

EXPLANATORY STATEMENT

Select Legislative Instrument 2013 No. 213

Issued by the Authority of the Minister for Home Affairs

Passenger Movement Charge Collection Act 1978

*Passenger Movement Charge Collection (Recovery and Refund of Charges)
Regulation 2013*

Section 15 of the *Passenger Movement Charge Collection Act 1978* (the Act) provides in part that the Governor-General may make Regulations not inconsistent with the Act prescribing all matters which by the Act are required or permitted to be prescribed, and, in particular:

- (a) making provision for and in relation to claims for refunds, the allowance of payment of refunds and the recovery of refunds paid incorrectly;
- (b) making provisions for and in relation to the appointment of bodies or persons as approved agents; and
- (c) prescribing penalties not exceeding 5 penalty units for offences against the regulations.

Under the Act, a passenger movement charge is payable in respect of the departure of a person from Australia by the person prior to their departure. Section 11 of the Act provides that the regulations may make provision in relation to the payment of the passenger movement charge and exemption from the charge by way of charge stamps and exemption stamps. Stamps in a travel document indicate the payment or exemption from payment of the passenger movement charge. Such provisions are currently set out in the *Passenger Movement Charge Collection Regulations* (the Principal Regulations) made in 2004.

In addition to a person being able to discharge their liability by way of a charge stamp or exemption stamp, section 10 of the Act allows the Minister to make an arrangement with a person under which the person agrees to pay to the Commonwealth an amount equal to the charge payable by any person to whom the arrangement applies. Such arrangements have been made, since the mid-1990s, with all major airlines and shipping lines. In effect, and in most cases, airlines and shipping lines collect the passenger movement charge from a person on behalf of Australian Customs and Border Protection. The effective operation of these arrangements means that charge stamps and exemptions stamps, and the processes relating to these stamps, are no longer in use.

The Regulation repeals the Principal Regulations with the exception of two provisions which provide for the refund of a passenger movement charge and the recovery of incorrectly paid refunds of a passenger movement charge. These provisions are still required as there are a small number of passengers each year who do not pay the passenger movement charge under an arrangement and instead pay passenger movement charge directly to Australian Customs and Border Protection.

As the Regulation is of a minor or machinery nature, no consultation was undertaken in relation to the Regulation.

The amending Regulation commences on the day after registration on the Federal Register of Legislative Instruments.

Statement of Compatibility with Human Rights

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

Passenger Movement Charge Collection (Recovery and Refund of Charges) Regulation 2013

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulation

The purpose of this Regulation is to repeal the Passenger Movement Charge Collection Regulations (the Regulations).

Under the *Passenger Movement Charge Collection Act 1978*, a passenger movement charge is payable in respect of the departure of a person from Australia by the person prior to their departure. The Regulations provide that payment of the passenger movement charge and exemption from the charge may be done by way of charge stamps and exemption stamps. However, stamps are no longer used for payment of the passenger movement charge. Accordingly, the Regulations are being repealed

In addition to repealing the Regulations, the legislative instrument will retain two of the provisions contained in the regulation concerning the refund of a passenger movement charge and the recovery of incorrectly paid refunds of a passenger movement charge.

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 Home Affairs