

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

EXPORT INSPECTION CHARGE COLLECTION BILL 1985

EXPLANATORY MEMORANDUM

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

OUTLINE

The Export Inspection Charge Collection Bill 1985 makes provision for the collection of charge to be imposed by the Export Inspection Charge Act.

The passage of this Bill will facilitate collection of an amount of approximately \$300,000 as export inspection charges in 1985-86 in addition to those charges that would, in the absence of the new consolidated legislation, have been collected under existing export inspection charge collection legislation.

NOTES ON CLAUSES

Clauses 1 and 2

1. The first and second clauses of the Bill provide for the short title and commencement, respectively, of the legislation.

Clause 3: Interpretation

2. Words and expressions used for the purposes of the Bill are defined in this clause. Words and expressions defined in the Export Inspection Charge Bill, unless the contrary intention appears, have the same meanings in this Bill.

Clause 4: Date due for payment

3. An export permit, on which charge will be imposed, will be valid for 28 days: charge will be payable 28 days after the last day of the month in which the permit was granted.

Clause 5: Manner of payment

4. As the collection system is based on self-assessment by exporters, payment of charge is linked to the making of a return by an exporter to the office of the Department at which the return that relates to the payment is made.

Clause 6: Returns

5. For each month, an exporter will be obliged to make a return that details the particulars specified in sub-clause 6(2) in relation to a prescribed commodity for which an export permit was granted in that month.

Clause 7: Execution and lodgment of returns

6. A return to accompany payment of charge would be required by this clause to be signed by the exporter or the agent of the exporter of the commodity to which it refers and to be lodged within 28 days after the last day of the month to which it relates.

Clause 8: Authorized agents

7. An exporter who is required to lodge a return would be empowered by this clause to appoint an agent in accordance with a form to be prescribed that shall be lodged at the offices of the Department at which returns of the exporter are expected to be lodged by the agent.

Clause 9: Records to be kept

8. In order to prepare the returns that the Bill would require, an exporter of a prescribed commodity would need to keep records on which the returns would be based. Clause 9 requires an exporter to maintain such records and to keep them for a period of 3 years. Failure to comply with these requirements would make the exporter liable upon conviction to a maximum penalty of \$1,000.

Clause 10: Offences relating to returns, etc

9. As the lodging of returns and the assessment of information included in returns is central to the method of collection of charge that is to be introduced by the Bill, offences would be created by this clause of failing to provide a return or information that is required by the legislation to be provided or providing a document or including in a return information that is false or misleading in a material particular. Contravention of either or these provisions would make a person liable upon conviction to a maximum penalty of \$1,000 or imprisonment for 6 months, or both.

Clause 11: Penalty for non-payment

10. As a means of minimising evasion of charge, this clause provides that where liability is not discharged on or before the due date a penalty calculated at the rate of 20% per annum on the unpaid charge shall, in addition, become payable from the date on which payment of charge became outstanding. The Minister for Primary Industry or a person authorized by the Minister may remit the whole or part of an amount payable as penalty under this provision except that an authorized person would not be able to remit an amount in excess of \$1,000.

Clause 12: Export permits not to be granted if charge unpaid

11. As a disincentive for non-payment of charge additional to that provided for in clause 11, an export permit will not be granted until charge and any penalty payable in respect of the charge has been paid in full.

Clause 13: Recovery of charge

12. This clause provides that charge or penalty for the purposes of the proposed legislation may be the subject of debt recovery action taken by the Commonwealth against persons liable to pay the charge or penalty.

Clause 14: Appointment of authorized persons

13. The Minister for Primary Industry would be empowered by this clause to appoint a person who is authorized for the purposes of a provision in which the expression "authorized person" appears.

Clause 15: Appointment of authorized persons

14. A person authorized under clause 14 would be empowered with the consent of the occupier of premises to enter the premises in order to exercise the functions specified in sub-clause 15(9).

Sub-clauses 15(2)-(10)

15. As an alternative to entry with the consent of the occupier of premises an authorized person would be enabled by the remaining sub-clauses of this provision to, where he reasonably believes that this is necessary for the purposes of the Bill, apply to a Justice of the Peace for a warrant to enter.
16. A Justice of the Peace would be empowered to issue a warrant if the authorized person has set out in writing the grounds on which the warrant is sworn and given his oath or affirmation as to their accuracy. In these circumstances, the Justice of the Peace would be enabled to issue a warrant. Once an authorized person has entered premises, in reliance on a warrant, the authorized person would be empowered to exercise the functions specified in sub-clause 15(9).
17. A person who hinders or obstructs an authorized person in the exercise of his or her functions under clause 15 would by virtue of sub-clause 15(8) be liable upon conviction to a maximum penalty of \$1,000 or imprisonment for 6 months or both.

Clause 16: Reconsideration and review of decisions

18. This clause would enable application to be made to the Minister for Primary Industry for review of a decision made by an authorized person with respect to remission of penalty for non-payment of charge. Clause 16 would also enable application to be made to the Administrative Appeals Tribunal for review of a decision by the Minister with respect to such remission or with respect to the decision by either the Minister or an authorized person. A person affected by a decision of either the Minister or an authorized person must be notified in writing of his or her review opportunities.

Clause 17: Regulations

19. This clause would provide for the regulations to be made that are necessary to give effect to the scheme of the Bill.