

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 211

Issued by the Authority of the Minister for Agriculture, Fisheries and Forestry

National Residue Survey (Excise) Levy Act 1998
National Residue Survey (Customs) Levy Act 1998

Primary Industries Levies and Charges (National Residue Survey Levies) Amendment Regulations 2009 (No. 2)

Section 8 of the *National Residue Survey (Excise) Levy Act 1998* and section 8 of the *National Residue Survey (Customs) Levy Act 1998* provide that the Governor-General may make Regulations prescribing matters required or permitted by those Acts to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to those Acts.

The *Primary Industries Levies and Charges (National Residue Survey Levies) Amendment Regulations 2009 (No. 2)* (the Regulations) are part of a package of changes which amend the *Primary Industries (Excise) Levies Regulations 1999*, the *Primary Industries (Customs) Charges Regulations 2000* and the *Primary Industries Levies and Charges (National Residue Survey Levies) Regulations 1998* (the NRS Regulations) to enable the honey bee industry to build up reserves against the contingency of an emergency bee disease or bee pest outbreak (the Package).

The purpose of the Package is to increase the existing Emergency Animal Disease Response (EADR) levy and charge on honey from 0.5 cents per kilogram to 0.7 cents per kilogram and decrease the existing National Residue Survey (NRS) excise levy and charge on honey from 0.3 cents per kilogram to 0.1 cents per kilogram.

The purpose of the Regulations is to decrease the existing National Residue Survey (NRS) excise levy and charge on honey from 0.3 cents per kilogram to 0.1 cents per kilogram.

The collection mechanism and amount of the levy remains the same as was in place prior to the Regulations. The changes relate to the amount distributed to the NRS and Animal Health Australia (AHA), also known as Australian Animal Health Council (AAHC).

The funds continue to be administered by the NRS in respect of NRS funds and by AHA in respect of the AHA funds. Both these organisations undertake regular audits and report to industry on utilizing the funds and are run on approved corporate governance principles.

The NRS implements a chemical residue monitoring program and recovers the costs of the program from participating industries. This program forms a basis for documentation

that enables the Commonwealth Government to certify that raw food products bound for export and domestic consumption are free from significant chemical contamination.

Separately, AHA co-ordinates, collates and maintains financial information in respect of any animal disease emergency undertaken under the provisions of the Emergency Animal Disease Response Agreement (EADRA) which commenced in 2002.

Under the terms of the EADRA, livestock industries agreed that the AHA will receive and disburse levy funds to be used to repay the Commonwealth for the costs underwritten by the Commonwealth on behalf of industry. Several payments of the levy may be made to the AHA in any period.

The EADRA sets out the roles and responsibilities of the Parties and provides certainty in funding for emergency animal disease threats to Australia and certainty in providing rapid and effective responses aimed at containment and eradication. Under the EADRA, where an industry is initially unable to meet its cost sharing obligations, the Commonwealth can underwrite that industry's obligations subject to satisfactory arrangements being agreed for repayment of any underwritten amounts, including through a statutory levy or charge. The Australian Honey Bee Industry Council (AHBIC) is a signatory to the EADRA on behalf of the honey bee industry.

Attachment A outlines levy and charge arrangements and the reasons why AHBIC requested the changes. Attachment B outlines the details of the Regulations and the amendments to the NRS Regulations.

The Act specifies no conditions that needed to be satisfied before the power to make the proposed Regulations was exercised.

The Regulations are legislative instruments for the purposes of the *Legislative Instrument Act 2003*.

The Regulations commenced on the day after they were registered.

ATTACHMENT A

Levy Arrangements

Clause 2 of Schedule 7 to the *National Residue Survey (Excise) Levy Act 1998* imposes a NRS excise levy on the sale of honey, while clause 4(1) of Schedule 7 sets the operative rate of levy for the sale of honey or such other rate (not exceeding 0.6 cents per kilogram) as may be prescribed by Regulations. Prior to the Regulations the levy rate specified in Regulation 80 of the *Primary Industries Levies and Charges (National Residue Survey Levies) Regulations 1998* (the NRS Regulations) was 0.3 cents per kilogram.

Clause 3 of Schedule 7 to the *National Residue Survey (Excise) Levy Act 1998* imposes a NRS excise levy on the use of honey in producing other goods, while clause 4(2) of Schedule 7 sets the operative rate of levy on the use of honey in producing other goods, or such other rate (not exceeding 0.6 cents per kilogram) as may be prescribed by Regulations. Prior to the Regulations the levy rate specified in Regulation 80 of the NRS Regulations was 0.3 cents per kilogram.

Clause 2 of Schedule 3 to the *National Residue Survey (Customs) Levy Act 1998* imposes a NRS customs levy on honey exported from Australia. Clause 3 of Schedule 3 sets the operative rate of levy on honey, or such other rate (not exceeding 0.6 cents per kilogram) as may be prescribed by Regulations. Prior to the Regulations the levy rate specified in Regulation 79 of the NRS Regulations was 0.3 cents per kilogram.

Background

In November 2007 AHBIC advised the Government that it was seeking changes to the current NRS and EADR levy arrangements to reduce the existing NRS levy and charge from 0.3 cents to 0.1 cents and increase the EADR levy and charge from 0.5 cents to 0.7 cents.

AHBIC consulted with potential levy payers through a series of notices that outlined the proposal to alter the levy distribution. These notices were circulated widely via the AHBIC newsletter and other beekeeping industry journals.

In January 2008 AHBIC submitted a proposal in support of the change to the current levy arrangements. This submission demonstrated that there was overwhelming industry support for the change at the AHBIC Annual General Meeting in July 2007, and similar support was expressed at all of the annual State apiary association conferences in 2007.

In September 2008 notices were placed within industry journals and online AHBIC newsletters promoting further consultation and again confirming broad support for the changes to the proposed levy and charge arrangements.

The changes made by the Package do not alter the total aggregate honey levy rate for these levies or increase producer costs, but will help the industry become better prepared to respond to any emergency disease response.

The purpose of the change to the distribution of the levy monies is to enable the honey bee industry to build up reserves in case of an emergency disease/pest incursion such as the varroa mite. The change enables the industry to invest more funds in the short term to improve its preparedness and prevention measures aimed at increasing the industry's biosecurity. The collection mechanism and total amount of the levy and charge imposed remains the same as was in place prior to the Regulations. The changes relate to the amount distributed to the NRS and AHA.

The funds continue to be administered by the NRS in respect of NRS funds and by AHA in respect of the emergency animal disease funds. Both these organisations undertake regular audits and report to industry on utilizing the funds and are run on approved corporate governance principles.

AHBIC is aware that it will need to consider the impact on the funds available to support the industry's residue monitoring program. The NRS has provided an estimate of the impact of the levy and charge reduction. It will be necessary to monitor levy income and program costs particularly if a residue incident necessitates increased testing. The estimate also indicates that the NRS levy and charge would need to revert to 0.3cents/kg within approximately two years from the commencement of the changed arrangements.

On the evidence provided by AHBIC there was overwhelming support for the changes.

ATTACHMENT B

Details of the Primary Industries Levies and Charges (National Residue Survey Levies) Amendment Regulations 2009 (No. 2)

NOTES ON CLAUSES

Item 1 Short Title

This clause provides for the Regulations to be called the *Primary Industries Levies and Charges (National Residue Survey Levies) Amendment Regulations 2009 (No. 2)*

Item 2 Commencement

This clause provides that the Regulations commence on the day after they are registered.

Item 3 Amendment of *Primary Industries Levies and Charges (National Residues Survey Levies) Regulations 1998*

This clause provides that Schedule 1 amends the *Primary Industries Levies and Charges (National Residues Survey Levies) Regulations 1998*.

Item 4 Transitional

This clause provides that the changes made by Schedule 1 apply from the first day of the first month after these Regulations are registered.

Schedule 1 Amendment

Item 1 Regulation 79

This item for subclause 3 of Schedule 3 to the *National Residue Survey (Customs) Levy Act 1998* amends the rate of the NRS customs levy on honey to 0.1 cents per kilogram.

Item 2 Regulation 80 (1)

This item for subclause 4(1) of Schedule 7 to the *National Residue Survey (Excise) Levy Act 1998* establishes that the new rate of NRS excise levy on honey for sale is 0.1 cents per kilogram.

Regulation 80 (2)

This item for subclause 4(2) of Schedule 7 to the *National Residue Survey (Excise) Levy Act 1998* establishes that the new rate of NRS excise levy on honey used in the production of other goods is 0.1 cents per kilogram.