

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture and Water Resources

Primary Industries (Excise) Levies Act 1999

Primary Industries (Customs) Charges Act 1999

Primary Industries (Excise) Levies (Designated Bodies) Amendment Declaration 2018

Primary Industries (Customs) Charges (Designated Bodies) Amendment Declaration 2018

Legislative Authority

The *Primary Industries (Excise) Levies Act 1999* (Excise Levies Act) authorises the imposition of primary industries levies that are duties of excise.

The *Primary Industries (Customs) Charges Act 1999* (Customs Charges Act) authorises the imposition of primary industries charges that are duties of customs.

Clause 13 of Part 4 of Schedule 27 to the Excise Levies Act provides that the Minister may, by writing, declare that a specified body is a designated body in relation to one or more specified products.

Clause 12 of Part 4 of Schedule 14 to the Customs Charges Act provides that the Minister may, by writing, declare that a specified body is a designated body in relation to one or more specified products.

Purpose

The purpose of the *Primary Industries (Excise) Levies (Designated Bodies) Amendment Declaration 2018* (Excise Levies Amendment Declaration) is to amend the *Primary Industries (Excise) Levies (Designated Bodies) Declaration 2013* (Excise Levies Declaration) to declare four industry representative organisations as designated bodies under clause 13 of Schedule 27 to the Excise Levies Act. These are:

- ATTIA Ltd (ATTIA), commonly known as the Australian Tea Tree Industry Association, as the designated body for tea tree oil
- Australian Ginger Industry Association Incorporated (AGIA) as the designated body for ginger
- Winemakers' Federation of Australia Incorporated (WFA) as a designated body for grapes and wine grapes (in addition to Wine Grape Growers Australia Incorporated).
- Thoroughbred Breeders Australia Limited (TBA) as the designated body for thoroughbred horses.

The purpose of the *Primary Industries (Customs) Charges (Designated Bodies) Amendment Declaration 2018* (Customs Charges Amendment Declaration) is to amend the *Primary Industries (Customs) Charges (Designated Bodies) Declaration 2017* (Customs Charges

Declaration) to declare ATTIA as a designated body under clause 12 of Schedule 14 to the Custom Charges Act.

Background

The Excise Levies Declaration declares 27 industry representative organisations to be designated bodies for specified products. The Customs Charges Declaration declares 18 industry representative organisations to be designated bodies for specified products.

ATTIA, AGIA, WFA and TBA have demonstrated their representative status through industry consultation and obtaining industry support for previous levy proposals. The representative nature of these bodies is also demonstrated through their membership of either Plant Health Australia (PHA) or Animal Health Australia, where they represent their industries on biosecurity matters.

The declaration of these bodies as designated bodies does not prevent other industry bodies from making representations to the minister on the introduction or amendment of levies or charges, or seeking to become designated bodies for the same products.

Members of PHA are also required to be declared as designated bodies in order to meet the definition of ‘relevant Plant Industry Member’ in section 3 of the *Plant Health Australia (Plant Industries) Funding Act 2002* (PHA Funding Act) which will in turn enable:

- PHA levies or charges for a plant product that the body represents, as a PHA industry member, to be disbursed by the department to PHA (under section 4 of the PHA Funding Act)
- an Emergency Plant Pest Response (EPPR) fund for an EPPR plant product to be used by PHA to discharge a liability of the relevant Plant Industry Member to the Commonwealth in relation to relevant responses under the Emergency Plant Pest Response Deed (EPPRD) or to make payments in relation to other emergency plant pest response purposes (under section 10C of the PHA Funding Act).

For some plant products, both a levy (for domestic sales) and a charge (for export sales) apply. Of the relevant products – tea tree oil, ginger, grapes, wine grapes and thoroughbred horses – only tea tree oil attracts a customs charge. For this reason, the Excise Levies Declaration has been amended to add all four industry bodies, but the Customs Charges Declaration has been amended only to add the ATTIA.

Impact and Effect

Both the Excise Levies Act and the Customs Charges Act require the Minister to take into consideration the recommendations provided to the Minister by a designated body before regulations may be made in relation to a product (for example to establish, or change, a relevant levy or customs charge). For research and development or marketing levy or charge types, a regulation must not set a rate for a product higher than that recommended by the relevant designated body.

Section 3 of the PHA Funding Act defines, for the purposes of that Act, a *relevant Plant Industry Member* for a plant product as the Plant Industry Member that the Minister declares is the designated body for the plant product under:

- (a) clause 13 of Schedule 27 to the Excise Levies Act; or

(b) clause 12 of Schedule 14 to the Customs Charges Act.

The Excise Levies Amendment Declaration and the Customs Charges Amendment Declaration also ensure that all PHA industry member organisations (ATTIA, AGIA and WFA) meet the definition of ‘relevant Plant Industry Member’ in the PHA Funding Act, thereby providing clear legislative authority for the Commonwealth to make levy or charge disbursement payments to PHA under section 4 of the PHA Funding Act, and for PHA to use the EPPR fund for relevant EPPR plant products to make payments in relation to emergency plant pest responses.

There are no practical or procedural implications for levy or charge payers. PHA levy and charges will continue to be collected by the Commonwealth. The levy and charge amounts that industry members pay, and the mechanisms through which they are paid, have not changed.

Consultation

The department consulted the four relevant industry representative organisations that have requested to be declared as a designated body. PHA was consulted on the declaration of the ATTIA, AGIA and WFA, as they are PHA members. The Office of Best Practice Regulation (OBPR) advised that a regulation impact statement is not required (OBPR ID 23863).

Details / Operation

Details of the Excise Levies Amendment Declaration and the Customs Charges Amendment Declaration are set out in Attachments A and B.

The Excise Levies Amendment Declaration and the Customs Charges Amendment Declaration 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 the Attachment C.

The Excise Levies Amendment Declaration and the Customs Charges Amendment Declaration are legislative instruments for the purposes of the *Legislation Act 2003*.

Details of the Primary Industries (Excise) Levies (Designated Bodies) Amendment Declaration 2018

Section 1 – Name

This section provides that the name of the Declaration is the *Primary Industries (Excise) Levies (Designated Bodies) Amendment Declaration 2018*.

Section 2 – Commencement

This section provides that the Declaration commences the day after the instrument is registered.

Section 3 – Authority

This section provides that the Declaration is made under clause 13 of Schedule 27 to the *Primary Industries (Excise) Levies Act 1999*.

Section 4 – Schedule

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

Schedule 1

Primary Industries (Excise) Levies (Designated Bodies) Determination 2013

Item 1 – After section 1

This item inserts an authority provision that specifies that the instrument is made under clause 13 of Schedule 27 to the *Primary Industries (Excise) Levies Act 1999*.

Item 2 – Section 4 (after table item 2)

This item inserts ATTIA Ltd (ABN 48 077 019 204) to the table of designated bodies, as the designated body for tea tree oil.

Item 3 – Section 4 (after table item 4)

This item inserts Australian Ginger Industry Association Incorporated (ABN 97 981 376 529) to the table of designated bodies, as the designated body for ginger.

Item 4 – Section 4 (after table item 26)

This item inserts Thoroughbred Breeders Australia Limited (ABN 33 003 432 228) to the table of designated bodies, as the designated body for thoroughbred horses.

Item 5 – Section 4 (at the end of the table)

This item inserts Winemakers Federation of Australia Incorporated (ABN 38 539 406 467) to the table of designated bodies, as a designated body for prescribed goods on which levy is imposed in accordance with Schedule 13 (Grapes) and Schedule 26 (Wine grapes) to the Act.

Details of the Primary Industries (Customs) Charges (Designated Bodies) Declaration 2018

Section 1 – Name

This section provides that the name of the Declaration is the *Primary Industries (Customs) Charges (Designated Bodies) Amendment Declaration 2018*.

Section 2 – Commencement

This section provides that the Declaration commences the day after it the instrument is registered.

Section 3 – Authority

This section provides that the Declaration is made under clause 12 of schedule 14 to the *Primary Industries (Customs) Charges Act 1999*.

Section 4 – Schedule

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

Schedule 1

Primary Industries (Customs) Charges (Designated Bodies) Determination 2017

Item 1 – Section 4 (after table item 2)

This item inserts ATTIA Ltd to the table of designated bodies, as the designated body for tea tree oil.

Statement of Compatibility with Human Rights

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

Primary Industries (Excise) Levies (Designated Bodies) Amendment Declaration 2018

Primary Industries (Customs) Charges (Designated Bodies) Amendment Declaration 2018

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 (Designated Bodies) Amendment Declaration 2017* is to amend the *Primary Industries (Excise) Levies (Designated Bodies) Declaration 2013* to declare ATTIA Ltd, Australian Ginger Industry Association Incorporated, Winemakers Federation of Australia Incorporated and Thoroughbred Breeders Australia Limited as designated bodies under clause 13 of Schedule 27 to the Excise Levies Act.

The purpose of the *Primary Industries (Customs) Charges (Designated Bodies) Amendment Declaration 2018* is to amend the *Primary Industries (Customs) Charges (Designated Bodies) Declaration 2017* and declare ATTIA Ltd as a designated body under clause 12 of Schedule 14 to the Custom Charges Act.

Human rights implications

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

Conclusion

These Legislative Instruments are compatible with human rights as they do not raise any human rights issues.

**The Hon. David Littleproud MP
Minister for Agriculture and Water Resources**