

EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 166

Issued by the authority Minister for Agriculture, Fisheries and Forestry

*Export Inspection (Establishment Registration Charges) Amendment Regulations
2011 (No. 1)*

Export Inspection (Establishment Registration Charges) Act 1985

Legislative Authority

The *Export Inspection (Establishment Registration Charges) Act 1985* (the 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*.

Purpose

The *Export Inspection (Establishment Registration Charges) Regulations 1985* (the 'Principal Regulations') specifies prescribed commodities for the purposes of subsection 6(1) of the Act. Wild game meat, wild game meat products, meat and meat products and poultry meat and poultry meat products are specified as prescribed commodities for the purposes of this subsection.

It should be noted that the *Export Inspection and Meat Charges Collection Regulations 1985* are also being amended to give effect to the amendments outlined in this Explanatory Statement.

The Amendment Regulations introduces a tiered base registration charge based on the relative risk and complexity that an establishment's operations present to the Australian export meat inspection system. The tiered base registration charge is to be invoiced and paid monthly rather than annually as was the case under the Principal Regulations.

The Amendment Regulations revoke the current per capita charge and introduce a throughput charge, invoiced monthly, that applies to establishments that are used for

the slaughter or dressing of an animal, other than poultry, for export. More complex and risky establishments will pay higher total registration charges.

Background

Since 2001, the Australian Government has provided a 40 percent contribution towards the cost of providing export inspection and certification services to a variety of export industries including meat. In November 2009, the Government announced an Export Certification Reform Package (ECRP) of \$127.4 million over a 19 month period to 30 June 2011. The aim of the package was to:

- reform service delivery;
- upgrade information technology systems;
- reduce costs for industry and the Australian Quarantine and Inspection Service (AQIS); and
- maintain and work to improve market access.

The new service delivery arrangements for export meat – the Australian Export Meat Inspection System will introduce significant changes to the inspection system at establishments registered to prepare meat and meat products for export for food. Currently, AQIS provides on-plant veterinarians, food safety meat assessors and meat inspectors (to undertake inspection and disposition functions) to registered establishments. Under the new service delivery model, AQIS will continue to provide a registered establishment with one on-plant veterinarian and one food safety meat assessor. However, the inspection and disposition functions that were previously carried out by AQIS employees will be performed by AQIS authorised officers (AAOs) who may either be government employees or employees or contractors of the occupiers of the registered establishment. The new cost recovery structure supports these changes.

Consultation

AQIS has consulted with both regulatory authorities of trading partners and industry in the development of new service delivery arrangements and with industry in relation to the new cost recovery arrangements.

AQIS has close partnerships with the industries it regulates and to the overseas authorities that are responsible for import conditions. Prior to the ECRP, industry consultative committees met to discuss export, fee and market access issues that were relevant to the industry or government. The Ministerial Task Forces, set up under the ECRP, met initially at two monthly intervals and as the reforms progressed met at more frequent intervals.

OBPR has been consulted and advised that a RIS is not required (reference 12801). A Cost Recovery Impact Statement has been prepared in relation to this cost recovery model.

Details

Regulation 1

The name of the Regulations is the *Export Inspection (Establishment Registration Charges) Amendment Regulations 2011 (No. 1)*.

Regulation 2

The Regulations commence on a day notified by the Minister in the Gazette for the purposes of this regulation.

Regulation 3

Schedule 1 amends the *Export Inspection (Establishment Registration Charges) Regulations 1985*.

Regulation 4

This regulation provides the transitional arrangements applying to the proposed Regulations. The transitional arrangements would apply if a person had paid or was liable to pay an amount of charge under the *Export Inspection (Establishment Registration Charges) Regulations 1985* and the charge related to a meat establishment described in Part of Schedule 3 of the *Export Inspection (Establishment Registration Charges) Regulations 1985* and the amount would have fallen due on or after the commencement day of the proposed Regulations. A person in these circumstances is taken to have never been liable to pay the amount of charge.

Schedule 1

Item 1 amends regulation 3 to include the following definitions:

Australian Standard for Meat has the same meaning as the Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption (AS 4696-2007) published on 31 July 2007.

The definition of ***boning*** is included to clarify which establishments would fall within this definition for the purposes of the base registration charge. This definition is the same definition as currently contained in the *Australian Standard for Meat*.

Calendar month means one of the 12 months of the calendar year. This is consistent with the *Acts Interpretation Act 1901* and relates to the ***charge period*** for meat establishments.

The definition of ***casing*** is included to clarify which establishments would fall within this definition for the purposes of the base registration charge. It clarifies that the word has the same meaning as applied in the *Export Control (Meat and Meat Products) Orders 2005*.

Item 2 amends regulation 3 to include the following definitions:

The definition of ***charge period*** in relation to a meat establishment means a calendar month commencing on or after the day on which the Amendment Regulation commences. In relation to a dairy establishment, the charge period means a financial year commencing after 30 June 2009.

The definition of ***charging days*** is included to clarify the number of days in the period to commence at the beginning of the charge day and conclude at the end of the charge period.

Item 3 inserts a definition for ***dressing*** to clarify which establishments would fall within this definition for the purposes of the base registration charge. This definition is consistent with the current definition in the *Australian Standard for Meat*.

Item 4 inserts a definition for ***further processing*** to clarify which establishments would fall within this definition for the purposes of the base registration charge. This definition is consistent with the current definition in the *Australian Standard for Meat*.

Item 5 removes the definition of ***orders***. This definition is not required as it is only used in relation to the names of particular instruments.

Item 6 removes the definition of a ***prescribed month*** and inserts a definition for ***slaughter*** to clarify which establishments would fall within this definition for the purposes of the base registration charge. This definition is consistent with the current definition in the *Australian Standard for Meat*.

Item 7 substitutes subregulation 4(3) to reflect the new monthly charging arrangements for the base registration charge for meat establishments. The charge for registration will be imposed in respect of the period commencing when the establishment is first registered and ending at the end of the charge period during which it is first registered and each succeeding charge period during which the establishment is registered. The charge is imposed per charge period (calendar month for meat establishments) regardless of when, during the charge period, the establishment is registered. The charge is also imposed as set out in subregulations 4(3)(a) and (b) when an establishment registers for additional operations, as set out in Part 1 of Schedule 3.

Item 8 removes the definition of ***charging days*** from subregulation 7(3) as it is not longer required for the purposes of calculating the charges.

Item 9 substitutes the current regulations 8 and 9 with regulations for the revised base registration charges and additional throughput charges. Registration charges are designed to recover the management and administration required to provide an Australian meat export system that meets the requirements of Australia's trading partners and adheres to the Australian Government's cost recovery guidelines. The key policy principle underlying the charging arrangements is that all industry participants are required to contribute to these infrastructure costs.

New regulation 8 specifies the rates of charge for meat establishments for the base registration charge. The base registration charge is set for all establishments registered to export meat and meat products and changes from the current single annual rate of \$2,817 to a tiered monthly rate. The rate is based on the relative risk and complexity that an establishment's operations present to the Australian export meat inspection system. More complex and risky establishments will pay higher total registration charges.

The new regulation 8 clarifies that if an establishment falls within more than one charging categories the rate that applies is the highest of the rates specified in the schedule.

The new regulation 8 notes that an additional throughput charge may apply to some establishments as stipulated in new regulation 9.

New regulation 9 removes the current per capita registration charge and introduces a throughput charge. The current per capita registration charge is based on the number of AQIS-employed authorised officers at each establishment. As the new service delivery model allows establishments to employ or contract non-government authorised officers, the per capita charge is no longer a good indication of the size of export activity at an establishment.

Under a throughput charge some establishments would be required to pay an additional charge based on the level of activity in the establishment. The throughput charge would be imposed to recognise the high variability in the size of operations at abattoirs and addresses the inequitable impact that would result if a simple flat rate was imposed across all establishments. The throughput charge is only payable by establishments set out in Item 1 or 7 of Schedule 3 of the base registration charge. These are establishments that are used for the slaughter or dressing of an animal, other than poultry, for export.

The rates in column 3 of Part 2 of Schedule 3 apply.

Item 10 would insert a new Schedule 3 with the rates of the base registration charge payable by certain establishments. The rates reflect the complexity and risk associated with the establishment's operations.

Part 2 of Schedule 3 would provide for the rates of throughput for the animals listed in the schedule.