EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture

*Primary Industries (Customs) Charges Act 1999*

*Primary Industries (Customs) Charges Amendment (Citrus and Farmed Prawns) Regulations 2019*

**Authority**

The *Primary Industries (Customs) Charges Act 1999* (the Customs Charges Act) authorises the imposition of primary industries charges, that are duties of customs.

Section 8 of the Customs Charges Act provides that the Governor-General may make regulations 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.

*Citrus charge*

Subclause 2(1) of Schedule 10 to the Customs Charges Act imposes a charge on chargeable horticultural products produced in Australia that are exported from Australia. Clause 1 of Schedule 10 to the Customs Charges Act provides that chargeable horticultural products are products prescribed by regulations.

Clause 7.1 of Schedule 10 to the *Primary Industries (Customs) Charges Regulations 2000* (Customs Charges Regulations) prescribes ‘citrus’ to be a chargeable horticultural product, resulting in a charge being imposed on that product.

Schedule 10, Part 7 of the Customs Charges Regulations imposes an Emergency Plant Pest Response (EPPR) charge on citrus.

*Farmed prawns charge*

Schedule 14 to the Customs Charges Act provides that regulations may impose charges on products which are the produce of primary industries, set the rate of the charge and specify the person liable to pay the charge.

Clause 2.2 of Schedule 14 to the Customs Charges Regulations imposes a charge on farmed prawns exported from Australia.

**Purpose**

The purpose of the *Primary Industries (Customs) Charges Amendment (Citrus and Farmed Prawns) Regulations 2019* (the Regulations) is to:

* activate (that is, set to a positive rate) the EPPR charge on citrus to $1.05 per tonne for oranges and other citrus sold in bulk and 2.1 cents per box for oranges and other citrus not sold in bulk
* to impose a white spot disease repayment charge on farmed prawns at a rate of 3.01 cents per kilogram.

The Department of Agriculture (the department) collects the charge on behalf of the Commonwealth and, where required by legislation, disburses the funds to the relevant recipient body.

**Background**

*Citrus charge*

On 6 February 2019, Citrus Australia Limited (CAL), the industry body representing citrus growers in Australia, requested that the then Minister for Agriculture and Water Resources activate the EPPR levy and charge at the rates given above. The funds raised from this levy will be used to repay the Commonwealth for costs paid under the nationally cost-shared eradication response to citrus canker in the Northern Territory and Western Australia.

The department assessed the CAL request and considered that it met the Australian Government *Levy Principles and Guidelines* for the activation of an EPPR charge.

*Farmed prawns charge*

On 4 May 2017, following a request from the Australian Prawn Farmers Association (APFA), the peak body for the farmed prawn industry, the then Minister for Agriculture and Water Resources approved an up to $20 million assistance package for prawn farmers affected by the response to white spot disease in the Logan River. White spot disease is not an animal disease covered under any current response deed and APFA is not a party to the Emergency Animal Disease Response Agreement (EADRA), therefore it was agreed that costs would be shared with industry on an 80/20 split under arrangements consistent with those applied to other industries under EADRA.

The then Minister and the APFA agreed that the industry contribution (20 per cent, up to $4 million) would be underwritten by the Australian Government and then repaid through a statutory levy and charge on farmed prawns. They also agreed that the levy and charge would not commence for three years after the destruction of prawns on affected farms to give the industry time to restock after a required fallow period.

**Details and Effect**

The charge rates for citrus were calculated to ensure that the industry’s liability to the Australian Government will be repaid within approximately five years, at which time CAL intends to request that the charges are reset to a nil rate. The charge increases are a small amount that is unlikely to influence the price of citrus products.

The charge rate for farmed prawns was calculated to ensure that the industry’s liability to the Australian Government will be repaid in approximately ten years, at which time the government intends to cease the levy. The charge is a small amount that is unlikely to influence the price of farmed prawns.

**Conditions**

Subclause 13(2) of Schedule 14 to the Customs Charges Act provides that if there is a single body that is a designated body in relation to a particular product, then, before the Governor‑General makes a regulation in relation to the product, the Minister must take into consideration any relevant recommendation made to the Minister by the body. CAL, the peak industry body for the Australian citrus industry, was designated as the body for citrus by the Minister through the *Primary Industries (Customs) Charges (Designated Bodies) Declaration 2017* made under clause 12 of Schedule 14 to that Act.

CAL made such a representation on 6 February 2019. The Minister took CAL’s recommendations into account and approved its request on 22 August 2019.

**Consultation**

Consistent with the Australian Government *Levy Principles and Guidelines* for the activation of an EPPR charge, CAL notified charge payers of its intention to request the activation of the charge at the rates described. It did this in a letter to industry members and through its social media channels. CAL held a 30-day objection period from 11 March to 12 April 2019. No objections were received.

APFA’s decision was unanimously supported by farmed prawn industry members at the Ridley Australian Prawn Farmers Symposium 2017 on 2 August 2017. The matter was raised again at the 2018 symposium (on 13 August) and again received unanimous support. APFA undertook consultation with actual and potential levy payers on the proposed rate of the levy at 3.01 cents per kilogram. A formal objection period was held from 4 February to 8 March 2019. No objections on the white spot disease repayment charge were received.

**Details / Operation**

Details of the Regulations are set out in Attachment A.

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 in Attachment B.

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

**Attachment A**

**Details of the *Primary Industries (Customs) Charges Amendment (Citrus and Farmed Prawns) Regulations 2019***

Section 1 – Name of Regulations

This section provides that the name of the Regulations is the *Primary Industries (Customs) Charges Amendment (Citrus and Farmed Prawns) Regulations 2019*.

Section 2 – Commencement

This section provides for the Regulations to commence on 1 January 2020.

Section 3 – Authority

This section provides that the Regulations are made under the *Primary Industries (Customs) Charges Act 1999*.

Section 4 – Schedule

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

Schedule 1 – Amendments

**Item 1** amends subclause 7.7(2) of Schedule 10 to provide that the rates of EPPR charge on citrus are as follows:

 (a) for oranges in bulk—$1.05 per tonne of oranges;

 (b) for oranges not in bulk—2.1 cents per box;

 (c) for other citrus in bulk—$1.05 per tonne of citrus;

 (d) for other citrus not in bulk—2.1 cents per box.

**Item 2** inserts a new heading “Division 2.1—Definitions” before clause 2.1 of Schedule 14. This technical change is being made because the Part is being divided into three Divisions, to provide separately for the new special purpose charge.

**Item 3** inserts a new heading “Division 2.2—Product charge” before clause 2.2 of Schedule 14. This technical change is being made because the Part is being divided into three Divisions, to provide separately for the new special purpose charge.

**Item 4** amends subclause 2.2(2) of Schedule 14 to replace “this Part” with “this Division” to clarify that the provision only applies to the Division and not the whole Part.

**Item 5** rewords clause 2.3 of Schedule 14 for clarity of meaning.

**Item 6** amends clause 2.4 of Schedule 14 to replace “this Part” with “this Division” to clarify that the provision only applies to the Division and not the whole Part.

**Item 7** replaces the note with a new note on the meaning of the term “producer.” This is a consequential change to reflect the amendments of clause 3.4 of the *Primary Industries Levies and Charges Collection Regulations 1991* being made by the Primary Industries Levies and Charges Collection Amendment (Farmed Prawns) Regulations 2019.

**Item 8** adds Division 2.3 at the end of Part 2 of Schedule 14, which provides for the imposition of a white spot disease repayment charge on farmed prawns, the rate of charge and who pays the charge.

**Attachment B**

**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 (Citrus and Farmed Prawns) Regulations 2019***

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**

The purpose of the *Primary Industries (Customs) Charges Amendment (Citrus and Farmed Prawns) Regulations 2019* (the Regulations) is to:

* activate (that is, set to a positive rate) the Emergency Plant Pest Response (EPPR) charge on citrus to $1.05 per tonne for oranges and other citrus sold in bulk and 2.1 cents per box for oranges and other citrus not sold in bulk
* to impose a white spot disease repayment charge on farmed prawns at a rate of 3.01 cents per kilogram.

The Regulations commence on 1 January 2020.

**Human rights implications**

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

**Conclusion**

The measures in 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* as the Regulations do not engage any human rights issues.

**Senator the Hon. Bridget McKenzie**

**Minister for Agriculture**