

EXPLANATORY STATEMENT

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

Biosecurity Act 2015

Biosecurity Amendment (Cost Recovery) Regulations 2025

Legislative Authority

The *Biosecurity Act 2015* (the Biosecurity Act) provides the regulatory framework for the management of diseases and pests that may cause harm to human, animal or plant health, or the environment.

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

Paragraph 593(b) of the Biosecurity Act provides that the *Biosecurity Regulation 2016* (the Principal Regulation) may prescribe one or more persons who are liable to pay a specified cost-recovery charge. Section 9 of the Biosecurity Act defines a cost-recovery charge to include a charge imposed by the *Biosecurity Charges Imposition (Customs) Act 2015* (the Biosecurity Customs Act) or the *Biosecurity Charges Imposition (General) Act 2015* (the Biosecurity General Act).

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

Purpose

From 1 July 2025, updated cost recovery charges are established under the *Biosecurity Charges Imposition (General) Amendment (2025 Measures No. 1) Regulations 2025* and the *Biosecurity Charges Imposition (Customs) Amendment (2025 Measures No. 1) Regulations 2025* (together the Charges Amendment Regulations). The updated charges provide for a new charge to recover the cost of additional work to manage the transition of an industry participant who moves from holding one approved arrangement to multiple approved arrangements, or from one compliance agreement to an approved arrangement or multiple approved arrangements, within the same financial year.

The purpose of the *Biosecurity Amendment (Cost Recovery) Regulations 2025* (the Amendment Regulations) is to amend the Principal Regulation to facilitate the implementation of the updated cost recovery charges. In particular, the Amendment Regulations identify who is liable to pay the updated cost recovery charges under the *Biosecurity Charges Imposition (Customs) Regulation 2016* (the Customs Regulation) and the *Biosecurity Charges Imposition (General) Regulation 2016* (the General Regulation).

Background

The Department of Agriculture, Fisheries and Forestry (the department) administers the Act to manage biosecurity threats that may cause harm to human, animal or plant health, or the environment. The department recovers the costs of undertaking these regulatory functions through fees and charges, imposed in accordance with the Australian Government Charging Framework. It sets the rules and requirements about how a regulator determines costs and sets charges, and how it will charge for regulatory activities.

Charging is undertaken under the Act, the Biosecurity General Act, the Biosecurity Customs Act and the *Biosecurity Charges Imposition (Excise) Act 2015* (Biosecurity Excise Act). These Acts provide the tax legislation framework necessary to support cost-recovery charges. Specific charges for biosecurity regulatory functions are prescribed in the Principal Regulation, the General Regulation and the Customs Regulation.

The Customs Regulation prescribes charges in relation to matters connected with the administration of the Biosecurity Act which are considered duties of customs within the meaning of section 55 of the Constitution. The General Regulation prescribes charges in relation to matters connected with the administration of the Biosecurity Act which are considered neither duties of customs nor duties of excise within the meaning of section 55 of the Constitution. Where a charge is prescribed under both the Customs Regulation and the General Regulation, only one charge will apply and it will be under the regulation for which it is valid. No charges are prescribed under the Biosecurity Excise Act.

Impact and Effect

The Amendment Regulations facilitate the updated cost-recovery charges by providing that the person who is liable to pay the updated charges in relation to the biosecurity matters prescribed by items 13, 13AA and 13AB in the table under subsection 9(1) of the Biosecurity General Regulation and the Biosecurity Customs Regulation, is the person who is covered by the approved arrangement to which those charges relate.

The updated charges are based on modelling set out in the 2025-26 Biosecurity Cost Recovery Implementation Statement (CRIS) required by the Australian Government Cost Recovery Policy overseeing charging of regulatory government activities and are no higher than the department's anticipated costs of administering and managing multiple approved arrangements and/or compliance agreements during the course of a financial year. The CRIS sets out the costs recovered in delivering regulatory activities, and the fees and charges to be applied to those activities.

Consultation

The department conducted targeted industry consultation during November 2024 through to April 2025, through engagement via e-mail communication which included detailed explanatory material, Import Industry Advice Notices, attendance at industry consultative committee meetings and updates to the department's website. The Department of Finance was also consulted on the broader changes to the charging framework.

Details and Operation

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

The Amendment Regulations commence on 1 July 2025.

Details of the Amendment Regulations are set out in Attachment A.

Other

The Amendment 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 with Human Rights is set out in Attachment B.

Details of the *Biosecurity Amendment (Cost Recovery) Regulations 2025*

Section 1 – Name

This section provides that the name of the instrument is the *Biosecurity Amendment (Cost Recovery) Regulations 2025* (the Amendment Regulations).

Section 2 – Commencement

Subsection 2(1) provides that the Amendment Regulations commence on 1 July 2025.

The note below the table provides that the table relates only to the provisions of the Amendment Regulations as originally made. The table will not be amended to deal with later amendments of the Amendment Regulations. The purpose of this note is to clarify that the commencement of any subsequent amendments will not be reflected in this table.

Subsection 2(2) provides that any information in column 3 of the table is not part of the instrument. Information may be inserted in that column, or information in it may be edited, in any published version of the instrument.

Section 3 – Authority

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

Section 4 – Schedules

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

Schedule 1 – Amendments

Biosecurity Regulation 2016

Item [1] – Paragraph 109(4)(d)

Section 109 of the *Biosecurity Regulation 2016* (the Principal Regulation) is made for the purposes of paragraph 593(b) of the Act and prescribes the persons who are liable to pay the cost-recovery charges related to a biosecurity matter prescribed by the table in subsection 9(1) of the *Biosecurity Charges Imposition (General) Regulation 2016* (the General Regulation) or the table in subsection 9(1) of the *Biosecurity Charges Imposition (Customs) Regulation 2016* (the Customs Regulation).

This item inserts a reference to new table items 13, 13AA and 13AB of the table in subsection 9(1) of both the General Regulation and the Customs Regulation. Those updated table items were inserted by the *Biosecurity Charges Imposition (General) Amendment (2025 Measures No. 1) Regulations 2025* and the *Biosecurity Charges Imposition (Customs) Amendment (2025 Measures No. 1) Regulations 2025*. This item is consequential to those amending instruments.

This item provides that the person who is liable to pay the charges related to the biosecurity matter prescribed by table items 13, 13AA and 13AB is the person who is covered by the approved arrangement to which the charge relates.

Statement of Compatibility with Human Rights

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

Biosecurity Amendment (Cost Recovery) Regulations 2025

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 *Biosecurity Amendment (Cost Recovery) Regulations 2025* (the Amendment Regulations) amends the *Biosecurity Regulation 2016* (the Principal Regulation) to identify who is liable to pay updated cost-recovery charges in new table items 13, 13AA and 13AB of the tables in subsection 9(1) of the *Biosecurity Charges Imposition (General) Regulation 2016* and subsection 9(1) of the *Biosecurity Charges Imposition (Customs) Regulation 2016*. The updated cost-recovery charges commence on 1 July 2025.

The amendment in the Amendment Regulations facilitates the changes made by the *Biosecurity Charges Imposition (General) Amendment (2025 Measures No. 1) Regulations 2025* and the *Biosecurity Charges Imposition (Customs) Amendment (2025 Measures No. 1) Regulations 2025*. The only substantive effect of the Amendment Regulations is to provide that the updated cost-recovery charges are payable by the person who holds the approved arrangement to which the cost-recovery charge relates.

The Amendment Regulations are made under the *Biosecurity Act 2015*.

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.

The Hon. Julie Collins MP
Minister for Agriculture, Fisheries and Forestry