

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture, Drought and Emergency Management

Biosecurity Act 2015

Biosecurity Amendment (International Mail Fee) Regulations 2020

Legislative Authority

The *Biosecurity Act 2015* (Biosecurity Act) provides the Commonwealth with powers to, amongst other things, assess and manage the risk of pests and diseases entering Australian territory and causing harm to animal, plant and human health, the environment, and the economy.

Section 645 of the Biosecurity Act provides that the Governor-General may make regulations regarding matters required or permitted to be prescribed by the Biosecurity Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Biosecurity Act.

Section 592 of the Biosecurity Act provides that the regulations may prescribe fees that may be charged in relation to activities (fee-bearing activities) carried out by, or on behalf of, the Commonwealth in performing functions and exercising powers under the Biosecurity Act.

Purpose

The *Biosecurity Amendment (International Mail Fee) Regulations 2020* (the Regulations) amends the *Biosecurity Regulation 2016* (the Biosecurity Regulation) to repeal the fees payable by Australia Post for assessing and managing the biosecurity risk associated with international mail received by Australia Post for the financial years beginning on 1 July 2016, 1 July 2017 and 1 July 2018. The Regulations further provide that the fee for this service for each financial year beginning on or after 1 July 2019 is \$15.3 million. This is the same amount as the fee charged for the service for the financial year beginning on 1 July 2018.

Background

The department provides biosecurity clearance functions under the Biosecurity Act through cost recovered arrangements. A proportion of costs are recovered through fees and charges, imposed in accordance with the Australian Government Charging Framework and the Australian Government Cost Recovery Guidelines.

Section 106 of Division 1 of Part 2 of the Biosecurity Regulation sets out the fees that may be charged in relation to the various fee-bearing activities for the purposes of section 592 of the Act. These include the fees for assessing and managing the biosecurity risks associated with mail received by Australia Post from places outside Australian territory in a financial year. Currently, section 106 sets out the fees for this activity for the financial year beginning on 1 July 2016 (\$11.7 million) 1 July 2017 (\$15.1 million) and 1 July 2018 (\$15.3 million).

In the 2015-16 Budget, the Government announced that the department would move to full cost recovery of services provided to Australia Post for assessing and managing the biosecurity risk associated with international mail items.

The move to full cost recovery for this service was implemented through a staged increase to the biosecurity fee charged to Australia Post. The fee of \$15.3 million charged for the financial year beginning on 1 July 2018 has been assessed as the full cost of providing this service and is proposed to be maintained for the 2019 financial year and beyond.

Consultation

The amendment to the mail fee regulation is a technical amendment that clarifies the existing \$15.3 million annual fee applies each year. This reflects the existing decision of Government as announced in the 2015-16 Budget, which also specified the annual amount of the fee payable by Australia Post.

The amendment does not change the amount of the fee, and there is no change in the scope or manner of its application. This fee only impacts on Australia Post – it is not passed on to the public, and is not applied to individual items of mail.

As such, Australia Post is the only impacted party, and there is no broader client group or public stakeholder group to be consulted. Both Australia Post and the relevant portfolio department (formerly the Department of Communications, Information Technology and the Arts, now the Department of Infrastructure, Transport, Regional Development and Communications) were consulted on the amendment.

The Office of Best Practice Regulation (the OBPR) has been consulted regarding the Regulations. The OBPR consultation references are 16996 and 17726. The OBPR advised that the proposal appears machinery in nature and does not impose any regulatory compliance costs. Hence, a Regulation Impact Statement was not required.

Impact and Effect

The Regulations allow the Commonwealth to charge Australia Post the fee of \$15.3 million for assessing and managing the biosecurity risks associated with international mail items for the financial year beginning on 1 July 2019 and for subsequent financial years beginning on 1 July.

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 at [Attachment B](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence the day after registration.

Matter incorporated by reference

These Regulations do not apply, adopt or incorporate other matter by reference.

ATTACHMENT A

Details of the *Biosecurity Amendment (International Mail Fee) Regulations 2020*

Section 1 – Name

This section provides that the name of the Regulations is *the Biosecurity Amendment (International Mail Fee) Regulations 2020*.

Section 2 – Commencement

This section provides for the Regulations to commence on the day after the Regulations are registered.

Section 3 – Authority

This section provides that the Regulations are made under the *Biosecurity Act 2015*.

Section 4 – Schedules

This section provides that the instrument specified in the Schedule to these Regulations is amended or repealed as set out in that Schedule, and any other item in a Schedule to these Regulations has effect according to its terms.

Schedule 1 – Amendments

Item 1

This item repeals column 2 of table item 25 in section 106 of the Regulation and substitutes a new column 2.

Column 2 currently sets out the fees payable by Australia Post for assessing and managing the biosecurity risk associated with international mail received by Australia Post for the financial years beginning on 1 July 2016, 1 July 2017 and 1 July 2018. New column 2 provides that the fee for this service for each financial year beginning on 1 July 2019 is \$15.3 million.

Statement of Compatibility with Human Rights

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

Biosecurity Amendment (International Mail Fee) Regulations 2020

The *Biosecurity Amendment (International Mail Fee) Regulations 2020* (the Regulations) 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*.

Overview of the Legislative Instrument

The Regulations amend the *Biosecurity Regulation 2016* (the Biosecurity Regulation) to repeal the fees payable for assessing and managing the biosecurity risk associated with international mail received by Australia Post for the financial years beginning on 1 July 2016, 1 July 2017 and 1 July 2018. The Regulations also provide that the fee of \$15.3 million is payable by Australia Post for this service for each financial year beginning on or after 1 July 2019.

Human rights implications

These Regulations do not engage any of the applicable rights or freedoms.

Conclusion

The Regulations are compatible with human rights as they do not raise any human rights issues.

**The Hon. David Littleproud MP
Minister for Agriculture, Drought and Emergency Management**