

1983-84

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 13 September 1984

(Minister for Primary Industry)

A BILL

FOR

**An Act to make provision for the collection of the charge
imposed by the *Meat Export Charge Act 1984***

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 *Meat Export Charge Collection Act 1984*.

5 **Commencement**

2. This Act shall come into operation on the day fixed under section 2 of the Charge Act.

Interpretation

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

10 “authorized person” means—

- (a) a person appointed by the Minister, in writing, to be an authorized person for the purposes of this Act; or

- (b) a person included in a class of persons appointed by the Minister, in writing, to be authorized persons for the purposes of this Act;

“charge” has the same meaning as in the Charge Act;

“Charge Act” means the *Meat Export Charge Act 1984*;

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“Export Control Act” has the same meaning as in the Charge Act;

“export permit” has the same meaning as in the Charge Act;

“meat” and “meat product” have the same respective meanings as in the Charge Act.

(2) Where the completion and lodgement of any document is, by virtue of sub-section 3 (2) or (3) of the Charge Act, deemed to constitute the making of an application of the kind referred to in paragraph 5 (1) (a) or (b) of that Act, the completion and lodgement of that document is also deemed to constitute the making of an application of that kind for the purposes of this Act.

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(3) A period that is a relevant period in relation to particular meat or meat products by virtue of the operation of regulations made under sub-section 3 (4) of the Charge Act is a relevant period in relation to that meat or those meat products for the purposes of this Act.

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Act to bind Crown

4. This Act binds the Crown in right of each of the States and of the Northern Territory, but nothing in this Act renders the Crown in right of a State or of the Northern Territory liable to be prosecuted for an offence.

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By whom charge payable

5. Charge on the making of an application of the kind referred to in paragraph 5 (1) (a) or (b) of the Charge Act is payable by the person in whose name the application is made.

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Due date for payment of charge

6. (1) Where an application of the kind referred to in paragraph 5 (1) (a) of the Charge Act is made, the person making that application shall indicate, in a manner specified in regulations made for the purposes of this sub-section, whether or not an application of the kind referred to in paragraph 5 (1) (b) of that Act will be made in relation to the meat or meat products in respect of which the first-mentioned application is made.

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(2) Where, in relation to meat or meat products to which an application of the kind referred to in paragraph 5 (1) (a) of the Charge Act relates, it is indicated, in a manner specified in regulations made for the purposes of sub-section (1), that an application of the kind referred to in paragraph 5 (1) (b) of that Act will not be made, charge on the first-mentioned application is due for payment, subject to sub-section (4), at the time at which that application is made.

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(3) Where, in relation to meat or meat products to which an application of the kind referred to in paragraph 5 (1) (a) of the Charge Act (in this

sub-section referred to as the “first application”) relates, it is indicated, in a manner specified in regulations made for the purposes of sub-section (1), that an application of the kind referred to in paragraph 5 (1) (b) of that Act (in this sub-section referred to as the “second application”) will be made in relation to that meat or those meat products, then—

- (a) if the second application is made before the expiration of the relevant period in relation to that meat or those meat products—charge on the second application is due for payment at the time at which that application is made;
- (b) if the second application is made before the expiration of that relevant period in relation to part only of that meat or those meat products—
 - (i) charge on the second application, in so far as it relates to that part of that meat or of those meat products, is due for payment at the time at which that application is made; and
 - (ii) charge on the first application in so far as it relates to the balance of that meat or those meat products, shall be deemed to have been due for payment, subject to sub-section (4), at the time when the first application was made; or
- (c) if the second application is not made before the expiration of that relevant period—charge on the first application shall be deemed to have been due for payment, subject to sub-section (4), at the time when the first application was made.

(4) If, in a case to which sub-section (2), sub-paragraph (3) (b) (ii) or paragraph (3) (c) applies, an application in respect of which charge is payable is, or was, made at a place other than an office of the Department that is prescribed for the purposes of this sub-section, the due date for payment of charge on the making of that application is, or shall be deemed to have been, 28 days after the end of the month in which that application is, or was, made.

Certificates, &c., not to be issued until charge is paid

7. (1) Where, by virtue of the provisions of this Act, charge on an application of the kind referred to in paragraph 5 (1) (a) or (b) of the Charge Act is due for payment and, at the time when that charge is due to be paid, an export permit or certificate to which that application relates has not been granted or issued, that export permit or certificate shall not be granted or issued until that amount of charge, and any penalty payable in respect of the late payment of that amount of charge, has been paid in full.

(2) Where, by virtue of the provisions of this Act, charge on an application of a kind referred to in paragraph 5 (1) (a) or (b) of the Charge Act is due for payment, an export permit or certificate shall not be granted or issued in respect of any other application of either of those kinds made in the name of the person in whose name the first-mentioned application was made until that amount of charge, and any penalty payable in respect of the late payment of that amount of charge, has been paid in full.

Recovery of charge

8. Subject to sections 10 and 11, the following amounts may be recovered by the Commonwealth as debts due to the Commonwealth:

- (a) an amount of charge that is due for payment;
- (b) an amount payable by way of penalty under section 9.

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Penalty for non-payment

9. (1) Where the liability of a person to pay any amount of charge is not discharged on or before the date on which the charge is due for payment, that person, in addition to his or her liability to pay that charge, is liable to pay, by way of penalty, an amount calculated at the rate of 20% per annum upon the amount of charge from time to time remaining unpaid, to be computed from the date on which that amount of charge became due for payment.

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(2) The Minister or, subject to sub-section (3), an authorized person, may, in a particular case, for a reason that the Minister or the authorized person thinks sufficient, remit the whole or a part of an amount of penalty payable under this section.

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(3) A remission granted under sub-section (2) by an authorized person shall not exceed \$1,000.

Applications deemed not to have been made in certain circumstances

10. (1) Where—

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- (a) an amount of charge is due, or is deemed to have been due, for payment upon the making of an application of a kind referred to in paragraph 5 (1) (a) or (b) of the Charge Act;
- (b) the amount of charge has not been paid; and
- (c) the application is withdrawn or is refused or rejected,

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the application shall, for the purposes of this Act and the Charge Act, be deemed not to have been made.

(2) Where an amount of charge on the making of an application of the kind referred to in paragraph 5 (1) (a) or (b) of the Charge Act has been paid and—

- (a) the application is withdrawn or is refused or rejected; or
- (b) if the export permit or certificate to which that application relates has been granted or issued and the meat or meat products to which the application relates has not or have not been exported from Australia—the export permit or certificate so granted or issued is surrendered,

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the amount of charge so paid, and the amount of any penalty paid in respect of the late payment of that charge, shall be refunded and the application shall, for the purposes of this Act and the Charge Act, be deemed not to have been made.

(3) Notwithstanding any implication to the contrary contained in sub-section (1) or (2), where there is a refusal or rejection of an application of the kind referred to in paragraph 5 (1) (a) or (b) of the Charge Act in respect of part only of the meat or meat products to which the application relates, then,

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for the purposes of this Act and the Charge Act, the application shall not be treated as having been refused or rejected in any respect.

Refunds and remissions of charge where meat or meat products not exported

11. (1) Where—

5 (a) in accordance with sub-section 6 (2) of this Act, a person has paid charge in respect of the making of an application of the kind referred to in paragraph 5 (1) (a) of the Charge Act that relates to meat or meat products; and

10 (b) an authorized person becomes satisfied that a particular proportion of that meat or those meat products was not exported under the authority of the export permit granted pursuant to the application,

the first-mentioned person is entitled to a refund of charge, and of any penalty in respect of the late payment of charge, paid in respect of the application in so far as it related to the meat or meat products that was not, or were not, so exported.

(2) Where—

20 (a) in accordance with paragraph 6 (3) (b) of this Act, charge is deemed to be due for payment by a person in respect of the making of an application of the kind referred to in paragraph 5 (1) (a) of the Charge Act that relates to meat or meat products so far as that application relates to part only of that meat or those meat products; and

25 (b) an authorized person becomes satisfied that a particular proportion of that part of that meat or those meat products was not exported under the authority of the export permit granted pursuant to the application,

the first-mentioned person is entitled to a remission of charge, and of any penalty in respect of the late payment of charge, that, but for this sub-section, would have been payable in respect of the application in so far as it related to the meat or meat products that was not, or were not, so exported.

(3) Where—

30 (a) in accordance with paragraph 6 (3) (c) of this Act, charge is deemed to be due for payment by a person in respect of the making of an application of the kind referred to in paragraph 5 (1) (a) of the Charge Act that relates to meat or meat products; and

35 (b) an authorized person becomes satisfied that a particular proportion of that meat or those meat products was not exported under the authority of the export permit granted pursuant to the application,

40 the first-mentioned person is entitled to a remission of charge, and of any penalty in respect of the late payment of charge, that, but for this sub-section, would have been payable in respect of the application in so far as it related to the meat or meat products that was not, or were not, so exported.

Access to premises

12. (1) An authorized person may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the functions of an authorized person under this section.

(2) Where an authorized person has reason to believe that there are on any premises books, documents or papers relating to an application in relation to the making of which charge is, or may be, payable, the authorized person may make an application to a Justice of the Peace for a warrant authorizing the authorized person to enter the premises for the purpose of exercising the functions of an authorized person under this section. 5
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(3) If, on an application under sub-section (2), the Justice of the Peace is satisfied, by information on oath or affirmation—

(a) that there is reasonable ground for believing that there are on the premises to which the application relates any books, documents or papers relating to an application in relation to the making of which charge is, or may be, payable; and 15

(b) that the issue of the warrant is reasonably required for the purposes of this Act,

the Justice of the Peace may grant a warrant authorizing the authorized person, with such assistance as the person thinks necessary, to enter the premises, during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising the functions of an authorized person under this section. 20

(4) A Justice of the Peace shall not issue a warrant under sub-section (3) unless— 25

(a) an affidavit has been furnished to the Justice of the Peace setting out the grounds on which the issue of the warrant is being sought; and

(b) the applicant or some other person has given to the Justice of the Peace, either orally or by affidavit, such further information (if any) as the Justice of the Peace requires concerning the grounds on which the issue of the warrant is being sought. 30

(5) Where a Justice of the Peace issues a warrant under sub-section (3), the Justice of the Peace shall state on the affidavit furnished in accordance with sub-section (4) which of the grounds specified in the affidavit the Justice of the Peace has relied on to justify the issue of the warrant and particulars of any other grounds relied on by the Justice of the Peace to justify the issue of the warrant. 35

(6) A warrant granted under sub-section (3) shall specify a date after which the warrant ceases to have effect.

(7) Where an authorized person has entered any premises pursuant to sub-section (1) or pursuant to a warrant granted under sub-section (3), the authorized person may exercise the functions of an authorized person under this section. 40

(8) A person shall not, without reasonable excuse, obstruct or hinder an authorized person acting pursuant to a warrant granted under sub-section (3) or acting pursuant to sub-section (7).

Penalty: \$1,000 or imprisonment for 6 months, or both.

5 (9) The functions of an authorized person under this section are to search for, inspect, take extracts from, and make copies of, any books, documents or papers relating to an application in relation to the making of which charge is, or may be, payable, for the purpose of ascertaining whether the provisions of this Act and the regulations made under this Act have been complied with.

10 (10) In this section, "occupier", in relation to premises, includes the person in charge of the premises.

Regulations

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

- 15 (a) required or permitted by this Act to be prescribed; or
(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act or for facilitating the collection or recovery of any debt due to the Commonwealth under this Act,

and, in particular—

- 20 (c) providing for the manner of payment of charge and other money payable to the Commonwealth under this Act;
(d) providing, in a case to which section 10 or 11 does not apply, for the remission or refund of charge in specified circumstances; and
(e) specifying the form of warrant for the purposes of section 12.

