EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 63

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

Primary Industries (Customs) Charges Act 1999

Primary Industries (Customs) Charges Amendment Regulation 2012 (No. 1)

Section 8 of the Primary Industries (Customs) Charges Act 1999 (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed for carrying out or giving effect to the Act.

Part 2 of Schedule 14 of the Primary Industries (Customs) Charges Act 1999 provides that Regulations may impose a charge on one or more specified products in circumstances ascertained in accordance with the Regulations.

The Primary Industries (Customs) Charges Regulations 2000 establish that a charge is imposed on wheat produced in Australia, if that wheat is exported. The producer, defined as the person who exports the product from Australia, is liable to pay the charge. The sole purpose of this charge, the Wheat Export Charge (WEC) is to fund the operations of Wheat Exports Australia (WEA).

The Regulation amends Part 5 of Schedule 14 of the Primary Industries (Customs) Charges Regulations 2000 to set the rate of the WEC to zero cents per tonne.

The wheat industry’s recent strong export performance and reduced expenditure under the “lighter touch” accreditation scheme means that WEA is earning more revenue than required to meet its operating expenses. WEA is primarily funded from the WEC and so these excess contributions represent an overpayment of levies under the WEC. The amendments ensure that industry is not continuing to pay more than is required for the operating costs of WEA.

Legislation to implement the government response to the Productivity Commission review of wheat export marketing arrangements has been introduced into parliament. This legislation abolishes WEA on 31 December 2012, with the wheat export accreditation scheme and the WEC removed on 30 September 2012.

Given the strong financial position of WEA, removing the WEC will not limit its operations until it is abolished on 31 December 2012. If the legislation is not passed, or if it is delayed, the WEC will be reinstated at its previous rate of 22 cents per tonne pending preparation of a cost recovery impact statement to determine the most appropriate long-term rate.

Clause 13 of Schedule 14 to the Act provides that before the Governor-General makes Regulations, the Minister must take into consideration any relevant recommendation made by the relevant industry body. Grain Producers Australia is the designated body under the Primary Industries (Customs) Charges (Designated Body) Declaration 2003. It supports these amendments providing that they do not affect its desire to have WEA retained but with different functions and that the WEC can be reimposed quickly if the legislation is not passed.

The Office of Best Practice Regulation was consulted in the preparation of the Regulation (ID 13635).
Details of the Regulation are provided in the Attachment.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commences on 18 May 2012.
**ATTACHMENT**

**Details of the Proposed Primary Industries (Customs) Charges Amendment Regulation 2012 (No. 1)**

Section 1 - Name of Regulation

This Section provides for the title to be the *Primary Industries (Customs) Charges Amendment Regulation 2012 (No. 1).*

Section 2 - Commencement

This Section provides for the regulation to commence on 18 May 2012.

Section 3 - Amendment of *Primary Industries (Customs) Charges Regulations 2000*

This Section provides for the *Primary Industries (Customs) Charges Regulations 2000* to be amended as set out in Schedule 1.

Section 4 - Repeal

This Section provides that if Schedule 1 to the *Wheat Export Marketing Amendment Act 2012* does not commence on 1 October 2012, this Regulation is repealed.

Schedule 1 - Amendment

**Item 1** reduces the wheat export charge from 22 cents per tonne to zero cents per tonne.
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 Regulation 2012 (No. 1)

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

This Legislative Instrument amends Part 5 of Schedule 14 of the Primary Industries (Customs) Charges Regulations 2000 to abolish the Wheat Export Charge imposed on wheat produced in Australia which is exported.

Human rights implications

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

Conclusion

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

Minister for Agriculture, Fisheries and Forestry, the Hon. Joseph Ludwig, MP