



The Hon. Sid Sidebottom MP

Parliamentary Secretary for Agriculture, Fisheries and Forestry
Member for Braddon

REF: MNMC2012-05743

Senator Mark Furner
Chair
Senate Standing Committee on Regulations
and Ordinances
Room S1.111
Parliament House
CANBERRA ACT 2600


Dear Senator Furner

Thank you for your letter of 16 August 2012 about the *Primary Industries (Excise) Levies (Pasture Seeds) Declaration 2012*.

When primary industry research levies, including the pasture seed levy, were consolidated under the *Primary Industries (Excise) Levies Act 1999*, the pasture seed levy was changed under schedule 21 from a cultivar-based levy to a species-based levy.

A transitional arrangement was included under the Act to provide for the continuation of the *Pasture Seed Levy Declaration 1999*, under which the levy was collected on a cultivar basis, but the declaration was not revoked after transition, as was intended.

Levy collection agents have been collecting the levy on a species basis, but at the rates set in the 1999 declaration, which are higher for lucerne and all clover species (except subterranean clover). The Australian Government Solicitor has advised that pasture seed levies have been lawfully collected and that the situation can be clarified by making a new legislative instrument to consolidate the levy rates in schedule 21 of the Act and in the 1999 declaration, and to revoke the 1999 declaration.

Prior to the 2012 declaration the effective rate for lucerne and all clover species (except subterranean clover) was \$15 per tonne, in accordance with the 1999 declaration, rather than the lower rates of \$14 and \$12.50 per tonne respectively, as specified in schedule 21 of the Act. Restating this rate will ensure continuity of the effective rate for these species.

The 2012 declaration will retain the status quo in respect of levy rates and leviable species, but remove uncertainty about pasture seed levy collection arrangements caused by the existence of the 1999 declaration, which is no longer required. The cultivar-based rates in the 1999 declaration are restated as species-based rates in the 2012 declaration.

The explanatory statement has been amended as requested. I enclose a copy for your information. Arrangements have been made to table the amended explanatory statement.

Thank you for raising this matter with me.

Yours sincerely

A handwritten signature in cursive script that reads "Sid Sidebottom". The signature is written in dark ink and is positioned above the printed name.

Sid Sidebottom

20 August 2012

Enc.

EXPLANATORY STATEMENT

Issued by Authority of the Parliamentary Secretary for Agriculture, Fisheries and Forestry

Primary Industries (Excise) Levies Act 1999

Primary Industries (Excise) Levies (Pasture Seeds) Declaration 2012

Subclause 5(1) of Schedule 21 to the *Primary Industries (Excise) Levies Act 1999* (the Act) contains a table which specifies the rates of pasture seed levy that are imposed in respect of specified plant species. Subclause 5(2) provides that the Minister may, by instrument, declare that the table in subclause 5(1) is to be amended in the manner specified in the instrument.

When primary industry research levies, including the pasture seed levy, were consolidated under the Act, the pasture seed levy was changed from a cultivar based levy to a species based levy.

A transitional arrangement was included under the Act to provide for the continuation of the *Pasture Seed Levy Declaration 1999* (the 1999 Declaration) under which the levy was collected on a cultivar basis, but the declaration was not revoked after transition, as intended.

Levy collection agents have been collecting the levy on a species basis but at the rates set in the 1999 Declaration which was still in effect.

The purpose of the Declaration is to clarify the situation by:

- revoking any previous declarations that had the effect of altering the table in subclause 5(1) (see clause 3 of the Declaration); and
- restating the cultivar-based rates in the 1999 Declaration as species-based rates in the 2012 Declaration, see clause 4 of the 2012 Declaration and Schedule 1 to the Declaration.

Prior to the 2012 Declaration, the effective rate for lucerne and all clover species (except subterranean clover) was \$15 per tonne, in accordance with the 1999 Declaration rather than the lower rates of \$14 and \$12.50 per tonne, respectively in Schedule 21 of the Act. The restating of this rate will ensure continuity of the effective rate for these species.

The 2012 Declaration will retain the status quo in respect of levy rates and leviable species but remove uncertainty about pasture seed levy collection arrangements caused by the existence of the 1999 Declaration, which is no longer required. The cultivar-based rates in the 1999 Declaration are restated as species-based rates in the 2012 Declaration.

The Declaration is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (see subclause 5(5) of Schedule 21 to the Act and paragraph 6(d) of the *Legislative Instruments Act 2003*).

The Declaration commences on the day after it is registered on the Federal Register of Legislative Instruments.

Subclause 5(3) of Schedule 21 to the Act requires that before making the Declaration, the Minister takes into consideration any relevant recommendation made by the growers' organisation. Grain Producers Australia, the industry representative organisation, and the Rural Industries Research and Development Corporation, which manages the pasture seed industry research and development program, were both consulted regarding the Declaration and supported the proposed approach. The Office of Best Practice Regulation was consulted in the preparation of the Declaration (Reference Number ID 13448).

Statement of Compatibility with Human Rights

The Declaration is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The instrument does not engage any of the applicable rights or freedoms and is, therefore, compatible with human rights as it does not raise any human rights issues.