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Date introduced: 27 March 2014
House: House of Representatives
Portfolio: Agriculture
Commencement: Various dates as set out in the body of this Bills Digest

Links: The links to the Bills, their Explanatory Memoranda and second reading speeches can be found on the Bill’s home pages for the Export Legislation Amendment Bill 2014, the Export Inspection (Service Charge) Amendment Bill 2014, the Export Inspection (Quantity Charge) Amendment Bill 2014 and the Export Inspection (Establishment Registration Charges) Amendment Bill 2014 or through http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation

When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.
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Purpose of the Bills

The Export Legislation Amendment Bill 2014 (the Export Legislation Bill), the Export Inspection (Quantity Charge) Amendment Bill 2014 (the Quantity Charge Bill), the Export Inspection (Service Charge) Amendment Bill 2014 (the Service Charge Bill) and the Export Inspection (Establishment Registration Charges) Amendment Bill 2014 (the Establishment Registration Bill) comprise a legislative package, the purpose of which is to remedy technical defects in a number of statutes and to facilitate cost recovery for the performance of certain export services by the Department of Agriculture (DAFF).

Structure of the legislative package

The Bills in the legislative package operate as follows:

• the Export Legislation Bill amends the Australian Meat and Live-stock Industry Act 1997, the Export Control Act 1982, the Export Inspection and Meat Charges Collection Act 1985 and the Imported Food Control Act 1992 to remove definitional inconsistencies and to enable DAFF to recover costs of services such as issuing quota certificates

• the Quantity Charge Bill amends the Export Inspection (Quantity Charge) Act 1985 to ensure consistency with the amendments made by the Export Legislation Bill and to update the method of calculating the quantity charge on a relevant good by reference to weight or volume

• the Service Charge Bill amends the Export Inspection (Service Charge) Act 1985 to ensure consistency with the amendments made by the Export Legislation Bill and

• the Establishment Registration Bill amends the Export Inspection (Establishment Registration Charges) Act 1985 to ensure consistency with the amendments made by the Export Legislation Bill.

Background

The Department of Agriculture is responsible for controlling exports of prescribed goods, including, but not limited to, meat, dairy, fish, grains, horticulture products and live animals. These commodities cannot be exported unless they meet requirements set out in the Export Control Act and subsidiary legislation. The Department verifies that these requirements are met and provides certificates, if required by importing countries.

Beale Review

On 19 February 2008 the then Minister for Agriculture, Fisheries and Forestry, Tony Burke, announced a comprehensive, independent review of Australia’s quarantine and biosecurity arrangements to be undertaken by an independent panel of experts chaired by Roger Beale (the Beale Review). The relevant report was published on 30 September 2008. According to the Beale Review:

In equity terms, cost recovery means that those Australians who use or consume high risk, high regulatory cost imports, do not ask their fellow citizens to pay. Equally, it means that Australian exporters who earn income from overseas markets because of regulatory services provided by the Australian government are not asking Australian taxpayers to fund the health and biosecurity protection of the citizens of other countries.
To that end the Beale Review recommended that export certification functions should operate on the basis of 100 per cent cost recovery.\textsuperscript{12}

**Current cost recovery arrangements**

As a result, DAFF’s export certification services are provided to industry under a fully cost recovered arrangement. The fees and charges applied recover the direct and indirect costs associated with management and delivery of those services. In line with government policy, charging arrangements are developed in accordance with the *Australian Government Cost Recovery Guidelines* and in consultation with the industries to which they apply.\textsuperscript{13}

Export certification is required by overseas government authorities to ensure Australian products comply with importing countries’ requirements. DAFF underpins its export certification services with administrative, inspection and certification services and regular audits of export registered premises to ensure the continuing integrity of Australia’s export certification system.

Fees and charges have been specifically developed for the meat, fish, dairy and egg sectors which reflect the specific requirements, processes and costs associated with each of these industries. Separate fees have been developed for the export of non-prescribed goods from Australia which recognise the specific activities and costs associated with providing export certification services to this sector.\textsuperscript{14}

**Legislative package**

The Bills in this legislative package are consistent with the recommendation of the Beale Review in that they will remove legislative inconsistencies to facilitate more equitable cost recovery of export charges in relation to non-prescribed goods.

**Committee consideration**

**Senate Selection of Bills Committee**

At its meeting of 27 March 2014 the Senate Selection of Bills Committee deferred consideration of Bills in this legislative package until its next meeting.\textsuperscript{15}

**Senate Standing Committee for the Scrutiny of Bills**

At the time of writing this Bills Digest, the Standing Committee for the Scrutiny of Bills had not commented on the Bills in this legislative package.

**Parliamentary Joint Committee on Human Rights**

At the time of writing this Bills Digest, the Parliamentary Joint Committee on Human Rights had not commented on the Bills in this legislative package.

**Statement of Compatibility with Human Rights**

As required under Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth), the Government has assessed the Bills’ compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act.\textsuperscript{16} The Government considers that the Bills are compatible.

\begin{footnotes}
\item[12] Ibid., p. 215.
\item[14] Department of Agriculture (DAFF), *Food inspection services—charging guidelines*, 1 January 2012, version 1, p. 2, DAFF website, accessed 10 April 2014.
\item[16] The Statement of Compatibility with Human Rights can be found at the following pages of the Explanatory Memorandum to the Bills: page 4 for the Export Legislation Bill, page 5 for the Quantity Charge Bill, page 6 for the Service Charge Bill and page 7 for the Establishment Registration Bill.
\end{footnotes}
Position of major interest groups

Minister for Agriculture, Barnaby Joyce, has stated that ‘these amendments are largely supported by industry’.\(^{17}\) At the time of writing, however, it appeared that exporters had not made any public comments in relation to the contents or effect of the Bills in the legislative package.

Financial implications

According to the Explanatory Memorandum, the Bills enable the Department to recover approximately $1.9 million per annum for the provision of export services. The Bills do not, however, change the rate of charge and will not impose any financial impacts on businesses until orders are made bringing the additional exported goods to be subject to the charges within the definition of ‘prescribed good’ in the Export Control Act.

Key issues and provisions

**Export Legislation Bill**

The Export Legislation Bill commences on the day of Royal Assent.

**Australian Meat and Live-stock Industry Act**

The Australian Meat and Live-stock Industry Act provides, amongst other things, for the control of meat and live-stock exports by the grant of export licences.\(^ {18}\) Subsection 17(1) of that Act empowers the Secretary to make orders (by legislative instrument) and give written directions that are to be complied with by the holders of export licences. Subsection 17(3) contains a non-exhaustive list of matters about which orders may be made, or directions given. **Item 2** of the Export Legislation Bill inserts proposed paragraph 17(3)(c) into the Australian Meat and Live-stock Industry Act to provide additional matters about which orders may be made. These are the requirement that a prescribed fee be paid for the exercise of a power or performance of a duty required under an order if the power or duty relates to a consignment for export that is not in accordance with a quota—and provision for waiver or remission of that fee.\(^ {19}\)

**Export Inspection and Meat Charges Collection Act**

The Export Inspection and Meat Charges Collection Act provides for the collection of the certain charges being the establishment registration charge,\(^ {20}\) the quantity charge,\(^ {21}\) the service charge\(^ {22}\) and the domestic meat premises charge.\(^ {23}\) In particular section 6 of the Export Inspection and Meat Charges Collection Act makes reference to the requirement that exporters submit monthly returns in relations to certain prescribed commodities. This is used to calculate the amount of the quantity charge to be paid by the exporter.

**Item 10** of the Export Legislation Bill repeals the definition of prescribed commodity. **Item 11** of the Export Legislation Bill inserts the definition of prescribed goods. Consequential amendments are made to the Export Inspection and Meat Charges Collection Act to replace references to prescribed commodities with references to prescribed goods.\(^ {24}\) This has the effect of aligning the terms in the Export Inspection and Meat Charges Collection Act with those in the Export Control Act. **Items 5, 8 and 12** remove the definitions of individual goods as these goods are to be prescribed goods, declared by regulations.\(^ {25}\)

**Item 17** repeals and replaces sections 6 and 6A of the Export Inspection and Meat Charges Collection Act so that an exporter of prescribed goods for which a quantity or service charge is payable must provide the Secretary with a return for each month in which the export is permitted or service provided. The information required in

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19. **Item 1** of the Export Legislation Bill inserts the definition of quota into section 3 of the Australian Meat and Live-stock Industry Act so that it has the same meaning as in the Australian Meat and Live-stock (Quotas) Act 1990.
20. Imposed by the Export Inspection (Establishment Registration Charges) Act.
22. Imposed by the Export Inspection (Service Charge) Act.
24. **Items 6, 9, 13–16, 18–19, 21–22 and 24** of the Export Legislation Bill.
order to process a quantity or service charge is contained in the Export Inspection and Meat Charges Collection Regulations 1985.26

**Quantity Charge Bill**

The Quantity Charge Bill commences at the same time as the *Export Legislation Amendment Act 2014*, except for sections 1–3, which commence on the day of Royal Assent.

The Quantity Charge Bill amends the *Export Inspection (Quantity Charge) Act* which imposes a charge on the inspection of certain commodities intended for export.

**Item 3** inserts the definition of *prescribed goods* into the *Export Inspection (Quantity Charge) Act*. Consistent with the amendments to the *Export Inspection and Meat Charges Collection Act*, the term has the same meaning as that in the *Export Control Act*. The Bill contains consequential amendments which replace references to *prescribed commodities* with references to *prescribed goods* to align with the definition in the *Export Control Act*.27

**Item 15** repeals and replaces section 7 of the *Export Inspection (Quantity Charge) Act* so that the rate of charge (if any) in respect to a prescribed good is set by the regulation relating to that good. Specific maxima are set out in respect of grain, however.

**Item 16** repeals and replaces section 8 of the *Export Inspection (Quantity Charge) Act* which specifies how a prescribed good is charged by weight or volume, treatment of a can28 and coverings and treatment of a can that contains multiple prescribed goods or other matter.

**Service Charge Bill**

The Service Charge Bill commences at the same time as the *Export Legislation Amendment Act 2014* except for sections 1–3 which commence on Royal Assent.

Consistent with the amendments to the other Bills in the legislative package, the Service Charge Bill amends the *Export Inspection (Service Charge) Act* to insert a new definition of *exportable goods* which are, amongst other things, *prescribed goods* within the meaning of the *Export Control Act*.

**Establishment Registration Bill**

The Establishment Registration Bill commences at the same time as the *Export Legislation Amendment Act 2014*, except for sections 1–3 which commence on Royal Assent.

Consistent with the amendments to the other Bills in the legislative package, the Establishment Registration Bill amends the *Export Inspection (Establishment Registration Charges) Act* to insert a new definition of *exportable goods* which are, amongst other things, *prescribed goods* within the meaning of the *Export Control Act*.

**Concluding comments**

The Bills in this legislative package contain technical and consequential amendments. Principally, the definition of the term *prescribed goods* is standardised across the relevant statutes, to facilitate the collection of charges from exporters on a more consistent basis.

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27. Items 4–8, 10, 13-14 and 17 of the Quantity Charge Bill.
28. For full definition of a ‘can’ see section 4 of *Export Inspection (Quantity Charge) Act 1985*. 