EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 281

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

Export Inspection (Establishment Registration Charges) Act 1985

Export Inspection (Establishment Registration Charges) Amendment Regulations 2010 (No. 1)

Legislative Authority

The Export Inspection (Establishment Registration Charges) Act 1985 (the Act) provides for the imposition of charges in relation to the registration of an export establishment and is part of a legislative scheme which includes the Export Inspection and Meat Charges Collection Act 1985.

Subsection 6(1) of the Act permits charges to be imposed for the registration of an establishment which is associated with the preparation of a prescribed commodity, as specified in the regulations. Section 7 of the Act provides that the rate of charge in relation to the registration of an establishment is the rate applicable under the regulations. Section 8 provides that the charge is payable by the person who is the registered occupier of the establishment when the amount of the charge is due for payment.

Section 9 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, 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.

The Export Inspection (Establishment Registration Charges) Regulations 1985 (the Principal Regulations) are made under the Act and specify prescribed commodities for the purposes of subsection 6(1) of the Act.

Purpose and Impact

The Export Inspection (Establishment Registration Charges) Amendment Regulations 2010 (No. 1) (the Amendment Regulations) make amendments to the Principal Regulations consequential to the introduction of the Export Control (Wild Game Meat and Wild Game Meat Products) Orders 2010 (the Wild Game Orders) and the Export Control (Poultry Meat and Poultry Meat Products) Orders 2010 (the Poultry Orders).

A recent review of the export orders determined that new Poultry Orders and Wild Game Orders should be introduced, and therefore that consequential amendments are also required to the Principal Regulations, the Export Control (Fees) Orders 2001 and the Game, Poultry and Rabbit Meat Orders 1985 (the GPRMOs).

The Amendment Regulations amend and omit a number of definitions in the Principal Regulations, insert new definitions for ‘wild game meat’ and ‘wild game meat product’, substitute references to ‘game meat’ and ‘game meat products’ with ‘wild game meat’ and ‘wild game meat products’, and amend the Notes to Regulation 3 of the Principal Regulations.
There would be no substantive effect on the operation of the Principal Regulations as a result of the Amendment Regulations.

The Act specifies no conditions that need to be met before the power to make the Amendment Regulations may be exercised.

The Principal Regulations as amended by the Amendment Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Amendment Regulations commence on the commencement of the Wild Game Orders. The Wild Game Orders commence on 1 December 2010 (or if they have not been registered by 1 December 2010, the day after they are registered on the Federal Register of Legislative Instruments).

**Consultation**

The Department of Agriculture, Fisheries, and Forestry (DAFF), as represented by the Australian Quarantine and Inspection Service, undertook extensive consultation with the relevant industry bodies on the making of the Wild Game Orders and the Poultry Orders. The regulation impact statements included in the explanatory statements to those orders provide a detailed account of the nature of the consultation.

The relevant Programs within DAFF have also been consulted with respect to the changes made by the Amendment Regulations to the Principal Regulations. These Programs have no objections to these consequential amendments being made to the Principal Regulations.

The Office of Best Practice Regulation’s Preliminary Assessment for the Amendment Regulations determined that a regulation impact statement is not required for the Amendment Regulations.

**Operation**

Details regarding the operation of the Amendment Regulations are set out below.

Authority: Section 9 of the *Export Inspection (Establishment Registration Charges) Act 1985.*
EXPLANATION OF PROVISIONS

Regulation 1 specifies the name of the Regulations as the Export Inspection (Establishment Registration Charges) Amendment Regulations 2010 (No. 1).

Regulation 2 provides that the Regulations commence on the commencement of the Export Control (Wild Game Meat and Wild Game Meat Products) Orders 2010 (the Wild Game Orders).

Regulation 3 provides that Schedule 1 amends the Export Inspection (Establishment Registration Charges) Regulations 1985 (the Principal Regulations).

Schedule 1 – Amendments

Item 1 omits the definitions of ‘game meat’ and ‘game meat product’ in regulation 3 of the Principal Regulations. Item 6 below replaces these definitions with definitions for ‘wild game meat’ and ‘wild game meat product’. The omission of these definitions is consequential to the introduction of the Wild Game Orders.

Item 2 amends the definition of ‘meat establishment’ in regulation 3 of the Principal Regulations by substituting the terms ‘game meat’ and ‘game meat products’ in paragraph (b) with ‘wild game meat’ and ‘wild game meat products’. This amendment is consequential to the introduction of the Wild Game Orders, which uses the terminology, ‘wild game’, instead of ‘game’. This amendment has no substantive effect on the operation of the Regulations.

Items 3-4 substitutes the definitions of ‘poultry meat’ and ‘poultry meat product’ in regulation 3 of the Principal Regulations, which currently refer to the definitions given for each of these terms in the Game, Poultry and Rabbit Meat Orders 1985 (the GPRMOs), with definitions that instead refer to the definitions given for each of these terms in the Poultry Orders. This amendment is consequential to the introduction of the Poultry Orders and the consequential removal of poultry from the GPRMOs.

Specifically, this amendment is required as ‘poultry meat’ and ‘poultry meat product’ are no longer defined under the GPRMOs and are instead defined under the Poultry Orders. This amendment has no substantive effect on the operation of the Principal Regulations.

Item 5 inserts, in regulation 3 of the Principal Regulations, new definitions for ‘wild game meat’ and ‘wild game meat product’ which to refer to the definitions given for each of these terms in the Wild Game Orders. This amendment is consequential to the introduction of the Wild Game Orders and replaces the definitions for ‘game meat’ and ‘game meat product’ omitted from regulation 3 to the Principal Regulations by item 1 above. This amendment has no substantive effect on the operation of the Principal Regulations.

Item 6 substitutes Notes 2 and 3 under regulation 3 of the Principal Regulations with new Notes 2 to 5. This substitution divides Note 2 into separate Notes 2 to 4 which refer to the registration of dairy, fish and meat establishments respectively. This change is only be made to assist ease of reading. More substantively, this substitution also replaces the reference to the GPRMOs in the current Note 2 with references to the Export Control (Rabbit and Ratite Meat) Orders 1985, the Wild Game Orders and the Poultry Orders in the new Note 4. This reflects the introduction of Wild Game Orders and the Poultry Orders and the renaming of the GPRMOs to the Export Control (Rabbit and Ratite Meat) Orders 1985 as a consequence of the removal of game and poultry from the GPRMOs. Note 3 in the Principal Regulations has
been renamed as Note 5 to reflect the division of Note 2 into new Notes 2 to 4. This amendment has no effect on the operation of the Principal Regulations.

Item 7 substitutes paragraphs 4(1)(c) and (d) of the Principal Regulations, which currently refer to ‘game meat’ and ‘game meat products’, with ‘wild game meat’ and ‘wild game meat products’. This amendment is consequential to the introduction of the Wild Game Orders, which uses the terminology, ‘wild game’, instead of ‘game’.