

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

EXPORT INSPECTION CHARGES (MISCELLANEOUS AMENDMENTS)
BILL 1985

EXPLANATORY MEMORANDUM

(Circulated by the authority of the
Minister for Primary Industry
the Hon. John Kerin MP)

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OUTLINE

The Export Inspection Charges (Miscellaneous Amendments) Bill 1985 makes provision for the amendment of the Export Inspection Charge Act 1985 and the Export Inspection Charge Collection Act 1985 in consequence of the Export Inspection (Service Charge) Bill and the Export Inspection (Establishment Registration Charge) Bill.

The passage of this Bill will make provision for the collection of inspection service charges and establishment registration charges. The amended legislation will not change the total impact of inspection charges on an industry, but will provide facilities for recovery of inspection costs from each industry through alternative charging mechanisms. The alternative charging mechanisms are the existing quantity based charges, the new service charge and the new establishment registration charge.

The Government will continue to meet costs which are not recouped from industry. In total the cost to the Government of providing the inspection service will not change as a result of this Bill.

NOTES ON CLAUSES

PART I - PRELIMINARY

Clause 1: Short title

1. This clause provides for the short title of the legislation.

Clause 2: Commencement

2. This clause provides for the commencement of this Bill on a day to be proclaimed.

PART II - AMENDMENTS OF THE EXPORT INSPECTION CHARGE ACT 1985

Clause 3: Principal Act

3. The Act which Part II of the Bill would amend is defined by this clause to be the Export Inspection Charge Act 1985.

Clause 4: Short title

4. This clause would change the short title of the Export Inspection Charge Act 1985 to the Export Inspection (Quantity Charge) Act 1985 to distinguish the existing charge from the new charges to be imposed by the Export Inspection (Establishment Registration Charge) Bill 1985 and the Export Inspection (Service Charge) Bill 1985.

Clause 5: Collection Act

5. This clause changes the reference to the Export Inspection Charge Collection Act 1985 to the Export Inspection Charges Collection Act 1985 in recognition of the collection under the Act of the existing quantity charge and the proposed establishment registration and services charges.

Clause 6: Interpretation

6. Definitions of words and phrases including products to be subject to the Principal Act would be deleted by paragraph (a) of this clause. These definitions are inserted in the Collection Act which would give them a general application to the Principal Act and the proposed Export Inspection (Establishment Registration Charge) and Export Inspection (Service Charge) Bills 1985 which are to be read as one with the Collection Act.
7. Paragraph (b) of this clause would extend the criteria by which a class of a prescribed commodity may be described for purposes of a quantity charge to encompass the level of inspection applied to a prescribed commodity and whether a quality control system plan is in force for a prescribed commodity.

Clause 7: Imposition of Charge

8. Paragraph (a) of this clause would amend sub-section 6(1) of the Principal Act to reflect the insertion of new sub-sections in section 6 of the Principal Act.
9. Paragraph (b) would provide for insertion of new sub-sections in section 6 as follows:
 - . Sub-clause (1A) provides that the quantity charge does not apply to a prescribed commodity if
 - the commodity was certified on a notice of intention to export after the commodity was specified as being subject to a service charge and
 - the certification was based on an inspection that was wholly or partly commenced after the commodity was specified.

The effect of this new provision will be that once a commodity is subject to service charge it cannot be made subject to quantity charge. Also a commodity in store at the time of transition to a service charge which requires no reinspection after the commodity is specified as being subject to service charge will pay quantity charge. If the commodity has never been inspected, no quantity charge for further inspection will be payable after the specified date.
 - . Sub-clause(1B) provides that for the purposes of sub-clause (1A) certification means that requirements under the Export Control Act 1982 have been met.
 - . Sub-clause (1C) provides that inspection of part of a consignment described in a notice of intention to export a prescribed commodity, shall be taken to have been inspected.
 - . Sub-clause (1D) allows for re-issue of an export permit without payment of quantity charge where the permit has been accidentally lost or accidentally destroyed.
 - . Sub-clause (1E) provides that prescribed commodities derived from animals are excluded from a quantity charge because meat and meat products are already subject to quantity based charges under separate legislation and separate charging arrangements are available for recouping inspection costs for the other commodities specified in this sub-clause.
10. Paragraph (c) would define a notice of intention to export in the same terms as the Export Control Act 1982.

PART III - AMENDMENTS TO THE EXPORT INSPECTION CHARGE COLLECTION ACT 1985

Clause 8: Principal Act

11. The Act which Part III of this Bill would amend is defined by this clause to be the Export Inspection Charge Collection Act 1985.

Clause 9: Title

12. This clause would amend the title of the Principal Act to include the proposed Export Inspection (Establishment Registration Charge) Act 1985 and Export Inspection Service Charge) Act 1985 in addition to the Export Inspection (Quantity Charge) Act 1985.

Clause 10: Short title

13. This clause would change the short title from the Export Inspection Charge Collection Act 1985 to the Export Inspection Charges Collection Act 1985.

Clause 11: Commencement

14. This clause would insert the date on which the Principal Act was proclaimed, namely 1 July 1985.

Clause 12:

15. This clause would repeal section 3 of the Principal Act dealing with interpretation of words and expressions for the purposes of the Act and insert definitions to cover the extension of the Principal Act to collect charges imposed by the new charge Acts - in particular,
- . the definitions omitted from section 4 of the Export Inspection Charge Act 1985
 - . modification to definitions omitted by the repeal of section 3 of the Principal Act
 - . new definitions required by the changed scheme of the Principal Act need to give effect to collection of moneys imposed under the 3 charge Acts.
16. The new subsection 3(2) defines the meaning of references in the Principal Act to registration and renewal of registration of an establishment in accordance with orders made under the Export Control Act 1982.

Provision of export inspection service

17. Insertion of section 3A would specify when an inspection service has been provided at an establishment. It allows for exemptions from charge for attendance by officers whose inspection duties relate to commodities which are not subject to service charge.

Act to bind Crown

18. Section 3B would ensure that a State or Territory is subject to the provisions of the Principal Act in respect of establishments where the Crown is the registered occupier.

Clause 13: Date due for payment

19. Section 4 of the Principal Act would be amended to provide that
- quantity charge is payable by 28 days after the last day of the month in which the export permit was granted,
 - service charge is payable by 28 days after the last day of the month in which the service was provided, and
 - establishment registration charge is payable on the day on which an establishment becomes registered.

Clause 14: Manner of payment

20. Section 5 of the Principal Act is amended to provide that payment of quantity charge and service charge shall be made at the prescribed office of the Department where a return was lodged by the person liable to pay the charge. An establishment registration charge may be paid at any prescribed office.

Clause 15: Returns in respect of quantity charge

21. Section 6 of the Principal Act would be amended to provide that a monthly return must be lodged in respect of commodity subject to quantity charge. The particulars to be included in the return are required in order to allow calculation of the liability of the exporter to pay charge.

Clause 16: Returns in respect of service charge

22. A new section 6A is added to provide that the registered occupier of an establishment where a service was provided in any month in respect of which a service charge is payable is obliged to make a return that details certain particulars to allow for calculation of the liability for charge payable by the registered occupier.

Clause 17: Execution and lodgement of returns

23. A sub-section is added to section 7 of the Principal Act to provide that a return to accompany payment of service charge is required by this clause to be signed by a person designated by the registered occupier of the establishment. The return is to be lodged at a prescribed office of the Department within 28 days after the last day of the month to which it relates.

Clause 18: Authorised agents

24. Section 8 of the Principal Act would be amended to provide for the appointment of an authorised agent for the signing of the returns specified in sections 6 and 6A.

Clause 19: Records to be kept

25. This clause would require an exporter or a registered occupier of an establishment who is required to pay a quantity charge or a service charge as the case may be to keep records for 3 years of export permits or inspection services in relation to prescribed commodities on which the returns required by the legislation are to be based.

Clause 20: Offences relating to returns, etc.

26. Section 10(2) of the Principal Act would be amended to provide that self-incrimination is not an excuse for failing to submit a return or provide information but information contained in a return is not admissible in evidence in criminal proceedings or in proceedings for recovery of penalty for non payment by the person submitting a return.

Clause 21: Penalty for non-payment

27. This clause would provide that remission of penalty by an authorised officer shall not be exercised where the amount owing before the remission of penalty exceeds \$1,000.

Clause 22: Export permits not to be granted if charge unpaid

28. This clause would provide that where quantity charge, service charge or registration charge has not been paid by the due date, no further export permit in relation to a prescribed commodity will be granted to the person owing the money until the charge is paid.

Clause 23: Export control orders may require establishment registration charge to be tendered

29. This clause would insert a new section 12A in the Principal Act to specify that export control orders may be made providing that an establishment to which registration charge applies shall not be registered unless the charge has been paid.

Clause 24: Access to premises

30. This clause would extend the definition of examinable documents in section 15 of the Principal Act to documents relating to the provision of an export inspection service.

Clause 25: Powers to make export control orders imposing fees not affected by charge

31. Section 16A would be added to the Principal Act and have the effect that fees may also be imposed under the Export Control Act 1982 in connection with the performance of services by authorised officers.