EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 239

Issued by the authority of the Parliamentary Secretary for Agriculture, Fisheries and Forestry

Export Inspection (Establishment Registration Charges) Amendment Regulations 2011 (No. 3)

Export Inspection (Establishment Registration Charges) Act 1985

Legislative Authority

The Export Inspection (Establishment Registration Charges) Act 1985 (Act) provides for the ability to impose charges in relation to the registration of an establishment.

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. For completeness, the Act is part of a legislative scheme which includes the Export Inspection and Meat Charges Collection Act 1985.

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

Purpose

The proposed Regulations amend the Principal Regulations to:

- insert a definition of “charge day” to ensure that both fish and egg establishment’s charge day is the first day on which the establishment is registered;
- insert a definition of “charge period” in relation to both fish and egg establishments to amend the current anniversary date arrangement to one which aligns all registration charges to a particular financial year period;
- insert “egg” and “egg products” to the list of commodities in the Principal Regulations to extend its application to egg and egg products;
- insert a definition of “egg and egg products”, “egg establishment”, and “egg and egg products” to extend the application of the Principal Regulations to egg and egg products;
- insert a new rate of charge for egg establishments to extend the application of the Principal Regulations to egg and egg products;
- insert a new charging structure for fish establishments to reflect appropriate fees and charges to allow the Fish and Egg Export Program; and
- rectify certain drafting and typographical errors.

New export inspection and certification arrangements will be implemented for the Fish and Egg export sector from 1 January 2012. The implementation of the new service delivery arrangements requires the introduction of a new cost recovery arrangement for Fish and Egg Export Program to ensure that the costs of services remain appropriately recovered from the beneficiaries of those services.

Under the new cost recovery arrangement registration charges are applied to recover the cost of the Fish and Egg Export Program’s management, administrative and training activities.

A new cost recovery arrangement includes a new schedule of fees and charges and charging policy which will apply from 1 January 2012 to complement the introduction of the new service delivery arrangements.

These amendments return export inspection and certification services to a full cost recovery arrangement in line with the recommendations of the independent review into Australia’s quarantine and biosecurity arrangements ‘One Biosecurity, A Working Partnership’.

**Consultation**

To assist exporters through a transition to full cost recovery the Australian Government provided a $127.4 million Export Certification Reform Package for the Meat, Seafood, Dairy, Grain, Horticulture and Live Animal Export industries to:

- reform service delivery
- upgrade IT systems
- review and modernise export legislation
- reduce costs for industry and AQIS
- maintain and work to improve market access

Joint Industry-AQIS Ministerial Taskforces (MTFs) for the dairy, fish, grain, horticulture, live animal and meat export industries were set up to deliver the reforms.

A separate Minute recommends related changes to the *Export Inspection and Meat Charges Collection Regulations 1985* to give effect to the amendments outlined here.

Details of the proposed Regulations are set out in the [Attachment](#).

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

The proposed Regulations would be a legislative instrument for the purposes of the *Legislative Instrument Act 2003*. 

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Explanatory Statement to F2011L02674
The proposed Regulations would commence on 1 January 2012.

The Minute recommends that Regulations be made in the form proposed.

Authority: Section 9 of the
*Export Inspection*
*(Establishment Registration Charges)*
*Act 1985*
Details of the Export Inspection (Establishment Registration Charges) Amendment Regulations 2011 (No. 3)

Regulation 1

This regulation provides that the name of the Regulations is the Export Inspection (Establishment Registration Charges) Amendment Regulations 2011 (No. 3).

Regulation 2

This regulation provides that the Regulations commence on 1 January 2012.

Regulation 3

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

Schedule 1

Item 1 amends the definition of charge day in regulation 3 of the Principal Regulations. The item omits the word ‘products’ at the end of paragraph (b) of the definition of charge day and inserts the words ‘products; and’ with a semi colon after ‘products’.

Item 2 inserts definitions of charge day in relation to fish and egg establishments. The charge day in relation to a fish establishment in paragraph (c) is the first day on which the establishment is registered. Similarly, the charge day for an egg establishment in paragraph (d) is the first day on which the establishment is registered.

Item 3 amends the definition of charge period in regulation 3 of the Regulations. The item omits the year ‘2009’ at the end of paragraph (b) of the definition of charge period and inserts in its place the year ‘2009’ followed by a semi colon and the word ‘and’.

Item 4 amends regulation 3 to include the following definitions:

Charge period in relation to fish and egg establishments is defined for each of two separate charge periods in paragraphs (i) and (ii). The definition of charge period in paragraph (i) applies to the current financial year (1 July 2011 to 30 June 2012) and means the period commencing on 1 January 2012 and ending at the end of that financial year. Charge period in paragraph (ii) means a financial year commencing on or after 1 January 2012.

The purpose of the amendment is to amend the current anniversary date arrangement to one which aligns all registration charges to a particular financial year period,
similar to the charge period which currently exists for dairy establishments. This will produce a consistent charging date for all registered establishments. The definition of charge period with two separate charge periods is designed so that the new rates of charge will apply from commencement of these regulations (1 January 2012) to 30 June 2012, and each financial year thereafter.

Item 5 amends regulation 3 to include the following definitions:

The definition of **egg** has the same meaning as in the *Export Control (Eggs and Egg Products) Orders 2005*.

The definition of **egg establishment** means an establishment that is registered for any operations associated with the preparation of eggs and egg products for export.

The definition of **egg product** has the same meaning as in the *Export Control (Eggs and Egg Products) Orders 2005*.

The definition of **eggs and egg products** has the same meaning as in the *Export Control (Eggs and Egg Products) Orders 2005*.

Item 6 amends the list of commodities in subregulation 4(1) that are prescribed under subsection 6(1) of the Act. The item inserts a semi colon after the word ‘products’ in paragraph 4(1)(j).

Item 7 adds ‘eggs’ and ‘egg products’ to the list of commodities in subregulation 4(1) that are prescribed under subsection 6(1) of the Act.

The purpose of the amendment is to extend the application of the Principal Regulations to eggs and egg products.

Item 8 amends regulation 6 by substituting a new provision for rates of charge for fish establishments. This provision has been modelled on the current regulation 7 for dairy establishments.

The rate of charge for a fish establishment depends on whether the day it was registered was 1 July. If the establishment was registered on 1 July, the rate specified in Schedule 1 for fish applies (see new subregulation 6(2)). Where the establishment was registered on a day other than 1 July, the charge is determined according to a formula which calculates the proportion of the annual rate equivalent to the number of days the establishment was registered in that financial year (see new subregulation 6(3)).

Subregulation 6(3) defines ‘annual rate’ as the rate mentioned in Schedule 1 that applies to the establishment and ‘charging days’ as is defined in regulation 3.

Item 9 inserts regulation 10 which provides the new rates of charge for egg establishments (see corresponding amendment for fish establishments – Item 8).

The rate of charge for an egg establishment depends on whether the day it was registered was 1 July. If the establishment was registered on 1 July, a new rate of
$1,835 applies (see new subregulation 10(2)). Where the establishment was registered on a day other than 1 July, the charge is determined according to a formula which calculates the proportion of the annual rate equivalent to the number of days the establishment was registered in that financial year (see new subregulation 10(3)).

Subregulation 10(3) defines ‘annual rate’ to mean the new rate of $1,835 and ‘charging days’ as is defined in regulation 3.

Item 10 substitutes a new Schedule 1 for the existing Schedule 1 for fish establishments.

A registration charge will continue to apply to all establishments registered for operations associated with the production, preparation, handling and storage of fish or fish products for export.

The Schedule has been updated and amended to include charges for new kinds of establishments under a different charging structure. The rates of charge are adjusted to reflect an appropriate share of costs for establishments under the new service delivery arrangements.

The previous charging structure was based on the length of the vessel and the number of lines processed. Under the new charging structure, charges for vessels are now based on whether the registered operations of the vessel allow for direct export, or whether the registered operations require product to be further processed prior to export. Charges for establishments are based on whether the establishment is registered to export only live product or whether the establishment is registered to export processed product.

The new Schedule is intended to operate as follows:

Items 1-5 provide new kinds of establishments and new rates of charge per charge period.

Item 1 of Schedule 1 applies to a vessel that is registered to prepare fish or fish products that undergo processing at another establishment before export. This item provides for a rate per charge period of $1,223.

Item 2 of Schedule 1 applies to an establishment that is land-based and registered solely for the preparation of live fish for export. This item provides for a rate of charge per period of $1,223.

Item 3 of Schedule 1 applies to a vessel that is registered to prepare fish and fish products for export without the need for processing. This item provides for a rate of charge per period of $2,446.

Item 4 of Schedule 1 applies to an establishment that is land-based and registered to prepare fish or fish products. This item provides for a rate of charge per period of $2,446. The charge does not apply where items 2 or 5 apply to prevent overlap with other land-based establishments.
Item 5 of Schedule 1 applies to an establishment that is registered for the storage of fish or fish products for export. This item provides for a rate of charge per period of $1,835.