

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture

Primary Industries Levies and Charges Collection Act 1991

Primary Industries Levies and Charges Collection Amendment (Farmed Prawns) Regulations 2019

Legislative Authority

The *Primary Industries Levies and Charges Collection Act 1991* (the Collection Act) provides for the collection of primary industries levies and charges and associated matters.

Subsection 30(1) of the Collection Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. The matters that may be prescribed under subsection (1) include, but are not limited to, those set out at subsection (2).

Subsection 30(2) of the Collection Act provides that regulations may make provision for the payment of levy or charge, require certain persons to keep accounts and other records and give returns, and establish offences in relation to these matters.

The *Primary Industries Levies and Charges Collection Amendment (Farmed Prawns) Regulations 2019* (the proposed Regulations) would amend Part 3 of Schedule 7 to the *Primary Industries Levies and Charges Collection Regulations 1991* (the Principal Regulations) to prescribe such provisions for the collection of levy or charge on farmed prawns.

Purpose

The purpose of the Regulations is to add definitions relevant to the new white spot disease repayment levy and charge, and to make minor amendments for clarity and consistency to the provision that describes who is a producer for the purposes of the levy on farmed prawns. The Regulations are necessary following the imposition of the white spot disease repayment levy and charge, to allow for the collection of the levy and charge and related matters.

Background

On 4 May 2017, following a request from the Australian Prawn Farmers Association (APFA), the peak body for the farmed prawn industry, the then Minister for Agriculture and Water Resources approved an up to \$20 million assistance package for prawn farmers affected by the response to white spot disease in the Logan River. White spot disease is not an animal disease covered under any current response deed and APFA is not a party to the Emergency Animal Disease Response Agreement (EADRA), therefore it was agreed that costs would be shared with industry on an 80/20 split under arrangements consistent with those applied to other industries under EADRA.

The then Minister and the APFA agreed that the industry contribution (20 per cent, up to \$4 million) would be underwritten by the Australian Government and then repaid through a statutory levy and charge on farmed prawns. They also agreed that the levy and charge would not commence for three years after the destruction of prawns on affected farms to give the industry time to restock after a required fallow period.

Details and Effect

The amendments will provide for the collection of a new white spot disease repayment levy and charge on farmed prawns in addition to the existing research and development levy and charge. Minor amendments to the provision that describes who is a producer for the purposes of the collection of the levy and charge on farmed prawns will provide greater clarity and consistency with similar provisions.

Consultation

APFA's agreement to the arrangements of cost sharing was unanimously supported by farmed prawn industry members at the Ridley Australian Prawn Farmers Symposium 2017 on 2 August 2017. The matter was raised again at the 2018 symposium (on 13 August) and again received unanimous support. APFA undertook consultation with actual and potential levy payers on the proposed rate of the levy at 3.01 cents per kilogram. A formal objection period was held from 4 February to 8 March 2019. No objections on the white spot disease repayment levy were received.

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 Levies and Charges Collection Amendment (Farmed Prawns) Regulations 2019*

Section 1 – Name of Regulations

This section provides that the name of the Regulations is the *Primary Industries Levies and Charges Collection Amendment (Farmed Prawns) Regulations 2019*.

Section 2 – Commencement

This section provides for the Regulations to commence on 1 January 2020.

Section 3 – Authority

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

Section 4 – Schedule

This section provides for the *Primary Industries Levies and Charges Collection Regulations 1991* to be amended as set out in Schedule 1.

Schedule 1 – Amendments

Item 1 amends clause 3.2 of Schedule 37 to replace the definition of “charge” to mean a charge of either of the following kinds:

- (a) charge imposed by Division 2.2 of Schedule 14 to the Customs Charges Regulations;
- (b) charge imposed by Division 2.3 of Schedule 14 to the Customs Charges Regulations.

This amendment will add the newly imposed white spot disease repayment charge to the kind of charges to which the definition refers. It also makes consequential changes for references to amended clauses in the *Primary Industries (Customs) Charges Regulations 2000*.

Item 2 amends clause 3.2 of Schedule 37 to insert two new definitions, as follows:

chargeable farmed prawns means farmed prawns on which charge is imposed.

leviable farmed prawns means farmed prawns on which levy is imposed.

These terms are used in the new clause 3.4 (see item 4 below).

Item 3 amends clause 3.2 of Schedule 37 to replace the definition of “levy” to mean a levy of either of the following kinds:

- (a) levy imposed by Division 3.2 of Schedule 27 to the Excise Levy Regulations;
- (b) levy imposed by Division 3.3 of Schedule 27 to the Excise Levy Regulations.

This amendment will add the newly imposed white spot disease repayment levy to the kind of charges to which the definition refers. It also makes consequential changes to references to clauses in the *Primary Industries (Excise) Levies Regulations 1999*.

Item 4 amends clause 3.4 of Schedule 37 to replace that clause with a new explanation of who is a producer for the purposes of paragraphs (b) and (g) in subsection 4(1) of the *Primary*

Industries Levies and Charges Collection Act 1991 to make the explanation more consistent with those in other Parts of this Schedule.

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 (Farmed Prawns) Regulations 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 Levies and Charges Collection Amendment (Farmed Prawns) Regulations 2019 (the Regulations) is to add definitions relevant to the new white spot disease repayment levy and to make minor amendments for clarity and consistency to the provision that describes who is a producer for the purposes of the levy on farmed prawns. The Regulations are necessary following the imposition of the white spot disease repayment levy and charge, to allow for the collection of the levy and charge and related matters.

The Regulations commence on 1 January 2020.

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.

Senator the Hon. Bridget McKenzie
Minister for Agriculture