

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 17 April 1985

(Minister for Primary Industry)

A BILL

FOR

An Act to impose a charge on the inspection of certain commodities intended for export

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

1. This Act may be cited as the *Export Inspection Charge Act 1985*.

5 **Commencement**

2. (1) Sections 1 and 2 shall come into operation on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act shall come into operation on a day to be fixed by Proclamation.

10 **Collection Act**

3. The *Export Inspection Charge Collection Act 1985* is incorporated, and shall be read as one, with this Act.

Interpretation

4. (1) In this Act, unless the contrary intention appears—

“can” means an hermetically sealed covering made of metal or glass, or of a material, or a material included in a class of materials, that is approved, in writing, by the Secretary or by a person who is authorized, in writing, by the Secretary to give such an approval; 5

“charge” means charge imposed by this Act;

“container system unit” means a container designed for repeated use as a unit of cargo handling equipment in the transportation of cargo on a ship or aircraft; 10

“covering” means a bottle, box, capsule, case, container, frame, stopper or wrapper;

“dairy produce” means milk and includes milk products;

“dried fruit” means fruit from which part of the natural moisture content has been removed by means of evaporation or dehydration and includes dried fruit products; 15

“dried fruit product” means a product one of the major components of which is dried fruit;

“egg product” means a product one of the major components of which is eggs or a constituent part of eggs; 20

“eggs” means eggs of hens of the species *Gallus gallus* or any other species, or class of species, of bird, that is prescribed for the purposes of this definition and includes egg products;

“export permit” means a permit of that name provision for the granting of which is made for the purposes of section 7 of the *Export Control Act 1982* in regulations or orders made under that Act; 25

“fish” means—

(a) the whole of an aquatic animal; or

(b) a part of an aquatic animal other than the shell of the animal where the shell has been separated from the remainder of the animal, 30

whether alive or dead, processed or unprocessed and includes fish products, but does not include the whole, or any part, of an aquatic mammal;

“fish product” means a product one of the major components of which is fish; 35

“fruit” includes fruit products but does not include fresh fruit;

“fruit juice” means the unfermented juice of fruit, whether or not that juice contains a food additive, and includes the pulp of fruit and fruit juice concentrate; 40

“fruit product” means a product one of the major components of which is a fruit or a constituent part of a fruit but does not include fruit juice;

“grain” means—

- (a) the grain of wheat, oats, barley or sorghum or of any other cereal that is prescribed for the purposes of this definition; and
- (b) the seeds of lupins or field peas or of any other leguminous plant that are prescribed for the purposes of this definition;

“milk product” means a product one of the major components of which is milk or a constituent part of milk;

“prescribed commodity” means—

- (a) dairy produce;
- (b) eggs;
- (c) fruit;
- (d) fruit juice;
- (e) fish;
- (f) grain;
- (g) vegetables; or
- (h) vegetable juice;

“Secretary” means the Secretary to the Department;

“vegetables” includes vegetable products but does not include fresh vegetables;

“vegetable juice” means the unfermented juice of vegetables, whether or not that juice contains a food additive, and includes the pulp of vegetables and vegetable juice concentrate;

“vegetable product” means a product one of the major components of which is a vegetable or a constituent part of a vegetable but does not include vegetable juice.

(2) Without limiting, by implication, the manner in which a class of a prescribed commodity may be described for the purposes of this Act or the regulations, a class of a prescribed commodity may be described, in whole or in part, by reference to all or any of the following:

- (a) the form in which the prescribed commodity is intended to be exported;
- (b) the class of establishment at which the prescribed commodity was prepared;
- (c) the manner in which the prescribed commodity is packed for export.

Act to bind Crown

5. This Act binds the Crown in right of each of the States, of the Northern Territory and of Norfolk Island.

Imposition of charge

6. (1) Subject to sub-section (2), charge is imposed on a prescribed commodity in respect of which an export permit is granted, whether or not that permit is also granted in respect of another prescribed commodity.

(2) Sub-section (1) does not apply to a class of a prescribed commodity that is exempt from charge under the regulations.

Rates of charge

7. (1) Subject to this section, the rate of charge (if any) in respect of a prescribed commodity is such rate as is applicable under the regulations to that prescribed commodity or to the class of that prescribed commodity in which that prescribed commodity is included. 5

(2) For the purposes of sub-section (1), different rates of charge may be prescribed in respect of different classes of a prescribed commodity.

(3) The rate of charge in respect of a prescribed commodity, or of a class of a prescribed commodity, as the case may be, shall not exceed— 10

- (a) in the case of dairy produce—\$5 per tonne;
- (b) in the case of eggs in the shell—\$22 per 1,000 dozen;
- (c) in the case of eggs other than eggs in the shell—\$33 per tonne;
- (d) in the case of dried fruit—\$24 per tonne; 15
- (e) in the case of fruit other than dried fruit—1 cent per kilogram;
- (f) in the case of fruit juice—1 cent per litre or 1 cent per kilogram, whichever would result in the lesser amount of charge becoming payable;
- (g) in the case of oysters in the shell or half-shell—30 cents per dozen; 20
- (h) in the case of fish, other than oysters in the shell or half-shell—30 cents per kilogram;
- (j) in the case of grain that is shipped for export in bulk otherwise than in a container system unit—33 cents per tonne;
- (k) in the case of grain that is shipped for export in bags otherwise than in a container system unit—40 cents per tonne; 25
- (m) in the case of grain that is shipped for export in a container system unit—\$1.46 per tonne;
- (n) in the case of vegetables—1 cent per kilogram; and
- (o) in the case of vegetable juice—1 cent per litre or 1 cent per kilogram, whichever would result in the lesser amount of charge becoming payable. 30

Weight or volume of prescribed commodity

8. (1) For the purposes of this Act, where—

- (a) the amount of charge in respect of a prescribed commodity is calculated by reference to the weight, or the volume, of that prescribed commodity; and 35
- (b) that prescribed commodity is, or is to be, packed in a covering, the weight, or the volume, of the covering itself, as the case requires, shall be disregarded for the purpose of calculating the weight, or the volume, of the prescribed commodity. 40

(2) For the purposes of this Act, where a covering, other than a can, contains a prescribed commodity, or more than one prescribed commodity, and matter other than that prescribed commodity or those prescribed commodities, the other matter shall be disregarded for the purpose of calculating the charge payable in respect of that prescribed commodity or those prescribed commodities and the total amount of charge payable shall be—

(a) where the covering contains a single prescribed commodity—the amount of charge payable in respect of that commodity; and

(b) where the covering contains more than one prescribed commodity—the sum of the amounts that are payable in respect of each of those prescribed commodities.

(3) Where a can contains a prescribed commodity and matter other than a prescribed commodity—

(a) the can shall be deemed to contain only the prescribed commodity; and

(b) for the purpose of calculating the amount of charge payable in respect of that prescribed commodity—

(i) if the rate of charge in respect of a prescribed commodity is described by reference to the weight of the prescribed commodity—the weight of the contents of the can shall be deemed to be the weight of that prescribed commodity; and

(ii) if the rate of charge in respect of a prescribed commodity is described by reference to the volume of the prescribed commodity—the volume of the contents of the can shall be deemed to be the volume of that prescribed commodity.

(4) Where—

(a) a can contains more than one prescribed commodity, whether or not it also contains matter other than a prescribed commodity; and

(b) the rate of charge in respect of at least one of the prescribed commodities contained in the can is described by reference to the weight of that prescribed commodity,

then, for the purposes of this Act—

(c) the can shall be deemed to contain only the prescribed commodity (in this sub-section called the “relevant commodity”) that comprises the largest proportion of the total weight of the contents of the can; and

(d) for the purpose of calculating the amount of charge payable in respect of the relevant commodity, the weight of the contents of the can shall be deemed to be the weight of the relevant commodity.

(5) Where, in circumstances described in paragraphs (4) (a) and (b), there is no prescribed commodity in a can that exceeds the weight of the other, or of every other, prescribed commodity in the can because 2 or more prescribed commodities in the can (in this sub-section referred to as “major commodities”) are of equal weight, then—

(a) in a case where, were one of those major commodities to be the only prescribed commodity in the can, a lesser amount of charge would be

payable than would be the case if any other of those major commodities were to be the only prescribed commodity in the can—the can shall be deemed to contain only that one of those major commodities and, for the purpose of calculating the amount of charge payable in respect of that major commodity, the weight of the contents of the can shall be deemed to be the weight of that major commodity; and

- (b) in any other case—the can shall be deemed to contain only those major commodities and, for the purpose of calculating the amount of charge payable in respect of those major commodities, the weight of the contents of the can shall be deemed to be the combined weight of those major commodities.

(6) Where—

- (a) a can contains more than one prescribed commodity, whether or not it also contains matter other than a prescribed commodity; and
- (b) the rate of charge in respect of each of the prescribed commodities contained in the can is described by reference to the volume of that prescribed commodity,

then, for the purposes of this Act—

- (c) the can shall be deemed to contain only the prescribed commodity (in this sub-section called the “relevant commodity”) that comprises the largest proportion of the total volume of the contents of the can; and
- (d) for the purpose of calculating the amount of charge payable in respect of the relevant commodity, the volume of the contents of the can shall be deemed to be the volume of the relevant commodity.

(7) Where, in circumstances described in paragraphs (6) (a) and (b), there is no prescribed commodity in a can that exceeds the volume of the other, or of every other, prescribed commodity in the can because 2 or more prescribed commodities in the can (in this sub-section referred to as “major commodities”) are of equal volume, then—

- (a) in a case where, were one of those major commodities to be the only prescribed commodity in the can, a lesser amount of charge would be payable than would be the case if any other of those major commodities were to be the only prescribed commodity in the can—the can shall be deemed to contain only that one of those major commodities and, for the purpose of calculating the amount of charge payable in respect of that major commodity, the volume of the contents of the can shall be deemed to be the volume of that major commodity; and
- (b) in any other case—the can shall be deemed to contain only those major commodities and, for the purpose of calculating the amount of charge payable in respect of those major commodities, the volume of the contents of the can shall be deemed to be the combined volume of those major commodities.

(8) Where alternative rates of charge, described in the one instance by reference to weight and in the other instance by reference to volume, are prescribed in respect of a prescribed commodity, then, in the application of sub-sections (4), (5), (6) and (7) to that prescribed commodity—

- 5 (a) if a lesser amount of charge would be imposed if charge were calculated by reference to the weight of that prescribed commodity—that prescribed commodity shall be taken to be a prescribed commodity in respect of which the rate of charge is described by reference to weight; and
- 10 (b) if a lesser amount of charge would be imposed if charge were calculated by reference to the volume of that prescribed commodity—that prescribed commodity shall be taken to be a prescribed commodity in respect of which the rate of charge is described by reference to volume.
- 15 (9) In this section—
 - (a) a reference to a prescribed commodity shall be construed as including a reference to a prescribed commodity that is included in a class of that prescribed commodity; and
 - 20 (b) a reference to more than one prescribed commodity shall, in relation to each prescribed commodity that is included in that group of prescribed commodities (in this paragraph referred to as “a relevant commodity”), be construed as including a reference to a relevant commodity that is included in a class of that relevant commodity.
- 25 (10) A reference in sub-section (3), (6) or (7) to the volume of the contents of the can shall not be taken to include a reference to any gaseous matter in that can.

By whom charge payable

9. The charge on a prescribed commodity in respect of which an export permit is granted is payable by the person in whose name that permit is granted.

30 **Regulations**

10. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
 - 35 (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act,
- and, in particular—
- (c) exempting a class or classes of a prescribed commodity from charge; and
 - 40 (d) prescribing different rates of charge in respect of different classes of a prescribed commodity.

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