

EXPLANATORY STATEMENT

Select Legislative Instrument No. 55, 2014

Issued by Authority of the Minister for Agriculture

Primary Industries (Excise) Levies Act 1999

Primary Industries (Excise) Levies Amendment (2014 Measures No. 1) Regulation 2014

Legislative Authority

Section 8 of the *Primary Industries (Excise) Levies Act 1999* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed for carrying out or giving effect to the Act. The Act provides for the ability to impose levies on horticultural products.

Purpose

The purpose of the Regulation is to amend the statutory levies as follows:

- (1) for all hard onions produced in Australia:
 - increase the research and development (R&D) levy from \$1.60 per tonne to \$2.90 per tonne;
 - establish a marketing levy at a rate of \$1.00/tonne;
 - establish an Emergency Plant Pest Response (EPPR) levy set at zero; and
 - establish a Plant Health Australia (PHA) membership levy set at \$0.10 per tonne.
- (2) for all *agaricus* mushrooms produced in Australia:
 - increase the marketing levy from \$1.62 per kilogram (kg) of mushroom spawn to \$3.24 per kg; and
 - increase the R&D levy from \$0.54 per kilogram of mushroom spawn to \$1.08 per kg.
- (3) for all mangoes produced in Australia:
 - increase the EPPR levy from nil to 0.114 of a cent per kilogram; and
 - establish a PHA membership levy set at 0.029 of a cent per kilogram.

Background

Levies and charges are introduced, administered and collected by the Australian Government at the request of industry. The Department of Agriculture disburses the funds collected from most of the R&D and marketing levies/charges to Horticulture Australia Limited (HAL), to PHA for funds collected from the biosecurity (PHA and EPPR) levies/charges, and to the National Residue Survey (NRS) program for funds collected from the NRS levies.

The peak industry bodies for: hard onions - Onions Australia (OA); mushrooms - the Australian Mushroom Growers' Association (AMGA); and mangoes - the Australian Mango Industry Association (AMIA); have all lodged submissions requesting amendments to the existing levy and charge arrangements. These amendments are reflected in (1), (2) and (3) above.

While the hard onion and mushroom submissions remain unchanged, mindful of the very marginal support from mango levy payers for the proposed increases and a low participation rate in the ballot, subsequent to its submission AMIA wrote to the Department asking for the biosecurity mango levies/charges, only, to be progressed.

HAL recommended the amendments to the hard onion and mushroom levy and charge arrangements to the Minister after consultation with OA and AMGA, respectively, as the eligible industry bodies. The Regulation gives effect to the recommendations of HAL, which are consistent with OA's and AMGA's written submissions.

Impact and Effect

The increased levy and charge for R&D on hard onions would raise approximately \$0.64 million annually. The R&D activities undertaken with these funds would be expected to attract up to \$0.64 million of government matching funds subject to the prescribed cap for matched R&D funds (0.5 per cent of the gross value of production for the horticultural sector). The new marketing levy and charge on hard onions would raise approximately \$0.22 million annually. Horticulture Australia Limited (HAL) is the relevant industry services body for the administration of horticulture industry levies for marketing and would manage monies collected from the marketing levy imposed on hard onion growers. With the funds HAL would provide marketing (and R&D) for the industry's benefit.

The PHA levy on hard onions would help enable Onions Australia (OA) to more equitably raise funds to pay the PHA membership fees for the hard onion industry. The EPPR levy, set to zero, would be activated if necessary following an agreed nationally cost-shared response to an emergency plant pest incident affecting the hard onion industry.

Overall the increased marketing and R&D levy rates for mushrooms should double the funds generated for industry-identified priority marketing and R&D activities (the marketing levy would be expected to raise about \$4 million annually, the R&D levy about \$1.25 million annually). Government matching funds on the additional R&D expenditure are expected to be approximately \$1.25-\$1.5 million, up to the prescribed cap for matched R&D funds.

The PHA levy and charge on mangoes would help enable the Australian Mango Industry Association (AMIA) to more equitably raise funds to pay the PHA membership fees for the mango industry. With an activated EPPR levy and charge, AMIA will be able to accumulate funds, held by PHA, to contribute financially in the event of a nationally agreed cost-shared emergency response affecting the mango industry.

Consultation

The Department consulted the departments of the Prime Minister and Cabinet, Treasury, and Finance in preparing the Regulation with respect to hard onions, mushrooms and mangoes. The Department also was in contact with OA, AMGA and AMIA throughout the period 2012 to 2014 to ensure the requested levy changes were still appropriate and needed.

The Office of Best Practice Regulation (OBPR) approved Regulation Impact Statements for the hard onion levy proposal (ID 14718) and the mushroom levy proposal (ID 14183). A copy of both Regulation Impact Statements are available from OBPR's website at ris.finance.gov.au/category/primary-industries. With respect to mangoes, the OBPR was consulted in the preparation of the Regulation (ID 13478).

Details / Operation

Details of the Regulation are set out in the [Attachment A](#).

The Regulation is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in the Attachment B.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation is to commence on 1 July 2014.

Details of the *Primary Industries (Excise) Levies Amendment (2014 Measures No. 1) Regulation 2014*

Section 1 – Name of Regulation

This Section provides for the title of the Regulation to be the *Primary Industries (Excise) Levies Amendment (2014 Measures No. 1) Regulation 2014*.

Section 2 – Commencement

This Section provides for the Regulation to commence on 1 July 2014.

Section 3 – Authority

This Section provides for the legislative authority for making the Regulation as the *Primary Industries (Excise) Levies Act 1999*.

Section 4 – Schedule

This Section provides for the *Primary Industries (Excise) Levies Regulations 1999* to be amended as set out in Schedule 1.

Schedule 1 – Amendments

(Mushrooms)

Item 1 changes (Part 18 of Schedule 15, item 18.5) the operative rate of marketing levy from \$1.62 per kilogram of mushroom spawn to \$3.24 per kilogram of mushroom spawn.

Item 2 changes (Part 18 of Schedule 15, item 18.6) the operative rate of research and development levy from \$0.54 per kilogram of mushroom spawn to \$1.08 per kilogram of mushroom spawn.

(Hard Onions)

Item 3 inserts a new Division: Division 19.1 Product levy.

Item 4 amends the note to Clause 19.1 to reflect that Clause 19.2 is not intentionally used.

Item 5 inserts a new Subclause 19.3 and sets the operative rate of the levy for marketing at \$1.00 per tonne of hard onions. It also inserts a note that levy is not imposed on products exported from Australia.

Item 6 amends Subclause 19.4 and sets the operative rate of the levy for R&D at \$2.90 per tonne of hard onions replacing the levy rate of \$1.60.

Item 7 inserts a new Division 19.2 Special purpose levies, and inserts two new subclauses (19.6 and 19.7). Subclause 19.6 imposes a PHA levy on hard onions and sets the operative rate at 10 cents per tonne of hard onions. It also prescribes that the levy is payable by the

producer of the hard onions. Subclause 19.7 imposes an EPPR levy on hard onions and sets the operative rate at \$0.00 per tonne of hard onions. It also prescribes that the levy is payable by the producer of the hard onions.

(Mangoes)

Item 8 inserts a new Subclause 21.5A that sets the operative rate of the PHA membership levy at 0.029 of a cent per kilogram of mangoes. It also prescribes that the levy is payable by the producer of the mangoes.

Item 9 changes (Part 21 of Schedule 15, item 21.6(2)) the operative rate of EPPR levy from nil to 0.114 of a cent per kilogram of mangoes.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Primary Industries (Excise) Levies Amendment (2014 Measures No. 1) Regulation 2014

This Legislative Instrument 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*.

Overview of the Legislative Instrument

The purpose of the Regulation is to amend the statutory levies on hard onions, mushrooms and mangoes. The increases in the hard onion and mushroom levies for marketing and R&D will provide sufficient funding for long-term needs and priorities identified in the respective industry strategic plan. The new Plant Health Australia (PHA) hard onion and mango levies will secure a funding base for the national peak representative industry body for hard onion and mangoes to pay industries' PHA membership subscriptions. With an activated Emergency Plant Pest Response (EPPR) levy, the hard onion and mango industries will be able to accumulate funds, held by PHA, to contribute financially in the event of a nationally agreed cost shared emergency response affecting their industry.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon. Barnaby Joyce MP
Minister for Agriculture**