

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 106

Issued by authority of the Parliamentary Secretary to the Minister for Agriculture,
Fisheries and Forestry.

Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994

*Agricultural and Veterinary Chemical Products (Collection of Levy)
Amendment Regulations 2005 (No. 1)*

Section 39 of the *Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act was amended by the *Agricultural and Veterinary Chemicals Legislation Amendment (Levy and Fees) Act 2005* (the Amending Act). The Amending Act, among other things, amends the Act to provide that from 1 July 2005:

- levy in respect of leviable disposals of a chemical product is payable on a financial year rather than a calendar year basis; and
- a tiered rate of levy may be prescribed by the regulations by prescribing different rates of levy for different volumes of leviable disposals of a chemical product that take place during a financial year.

The regulations consequentially amend the *Agricultural and Veterinary Chemical Products (Collection of Levy) Regulations 1995* and prescribe the rates of levy for the purpose of subsection 12C(1) of the Act.

The Australian Government Department of Agriculture, Fisheries and Forestry (the Department) released the Final Cost Recovery Impact Statement on the Proposed Cost Recovery Framework for the National Registration Scheme for Agricultural and Veterinary Chemicals (the CRIS) in March 2005. The Regulations amend the *Agricultural and Veterinary Chemicals Products (Collection of Levy) Regulations 1995* to give effect to the levy arrangements proposed in the CRIS. The details of the consultation that was undertaken in relation to the proposed cost recovery framework are set out in the CRIS. A copy of the CRIS is available on the Department's website.

Details of the regulations are in the [Attachment](#).

The regulations commence on 1 July 2005.

The regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Authority:

Section 39 of the *Agricultural and
Veterinary Chemical Products
(Collection of Levy) Act 1994*

DETAILS OF THE AGRICULTURAL AND VETERINARY CHEMICAL PRODUCTS (COLLECTION OF LEVY) AMENDMENT REGULATIONS 2005 (No. 1)

Regulation 1

Regulation 1 provides for the name of the Regulations to be the *Agricultural and Veterinary Chemical Products (Collection of Levy) Amendment Regulations 2005 (No. 1)*.

Regulation 2

Regulation 2 provides for the Regulations to commence on 1 July 2005.

Regulation 3

Regulation 3 provides that Schedule 1 amends the *Agricultural and Veterinary Chemical Products (Collection of Levy) Regulations 1995* (the Principal Regulations).

SCHEDULE 1 – Amendments

Item [1] Subparagraphs 4(b)(ii) and 5(b)(ii)

Paragraphs 4(b) and 5(b) of the Principal Regulations prescribe the rate of levy for the purposes of subsections 11(1) and 12(1) of the *Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994* (the Act) respectively. Subparagraphs 4(b)(ii) and 5(b)(ii) provide that the rate prescribed is prescribed for each succeeding calendar year following 1 January 1999. Amendments to sections 11 and 12 of the Act mean that from the calendar year beginning 1 January 2004 levy payable under the Act will not be calculated using the formula in those sections. Consistent with the amendments to the Act, this item amends subparagraphs 4(b)(ii) and 5(b)(ii) to provide that the rate prescribed for subsections 11(1) and 12(1) of the Act is only prescribed up until the calendar year beginning on 1 January 2003.

Item [2] Paragraphs 6(1)(b) and (2)(b)

Levy that is payable under sections 8 and 9 of the Act in respect of leviable disposals of a particular chemical product during a particular calendar year is not to exceed the rates prescribed in subregulations 6(1) and 6(2). Amendments to the Act mean that the cap on levy payable for the first 6 months of the calendar year beginning on 1 January 2004, and for the financial year beginning on 1 July 2004, will be specified in subsections 12(4) and 12A(2) of the Act respectively. From 1 July 2005 there will no longer be a cap on levy payable under the Act. This means that from 1 January 2004 it will no longer be necessary to prescribe an amount in subregulations 6(1) and 6(2) of the Principal Regulations. Item 2 provides that the amounts prescribed in subregulations 6(1) and 6(2) are prescribed up until the calendar year that began on 1 January 2003.

Item [3] After regulation 6

New subsection 12C(1) of the Act provides that the rate of levy that is payable under section 12B in respect of disposals during the 2005-2006 and later financial years is the percentage amount prescribed by the regulations. New subsection 12C(2) of the Act provides that the regulations may prescribe different rates of levy for different volumes of leviable disposals that take place during a financial year.

Item 3 inserts a new regulation 6A that prescribes different rates of levy for different volumes of leviable disposals that take place during the 2005-2006 financial year and each succeeding financial year. The rates prescribed establish a tiered levy structure as follows:

- (a) for chemical products in respect of which the value of leviable disposals is an amount up to \$1 million, the rate of levy is 0.90% ;
- (b) for chemical products in respect of which the value of leviable disposals is an amount over \$1 million and up to \$5 million the rates of levy are:
 - (i) 0.90% on the first \$1 million of leviable disposals; and
 - (ii) 0.55% on the leviable disposals over \$1 million;
- (c) for chemical products in respect of which the value of leviable disposals is an amount over \$5million the rates of levy are:
 - (i) 0.90% on the first \$1 million of leviable disposals; and
 - (ii) 0.55% on the leviable disposals over \$1 million and up to \$5 million; and
 - (iii) 0.40% on the leviable disposals over \$5 million.

Example

For a chemical product for which the value of leviable disposals is \$6 million the amount of levy to be paid would be the sum of:

- (i) 0.90% of \$1 million (\$9,000);
- (ii) 0.55% of \$4 million (\$22,000); and
- (iii) 0.40% of \$1 million (\$4,000);

that is \$35,000.