**

This item replaces section 41 of the Imported Food Control Act with a new section 41. New section 41 provides that the Secretary may, by signed instrument, delegate any or all of the Secretary’s powers under this Act to an SES employee or an APS employee who is an Executive Level 1 or 2.

The purpose of this amendment is to reflect the retirement of the AQIS brand and is consistent with the amendment made by items 28.

This item limits the people to which the Secretary’s powers can be delegated to. It is appropriate that that the Secretary’s powers be delegated to the Executive Level 1 and 2 as some of the Secretary’s powers relate to the day-to-day management of the Imported Food Control Act, such as issuing or revoking holding orders under section 15 and a requirement that authorised officers hand in identity cards to the Secretary.

In addition there are a limited number of SES employees in the various regional offices of the Department to exercise the Secretary’s powers in a timely manner.

# EXPORT INSPECTION (QUANTITY CHARGE) AMENDMENT BILL 2014

## NOTES ON CLAUSES

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### **Clause 1**      **Short title**

This clause provides for the short title of the Act to be the *Export Inspection (Quantity Charge) Amendment Act 2014*.

### **Clause 2**      **Commencement**

Subclause 2(1) provides for clauses 1 to 3 of the Act to come into effect the day the Act receives the Royal Assent. Schedule 1 will commence at the same time as the *Export Legislation Amendment Act 2014*.

Subclause 2(2) provides that details of the specific dates for commencement may be inserted and edited, in any published version of the Act.

### **Clause 3**      **Schedule(s)**

The clause provides that each Act specified in a Schedule to the Act is amended or repealed as set out in the applicable items in the Schedule, and any other item in a Schedule has effect according to its terms.

## **Schedule 1—Amendments**

### ***Export Inspection (Quantity Charge) Act 1985*** (Quantity Charge Act)

#### **Item 1**

This item substitutes the word ‘commodities’ in the title of the Quantity Charge Act with ‘goods’.

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by item 3 below and items 10 and 11 of the Export Legislation Amendment Bill 2014.

#### **Item 2**

This item substitutes the word ‘The’ in section 3 of the Quantity Charge Act with ‘Subject to section 4, the’.

The purpose of this amendment is to clarify that the Quantity Charge Act is to be read consistently with the Collection Act, subject to the interpretation provisions in section 4 of the Quantity Charge Act.

#### **Item 3**

This item inserts a definition of ‘prescribed good’ into subsection 4(1) of the Quantity Charge Act, which provides that a prescribed good for the purposes of the Collection Act is a ‘prescribed good’ within the meaning of the Export Control Act.

The purpose of this amendment is to align the definition of ‘prescribed good’ in the Quantity Charge Act with the Export Control Act, consistent with the amendment made by item 11 of the Export Legislation Amendment Bill 2014.

**Item 4**

This item substitutes each mention of the words ‘a prescribed commodity’ in subsection 4(2) of the Quantity Charge Act with ‘prescribed goods’.

The purpose of this amendment is to update the references to ‘prescribed commodity’ with references to ‘prescribed goods’ consistent with the amendments made by item 3 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.

**Item 5**

This item substitutes each mention of the words ‘prescribed commodity is’ in paragraph 4(2)(a) of the Quantity Charge Act with ‘prescribed goods are’.

The purpose of this amendment is to update references to ‘prescribed commodity’ with references to ‘prescribed goods’ consistent with the amendments made by item 3 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.

**Item 6**

This item substitutes the words ‘prescribed commodity was’ in paragraph 4(2)(b) of the Quantity Charge Act with ‘prescribed goods were’.

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by item 3 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.

**Item 7**

This item substitutes the words ‘prescribed commodity is’ in paragraph 4(2)(c) of the Quantity Charge Act with ‘prescribed goods are’.

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by item 3 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.

**Item 8**

This item substitutes each mention of the words ‘prescribed commodity’ in paragraphs 4(2)(d) and (e) of the Quantity Charge Act with ‘prescribed goods’.

The purpose of this amendment is to update the references to ‘prescribed commodity’ with references to ‘prescribed goods’ consistent with the amendments made by item 3 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.

**Item 9**

This item replaces subsection 6(1) of the Quantity Charge Act with a new subsection 6(1), which provides that a charge is imposed on prescribed goods for which an export permit has been granted. The export permit may relate to other prescribed goods on which there is no quantity charge.

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed good’ consistent with the amendments made by item 3 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.



The *Export Inspection (Quantity Charges) Regulations 1985* sets out the prescribed commodities that are subject to a quantity charge. Currently there is only a quantity charge on grain. This amendment will not have any additional impact on the grain industry.

**Item 10**

This item substitutes the words ‘a prescribed commodity’ in subsection 6(1D) of the Quantity Charge Act with ‘prescribed goods’.

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by item 3 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.

**Item 11**

This item substitutes the words ‘commodity, whether or not that other permit was also granted in respect of another commodity’ in paragraph 6(1D)(a) of the Quantity Charge Act with ‘goods, whether or not that other permit was also granted in respect of other goods’.

The purpose of this amendment is to update references to ‘prescribed commodity’ with references to ‘prescribed goods’ consistent with the amendments made by item 3 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.

**Item 12**

This item repeals subsection 6(1E) of the Quantity Charge Act which sets out a list of commodities which are defined in the Collection Act. As these definitions have been repealed and replaced with the definition of ‘prescribed good’, which has the same meaning as the Export Control Act, subsection 6(1E) is no longer required consistent with the amendments made by item 3 above and items 5, 8 10, 11 and 12 of the Export Legislation Amendment Bill 2014.

**Item 13**

This item substitutes the words ‘a prescribed commodity’ in subsection 6(2) of the Quantity Charge Act with ‘prescribed goods’.

The purpose of this amendment is to update the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by item 3 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.

**Item 14**

This item substitutes the words ‘prescribed commodities’ in subsection 6(3) of the Quantity Charge Act with ‘prescribed goods’.

This amendment updates the reference to ‘prescribed commodity’ with a reference to ‘prescribed goods’ consistent with the amendments made by item 3 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.

### **Item 15**

This item replaces section 7 of the Quantity Charge Act with a new section 7, which provides that the regulations may prescribe a rate of charge in relation to prescribed goods.

New section 7 includes a note which states the regulations may prescribed different rates of charge may apply for different classes of prescribed goods, consistent with subsection 13(3) of the *Legislative Instruments Act 2003*.

New subsection 7(2) provides that the maximum rate of charge on grain is:

- \$5 per tonne, when the grain is shipped for export in a container system unit
- \$1 per tonne, in any other case, such as in the hold of a bulk vessel.

The purpose of this amendment is to redraft section 7 for clarity, updating the references to ‘prescribed commodity’ with references to ‘prescribed goods’ and removing the maximum rate of charge on dried fruits and dairy produce, as there are currently no quantity charges on those goods.

### **Item 16**

This item substitutes section 8 of the Quantity Charge Act with a new section 8 which provides for calculating the quantity charge on a prescribed good by reference to weight or volume.

Subsection 8(1) provides that in calculating the weight or volume of a prescribed good the weight or volume of the covering (such as a container that carries prescribed goods) should not be counted.

Subsection 8(2) provides that where a covering (other than a can) contains one or more prescribed goods and other matter (which are not prescribed goods) the other matter should be disregarded in calculating the quantity charge payable.

Subsection 8(3) provides that where a can contains a single prescribed good and other matter, the can should be treated as only containing the prescribed good, and the quantity charge should be calculated on the weight or volume of the contents of the can.

Subsections 8(4), (5), (6) and (7) provide a method for calculating the quantity charge relating to a can containing several prescribed goods by reference to the weight or volume of the prescribed goods.

Where a can contains more than one prescribed good, whose rate of charge can be ascertained by reference to the weight or volume of the prescribed good, then the can shall be deemed to only contain the prescribed good that comprises the largest proportion of total weight or volume of the can. In calculating the quantity charge, the weight or volume of the contents of the can shall be deemed to be the weight or volume of the prescribed goods.

If two or more of the prescribed goods are of equal weight or volume and both comprise the equal largest proportion of total weight or volume of contents, then the quantity charge is calculated based on the prescribed good with the lower charge rate. If the rate of charge is the same for these prescribed good, the quantity charge should be calculated as if their combined weight or volume were the weight or volume of the can.

In calculating the quantity charge, subsection 8(8) provides that:

- two or more prescribed goods that are in the same class of prescribed goods (for example, barley and oats are ‘prescribed grain’) should be treated as a single prescribed good
- the lower rate of charge should apply where there are alternate rates of charge for a prescribed good—where one is by reference to weight and the other by reference to volume
- any gaseous matter should be disregarded in calculating the volume of the can.

The purpose of this amendment is to redraft section 8 for clarity and update references to ‘prescribed commodity’ with references to ‘prescribed goods’ consistent with the amendments made by item 3 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.

#### **Item 17**

This item substitutes each mention of the words ‘a prescribed commodity’ in sections 9 and 10 of the Quantity Charge Act with ‘prescribed goods’.

The purpose of this amendment is to update references to ‘prescribed commodity’ with references to ‘prescribed goods’ consistent with the amendments made by item 3 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.

#### **Item 18**

This item provides that the amendments made by this Schedule only apply in relation to export permits granted on or after the first day of the financial starting on or after the commencement of the Schedule.

Having these amendments apply to export permits issued after the start of the financial year will enable exporters to plan ahead and transition to any new or changed cost recovery arrangements which may be imposed by regulation for export services carried out by the Department in relation to ‘prescribed goods’.

However, it should be noted that these amendments do not expand the prescribed goods for which quantity charge is imposed, which is currently only grain.

#### **Item 19**

Subitem 19(1) provides that that this item applies to the *Export Inspection (Quantity Charges) Regulations 1985* (the Quantity Charge Regulations) as is in force immediately before the commencement of the item.

Subitem 19(2) provides that the Quantity Charge Regulations to the extent that they specify or refer to commodities only have effect, after the commencement of this item, as if any of the commodities that are not a prescribed goods within the meaning of the Export Control Act are disregarded. If the commodities listed in the Quantity Charge Regulations are not prescribed goods, then quantity charges will not apply.

Subitem 19(3) provides that the Quantity Charge Regulations to the extent that they prescribed a rate of charge for the purposes of subsection 7(1) of the Quantity Charge Act only have effect, after the commencement of this item, as if the rate were prescribed for the purposes of that subsection as amended by item 15.

The purpose of this item is to ensure that the Department can continue to collect quantity charges while the necessary amendments are made to the Quantity Charge Regulations.

# EXPORT INSPECTION (SERVICE CHARGE) AMENDMENT BILL 2014

## NOTES ON CLAUSES

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### **Clause 1 Short title**

This clause provides for the short title of the Act to be the *Export Inspection (Service Charge) Amendment Act 2014*.

### **Clause 2 Commencement**

Subclause 2(1) provides for clauses 1 to 3 of the Act to come into effect the day the Act receives the Royal Assent. Schedule 1 will commence at the same time as the *Export Legislation Amendment Act 2014*.

Subclause 2(2) provides that details of the specific dates for commencement may be inserted and edited, in any published version of the Act.

### **Clause 3 Schedule(s)**

The clause provides that each Act specified in a Schedule to the Act is amended or repealed as set out in the applicable items in the Schedule, and any other item in a Schedule has effect according to its terms.

## **Schedule 1 Amendments**

### ***Export Inspection (Service Charge) Act 1985* (Service Charge Act)**

#### **Item 1**

This item replaces section 4 of the Service Charge Act with a new section 4, which provides the definitions for ‘charge’ and ‘exportable goods’.

The new section 4 retains the definition of ‘charge’, which is a charge imposed by the Service Charge Act.

The definition of ‘exportable goods’ incorporates the definition of ‘prescribed goods’ from the Collection Act with an additional requirement that the goods are also prescribed in the regulations for the purposes of the definition.

This additional requirement ensures that the service charge only applies to prescribed goods listed in the regulations and does not automatically apply to all prescribed goods.

The purpose of this amendment is to update references to ‘prescribed commodity’ in the Service Charge Act with references to ‘prescribed goods’ (in the definition of ‘exportable goods’) consistent with the amendments made by items 10 and 11 of the Export Legislation Amendment Bill.

#### **Item 2**

This item replaces subsection 6(1) of the Service Charge Act with a new subsection 6(1) which provides that regulations may impose charges for the export inspection services at an establishment that, at the time the service is provided, is registered for operations associated with the preparation of exportable goods.

The purpose of this amendment is to redraft subsection 6(1) for clarity and update the reference to ‘prescribed commodity’ with a reference to ‘exportable goods’ consistent with the amendments made by item 1 above.

The *Export Inspection (Service Charge) Regulations 1985* sets out the prescribed commodities that are subject to the export inspection service charge and will be amendment consistent with the amendments made by this Bill. Currently there is only an export inspection service charge on dried fruits, fish, eggs, processed fruit and processed vegetables. This amendment will not expand the number of prescribed goods for which service charge is imposed or have any additional impact on the industries currently subject to the service charge.

### **Item 3**

This item replaces subsection 6(3) of the Service Charge Act with a new subsection 6(3) which provides that the service charge is imposed on the provision of an external export inspection service relating to exportable goods.

The purpose of this amendment is to redraft subsection 6(3) for clarity and update the reference to ‘prescribed commodity’ with a reference to ‘exportable goods’ consistent with the amendments made by item 1 above.

### **Item 4**

This item substitutes the words ‘prescribed commodity’ in subsection 7(2) of the Service Charge Act with ‘exportable goods’.

The purpose of this amendment is to update reference to ‘prescribed commodity’ with a reference to ‘exportable good’ consistent with the amendments made by item 1 above.

### **Item 5**

This item provides that the amendments made by items this Schedule only apply in relation to export inspection services provided on or after the first day of the financial starting on or after the commencement of the Schedule.

Having these amendments apply to export permits issued after the start of the financial year will enable exporters to plan ahead and transition to any new or changed cost recovery arrangements which may be imposed by regulation for export services carried out by the Department in relation to ‘exportable goods’.

However, it should be noted that these amendments do not expand the prescribed goods for which a service charge is imposed, which is currently dried fruits, eggs, fish, processed fruit and processed vegetables.

### **Item 6**

Subitem 6(1) provides that that this item applies to the *Export Inspection (Service Charges) Regulations 1985* (the Service Charge Regulations) as is in force immediately before the commencement of the item.

Subitem 6(2) provides that the Service Charge Regulations to the extent that they specify or refer to commodities only have effect, after the commencement of this item as if:

- any of the commodities that is not a prescribed good within the meaning of the Export Control Act is disregarded
- any remaining commodities are goods prescribed for the purposes of the definition of 'exportable goods' in section of the Service Charge Act as inserted by item 1.

The purpose of this item is to ensure that the Department can continue to collect service charges while the necessary amendments are made to the Service Charge Regulations.

## EXPORT INSPECTION (ESTABLISHMENT REGISTRATION CHARGES) AMENDMENT BILL 2014

### NOTES ON CLAUSES

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#### **Clause 1**      **Short title**

This clause provides for the short title of the Act to be the *Export Inspection (Establishment Registration Charges) Amendment Act 2014*.

#### **Clause 2**      **Commencement**

Subclause 2(1) provides for clauses 1 to 3 of this Act to come into effect the day the Act receives Royal Assent. Schedule 1 will commence at the same time as the *Export Legislation Amendment Act 2014*.

Subclause 2(2) provides that details of the specific dates for commencement may be inserted and edited, in any published version of the Act.

#### **Clause 3**      **Schedule(s)**

The clause provides that each Act specified in a Schedule to the Act is amended or repealed as set out in the applicable items in the Schedule, and any other item in a Schedule has effect according to its terms.

#### **Schedule 1 Amendments**

*Export Inspection (Establishment Registration Charges) Act 1985* (Establishment Registration Charges Act)

##### **Item 1**

This item replaces section 4 of the Establishment Registration Charges Act with a new section 4, which provides the definitions for ‘charge’ and ‘exportable goods’.

The new section 4 retains the definition of ‘charge’, which is a charge imposed by the Establishment Registration Charges Act.

The definition of ‘exportable goods’ incorporates the definition of ‘prescribed goods’ from the Collection Act with an additional requirement that the goods are also prescribed in the regulations for the purposes of the definition.

This additional requirement ensures that the establishment registration charge only applies to prescribed goods listed in the regulations and does not automatically apply to all prescribed goods.

The purpose of this amendment is to update references to ‘prescribed commodity’ in the Establishment Registration Charges Act with references to ‘prescribed goods’ (in the definition of ‘exportable goods’) consistent with the amendments made by items 10 and 11 of the Export Legislation Amendment Bill.



## **Item 2**

This item replaces subsection 6(1) of the Establishment Registration Charges Act with a new subsection 6(1) which provides that regulations may impose charges for the registration of an establishment for operations associated with the preparation of exportable goods.

The purpose of this amendment is to redraft subsection 6(1) for clarity and update the reference to ‘prescribed commodity’ with a reference to exportable goods consistent with the amendments made by item 1 above and items 10 and 11 of the Export Legislation Amendment Bill 2014.

The *Export Inspection (Establishment Registration Charges) Regulations 1985* currently place a registration charge on establishments that prepare fish and fish products, egg and egg products, meat and meat products, dairy and dairy products and horticulture products for export.

## **Item 3**

This item provides that the amendments made by this Schedule only apply in relation to establishment registrations (and renewals of registrations) made on or after the first day of the financial starting on or after the commencement of the Schedule.

Having these amendments apply to establishments registered or renewed after the start of the financial year will enable exporters to plan ahead and transition to the new cost recovery arrangements for export services carried out by the Department in relation to ‘exportable goods’.

## **Item 4**

Subitem 4(1) provides that that this item applies to the *Export Inspection (Establishment Registration Charges) Regulations 1985* (the Establishment Registration Charges Regulations) as is in force immediately before the commencement of the item.

Subitem 4(2) provides that the Establishment Registration Charges Regulations to the extent that they specify or refer to commodities only have effect, after the commencement of this item as if:

- any of the commodities that is not a prescribed good within the meaning of the Export Control Act is disregarded
- any remaining commodities are goods prescribed for the purposes of the definition of ‘exportable goods’ in section of the Establishment Registration Charges Act as inserted by item 1.

Subitem 4(3) provides that the Establishment Registration Charges Regulations to the extent that they prescribed a rate of charge for the purposes of subsection 6(1) of the Establishment Registration Charges Act only have effect, after the commencement of this item, as if the rate were prescribed for the purposes of that subsection as amended by item 2.

The purpose of this item is to ensure that the Department can continue to collect establishment registration charges while the necessary amendments are made to the Establishment Registration Charges Regulations.