

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument No. 57, 2014**

Issued by Authority of the Minister for Agriculture

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

*Primary Industries Levies and Charges (National Residue Survey Levies) Amendment  
(Onions) Regulation 2014*

#### **Legislative Authority**

Sections 8 of the *National Residue Survey (Customs) Levy Act 1998* and the *National Residue Survey (Excise) Levy Act 1998* provide that the Governor-General may make regulations prescribing matters required or permitted by those Acts to be prescribed for carrying out or giving effect to those Acts. The Acts provide for the ability to impose levies on horticultural products.

#### **Purpose**

The purpose of the Regulation is to amend the statutory National Residue Survey (NRS) levy arrangements on all onions produced in Australia. The NRS program is a quality assurance system that involves random sampling of the national onion crop. In 2011–12, 100 samples were collected (and tested) Australia-wide directly from packhouses and at city markets. The NRS onion program is funded by the NRS onion levies. The proposed Regulation would decrease NRS customs and excise levies for onions from \$0.40 per tonne to zero. This means the NRS onion levies income would fall to zero and the NRS onion residue monitoring program, which is funded by these levies, would be discontinued. This is in line with the proposal from Onions Australia (OA).

#### **Background**

OA is the peak industry body for onions in Australia. In November 2012 the Australian Government received a submission from OA requesting amendments to the existing levy arrangements on onions.

OA believes the NRS levies no longer provide benefits to all levy payers and are not equitable. Currently exporters (that is growers who export onions) are required to pay the NRS levies even though no portion of the levies are contributed to or used to satisfy the specific quality assurance certification that is required by exporters' international customers.

Under the proposed Regulation, domestic growers would satisfy domestic quality assurance requirements by entering into private contracts with NRS for testing services and quality assurance certification. These private contracts would come at a lower cost for domestic growers.

OA, as the eligible industry body, recommended the amendments to the onion levy arrangements to the Minister of Agriculture. The Regulation would give effect to OA's written submission.

HAL recommended the amendments to the onion levy arrangements to the Minister after consultation with OA, as the eligible industry body. The Regulation gives effect to the recommendations of HAL, which are consistent with OA's written submission.

### **Impact and Effect**

The NRS levies set at zero means that the NRS onion levies income will fall to zero and the NRS onion residue monitoring program, which is funded by these levies, will be discontinued.

### **Consultation**

The Department consulted the departments of the Prime Minister and Cabinet, Treasury, and Finance in preparing the Regulation. The Department also was in contact with OA 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 a Regulation Impact Statement (ID 14718). A copy of the Regulation Impact Statement is available from OBPR's website at [ris.finance.gov.au/category/primary-industries](http://ris.finance.gov.au/category/primary-industries).

OA undertook a thorough consultation process for the requested levy changes on onions. More detail on the wider consultation process undertaken for this onion levy proposal is in the RIS referred to above.

### **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 Levies and Charges (National Residue Survey Levies) Amendment (Onions) Regulation 2014**

Section 1 – Name of Regulation

This Section provides for the title of *Primary Industries Levies and Charges (National Residue Survey Levies) Amendment (Onions) 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 *National Residue Survey (Customs) Levy Act 1998*, and the *National Residue Survey (Excise) Levy Act 1998*.

Section 4 – Schedule

This Section provides for the *Primary Industries Levies and Charges (National Residue Survey Levies) Regulations 1998* to be amended as set out in Schedule 1.

Schedule 1 – Amendments

**Item 1** repeals the notes to Regulation 107 that provides a cross reference to the Acts that sets the NRS customs levy rate and the NRS excise levy rate for onions at 40 cents per tonne. It also repeals the note that regulation numbers 108 and 109 are intentionally not used.

**Item 2** inserts two new regulations (108 and 109). Regulation 108 sets the operative rate for the NRS customs levy at 0 cents per tonne of onions. Regulation 109 sets the operative rate for the NRS excise levy for at 0 cents per tonne of onions.

## **Statement of Compatibility with Human Rights**

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

### ***Primary Industries Levies and Charges (National Residue Survey Levies) Amendment (Onions) 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 decrease the National Residue Survey (NRS) customs and excise levies for onions from \$0.40 per tonne to zero. OA believes the NRS levy no longer provides benefits to all levy payers. OA considers the NRS levy is not equitable because growers who export onions are still required to pay the NRS levy but OA notes that exporters are not direct beneficiaries of the service as the chemical screens used by the NRS are relevant only for domestic marketplaces.

The NRS levies set at zero means that the NRS onion levies income will fall to zero and the NRS onion residue monitoring program, which is funded by these levies, will be discontinued.

#### **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**