

EXPLANATORY STATEMENT

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

Primary Industries (Excise) Levies Act 1999

Primary Industries (Excise) Levies Amendment (Almonds, Apples and Pears) Regulations 2017

Legislative Authority

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

Part 2 of Schedule 15 to the *Primary Industries (Excise) Levies Regulations 1999* (Excise Levies Regulations) prescribes the rates of levies imposed on almonds sold domestically. Part 3 of Schedule 15 to the Excise Levies Regulations prescribes the rate of levies imposed on apples and pears sold domestically.

Purpose

The purpose of the *Primary Industries (Excise) Levies Amendment (Almonds, Apples and Pears) Regulations 2017* (the proposed Regulations) is to activate the Emergency Plant Pest Response (EPPR) levy on:

- almonds (other than almonds of the Nonpareil variety) in their shells to 0.1 of a cent per kilogram,
- almonds of the Nonpareil variety in their shells to 0.1 of a cent per kilogram,
- shelled almonds to 0.13 of a cent per kilogram,
- apples to 0.05 of a cent per kilogram, and
- pears to 0.05 of a cent per kilogram.

Levies are introduced, administered and collected by the Australian Government, usually at the request of industry. The Department of Agriculture and Water Resources (the department) collects the levy and disburses the funds to the relevant recipient body.

Background

On 8 March 2017, the Almond Board of Australia (ABA) wrote to the Minister for Agriculture and Water Resources (Minister) seeking to activate the EPPR levy on almonds. On 20 March 2017, Apple and Pear Australia Limited (APAL) wrote to the Minister seeking to activate the EPPR levy on apples and pears.

The funds raised through the EPPR levy on almonds will be used to repay the Australian Government for costs of approximately \$321,000 which were paid on behalf of ABA in relation to the response plan for the eradication of varroa mite from Queensland.

The funds raised through the EPPR levy on apples and pears will be used to repay the Australian Government for costs of approximately \$493,000 which were paid on behalf of APAL in relation to the response plan for the eradication of varroa mite from Queensland, as well as the national exotic fruit fly in Torres Strait eradication program.

The Department of Agriculture and Water Resources (the department) has assessed ABA's and APAL's requests and considers they meet the Australian Government *Levy Principles and Guidelines* for the activation of a positive rated EPPR levy.

Impact and Effect

The amendments will result in the activation of the EPPR levies for almonds, apples and pears. For almonds in their shells the levy will be set at a rate of 0.1 of a cent per kilogram and 0.13 of a cent per kilogram for shelled almonds. For apples and pears the levy will be set at a rate of 0.05 of a cent per kilogram.

The levy rates were calculated to ensure that the industry's liability to the Australian Government is repaid within five years based on estimated production. This timeframe aligns with the requirements of the EPPR Deed. Due to varying annual production, it is difficult to predict the exact timeframe for completion of repayment. Therefore, the EPPR levies are being implemented without a specified end date. However, ABA and APAL intend requesting that the Minister reset the EPPR levies to nil once repayment is complete.

The levy increases are a small enough percentage of the overall levy that it is very unlikely to influence the price of almond, apple and pear products.

Consultation

Consistent with the Australian Government *Levy Principles and Guidelines* for the activation of an emergency response levy, ABA and APAL notified levy payers of the request to activate the EPPR levy on their respective products.

ABA held an objection period from 15 March 2017 to 30 April 2017. No objections were received.

APAL undertook an objection period from 1 April 2017 to 31 May 2017. Of approximately 310 known levy payers, one objection was received. The objection has been addressed to the satisfaction of the Minister.

Details / Operation

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 (Excise) Levies Amendment (Almonds, Apples and Pears) Regulations 2017*

Section 1 – Name of Regulations

This section provides that the name of the Regulations is the *Primary Industries (Excise) Levies Amendment (Almonds, Apples and Pears) Regulations 2017*.

Section 2 – Commencement

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

Section 3 – Authority

This section provides that the Regulations are made under 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

Item 1 replaces subclause 2.6(2) of Schedule 15 with a new subclause 2.6(2) which provides that the EPPR rate on almonds is:

- (a) 0.1 of a cent per kilogram for almonds in their shells except for Nonpareil variety in their shells;
- (b) 0.1 of a cent per kilogram for almonds of the Nonpareil variety in their shells; and
- (c) 0.13 of a cent per kilogram for shelled almonds.

Item 2 amends paragraph 3.7(2)(a) of Schedule 15 to provide that the EPPR levy on apples is 0.05 of a cent per kilogram of apples.

Item 3 amends paragraph 3.7(2)(b) of Schedule 15 to provide that the EPPR levy on pears is 0.05 of a cent per kilogram of pears.

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 (Almonds, Apples and Pears) Regulation 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 (Excise) Levies Amendment (Almonds, Apples and Pears) Regulations 2017* (the Regulations) is to activate the Emergency Plant Pest Response levy on:

- almonds (other than almonds of the Nonpareil variety) in their shells to 0.1 of a cent per kilogram,
- almonds of the Nonpareil variety in their shells to 0.1 of a cent per kilogram,
- shelled almonds to 0.13 of a cent per kilogram,
- apples to 0.05 of a cent per kilogram, and
- pears to 0.05 of a cent per kilogram.

The Regulations would commence on 1 October 2017.

Human rights implications

These Regulations do not engage any of the applicable rights or freedoms.

Conclusion

The measures in the Regulations are 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* as the Regulations do not engage any human rights issues.

The Hon. Barnaby Joyce MP
Deputy Prime Minister and Minister for Agriculture and Water Resources