

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture and Water Resources

Primary Industries (Excise) Levies Act 1999

Primary Industries (Excise) Levies (Designated Bodies) Amendment Declaration 2019

Legislative Authority

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

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.

Purpose

The purpose of the *Primary Industries (Excise) Levies (Designated Bodies) Amendment Declaration 2019* (the Amendment Declaration) is to amend the *Primary Industries (Excise) Levies (Designated Bodies) Declaration 2013* (the Declaration) to remove two industry representative organisations as designated bodies under clause 13 of Schedule 27 to the Excise Levies Act and to declare one new designated body under the same clause.

Wine Grape Growers Australia Incorporated (trading as Australian Vignerons) (WGGA) and the Winemakers Federation of Australia Incorporated (WFA) have merged and a new body, Australian Grape and Wine Incorporated (AGWI), has been formed. The Amendment Declaration removes WGGA and WFA from the Declaration and declares AGWI to be the single designated body for grapes and wine grapes.

Background

The Excise Levies Declaration declares 31 industry representative organisations to be designated bodies for specified products.

WGGA and WFA have merged and AGWI has replaced them as the industry representative body for the products identified in the Excise Levies Act as ‘grapes’ and ‘wine grapes.’ AGWI has also replaced the two former bodies as the Plant Health Australia industry member representing grapes and wine grapes. AGWI has advised Plant Health Australia that it also intends to replace WGGA as the signatory for grapes and wine on the Emergency Plant Pest Response Deed (EPPRD) as soon as the process for that change can be completed.

The declaration of AGWI as a designated body does not prevent other industry bodies from making representations to the Minister on the introduction of, or amendment to, levies or and/or charges, or from 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 in turn enables:

- 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 EPPR Deed or to make payments in relation to other emergency plant pest response purposes (under section 10C of the PHA Funding Act).

Impact and Effect

The Excise Levies Act requires 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). 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 Amendment Declaration also ensures that AGWI meets 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 levies will continue to be collected by the Commonwealth. The levy amounts that industry members pay, and the mechanisms through which they are paid, have not changed.

Consultation

Following advice from WGGA and WFA on their merger, the department communicated with the two bodies and PHA on the amendment, and with AGWI following its incorporation. All four parties agreed to the amendment. The Office of Best Practice Regulation (OBPR) advised that a regulation impact statement is not required (OBPR ID 24735).

Details / Operation

Details of the Amendment Declaration is set out in [Attachment A](#).

The Amendment Declaration 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 C.

The Amendment Declaration is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Primary Industries (Excise) Levies (Designated Bodies) Amendment Declaration 2019

Section 1 – Name

This section provides that the name of the instrument is the *Primary Industries (Excise) Levies (Designated Bodies) Amendment Declaration 2019*.

Section 2 – Commencement

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

Section 3 – Authority

This section provides that the instrument 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 – Section 4 (table item 27)

This item repeals the cell in column 1 of table item 27, which has the effect of removing Wine Grape Growers Australia Incorporated (ABN 15 475 806 313) as a designated body for grapes and wine grapes. The item substitutes it with “Australian Grape and Wine Incorporated (ABN: 45 903 873 163)”, as the single designated body for grapes and wine grapes.

Item 2 – Section 4 (table item 28)

This item will repeals table item 28, which has the effect of removing Winemakers Federation of Australia Incorporated (ABN 38 359 406 467) as a designated body for grapes and wine grapes.

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 2019

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 remove Wine Grape Growers Australia Incorporated (ABN 15 475 806 313) and Winemakers Federation of Australia Incorporated (ABN 38 359 406 467) as designated bodies for grapes and wine grapes, and to declare Australian Grape and Wine Incorporated (ABN: 45 903 873 163) as the single designated body for grapes and wine grapes.

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. David Littleproud MP
Minister for Agriculture and Water Resources