

## **EXPLANATORY STATEMENT**

Issued by Authority of the Deputy Prime Minister and Minister for Agriculture and Water Resources

*Primary Industries Levies and Charges Collection Act 1991*

*Primary Industries Levies and Charges Collection Amendment (Thoroughbred Horses) Regulations 2017*

The *Primary Industries Levies and Charges Collection Act 1991* (the Collection Act) rationalises levy and charge collection, and provides for the efficient and effective collection of primary industry levies and charges.

Section 30 of the Collection Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Collection Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Collection Act.

The purpose of the *Primary Industries Levies and Charges Collection Amendment (Thoroughbred Horses) Regulations 2017* (the Regulations) is to outline the mechanism for collecting a statutory research and development (R&D) levy from the thoroughbred horse industry.

The thoroughbred horse industry sought to introduce a statutory levy to help conduct a comprehensive, long term R&D program. An R&D program will assist with the ongoing profitability, productivity and competitiveness of the Australian thoroughbred industry.

The Regulations enable the levy to be collected from the thoroughbred horse industry, including from those that do not currently voluntarily contribute to the industry's investment in thoroughbred horse R&D. The imposition of the levy on the thoroughbred horse industry ensures that producers contribute proportionally to investment in R&D, based on their level of participation in the industry. The Regulations allow for the thoroughbred horse industry to invest in R&D projects that span the short to long terms to improve the profitability, sustainability and international competitiveness of the Australian thoroughbred horse industry.

The Regulations define who thoroughbred horse producers are, who is to pay levy, when levy is to be paid and requirements relating to levy returns. The Regulations also stipulate what records relating to levies paid must be kept and that an offence against those provisions is an offence of strict liability.

The inclusion of a strict liability offence for record keeping is in line with the principles set out in 'A Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers'. This provision is likely to enhance the effectiveness of the enforcement regime, as record keeping is essential to ensure that levies are paid by producers at the correct rates. Strict liability for this purpose ensures that the levy is collected on an equitable basis, which is a key objective of imposing mandatory levies. The offence is 10 penalty units, and therefore meets the requirement that the fine does not exceed 60 penalty units for an individual.

Producers will be advised of the record keeping requirements so they can guard against the possibility of any contravention.

Thoroughbred Breeders Australia, the national thoroughbred horse industry representative body, undertook a detailed consultation process on the levy in 2013, including an independent ballot, to consult all known potential levy payers. Sixty-eight per cent of voters supported the introduction of an R&D levy.

The Office of Best Practice Regulation (OBPR) was consulted on the introduction of a thoroughbred horse R&D levy and assessed the Regulation Impact Statement (RIS). On 11 April 2017, OBPR assessed the RIS as compliant with government requirements. The OBPR reference number for this assessment is 21808.

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

The Regulations are 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 [Attachment B](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

**Details of the *Primary Industries Levies and Charges Collection Amendment (Thoroughbred Horses) Regulations 2017***

**Section 1 – Name**

This section provides that the name of the Regulations is the *Primary Industries Levies and Charges Collection Amendment (Thoroughbred Horses) Regulations 2017*.

**Section 2 – Commencement**

This section provides for the Regulations to commence on 1 September 2017.

**Section 3 – Authority**

This section provides that the Regulations are made under the *Primary Industries Levies and Charges Collection Act 1991*.

**Section 4 – Schedules**

This section provides that the Regulations are amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

**Schedule 1 – Amendments**

Item 1 inserts a new Part 14 of Schedule 37 to the *Primary Industries Levies and Charges Collection Regulations 1991* relating to thoroughbred horses. Notes on the individual clauses are set out below.

**Part 14 – Thoroughbred horses**

**14.1 Application**

This part only applies to thoroughbred horses on which levy is imposed.

**14.2 Definitions**

This clause provides for the following terms to be defined: *Australian Stud Book*, *covered*, *declaration of service*, *mare return*, *Racing Australia*, *Rules of the Australian Stud Book* and *thoroughbred horse*.

The term *Rules of the Australian Stud Book* is defined to mean the *Rules of the Australian Stud Book* published by Racing Australia as in force at the commencement of new Part 14 of Schedule 37 to the *Primary Industries Levies and Charges Collection Regulations 1991*. The *Rules of the Australian Stud Book* are available free of charge at [www.studbook.org.au](http://www.studbook.org.au).

### **14.3 What is a levy year**

This clause specifies that, for the purpose of the levy on thoroughbred horses, references to a levy year mean a twelve month period starting on the first day of March. The exception to this is the first levy year, which begins on 1 September 2017 and ends on 28 February 2018.

### **14.4 Who is a producer**

This clause defines a producer as a person who produces a prescribed product—in this case, thoroughbred horses are prescribed—and who lodges a mare return or declaration of service with Racing Australia.

### **14.5 When levy is due for payment**

This clause outlines when payment of levy is due to be made. Where the thoroughbred horse is a mare, the levy payment is due 28 days after a return for a mare is required to be lodged in accordance with clause 14.7.

Where the thoroughbred horse is a stallion, the levy payment is due 28 days after the end of the levy year.

### **14.6 Who must lodge a return**

This clause outlines who must lodge a return. Where levy has been imposed on a mare, the producer of the mare is required to lodge a levy return. Where levy has been imposed on a stallion, the producer of the stallion is required to lodge a levy return. A ‘producer’ is defined in clause 14.4.

### **14.7 When must a return be lodged**

This clause requires a levy return to be lodged by the producer of a mare at the same time as a mare return is lodged by the producer with Racing Australia. This clause also requires a levy return to be lodged by the producer of a stallion at the same time as a declaration of service is required to be lodged with Racing Australia.

### **14.8 What must be included in a return**

This clause outlines what information is required to be included in a return.

### **14.9 What records must be kept**

This clause outlines what records must be kept by the producer of a mare or a stallion each levy year. The producer of a mare must keep a record of the number of mares listed in the mare return lodged by the producer with Racing Australia, the amount of levy payable, and the total amount of levy paid.

The producer of a stallion must keep a record of the number of mares covered by the stallion, the amount of levy payable, and the total amount of levy paid.

This clause also includes a strict liability offence for a producer that does not keep records in a way that complies with the requirement.

## **ATTACHMENT B**

### **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 Collection Amendment (Thoroughbred Horses) Regulations 2017**

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 *Primary Industries Levies and Charges Collection Amendment (Thoroughbred Horses) Regulations 2017* is to outline the mechanism for collecting a statutory levy from the thoroughbred horse 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**  
**Deputy Prime Minister and Minister for Agriculture and Water Resources**