

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture, Fisheries and Forestry

Primary Industries (Excise) Levies Act 1999

Primary Industries (Excise) Levies Amendment (Stone Fruit) Regulations 2023

Legislative Authority

The *Primary Industries (Excise) Levies Act 1999* (the Act) authorises the imposition of primary industries levies, which are duties of excise. Section 8 of the 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.

Clause 2 of Schedule 15 to the Act imposes a levy on certain leviable horticultural products produced in Australia that are sold by the producer or used by the producer in the production of other goods.

Part 15 of Schedule 15 to the *Primary Industries (Excise) Levies Regulations 1999* (the Excise Regulations) prescribes stone fruit as a leviable horticultural product for the purposes of the definition of that term in clause 1 of Schedule 15 to the Act.

Subclauses 4(1) and 4(3) of Schedule 15 to the Act provide that the regulations may fix a rate of levy in relation to a class of leviable horticultural products that is a marketing component or a research and development component.

Purpose

The purpose of the *Primary Industries (Excise) Levies Amendment (Stone Fruit) Regulations 2023* (the Regulations) is to make the following changes to the Excise Regulations to better reflect the current research and development needs of the sector:

- reduce the marketing component of the stone fruit levy from 0.441 cents per kilogram of stone fruit to 0.00 cents per kilogram;
- increase the research and development component of the stone fruit levy from 0.539 cents per kilogram of stone fruit to 0.98 cents per kilogram.

Background

Clause 6 of Schedule 15 to the Act provides matters that the Minister must take into consideration before the Governor-General makes regulations for the purposes of those subclauses, including any relevant recommendation made to the Minister by the industry services body following consultation with the eligible industry body for the leviable horticultural product.

Horticulture Innovation Australia Limited is the industry services body declared under section 9 of the *Horticulture Marketing and Research Development Services Act 2000*. Summerfruit Australia Limited (SAL) the eligible industry body for stone fruit prescribed in clause 15.5 of Part 15 of Schedule 15 to the Excise Regulations). The regulations do not fix a rate of levy greater than the rate recommended by the industry services body. While Horticulture Innovation Australia Limited has not made any recommendations to the Minister regarding the rate of the levy on stone fruit, SAL did recommend that the marketing component of the levy on stone fruit be reduced from 0.441 cents per kilogram of stone fruit to 0.00 cents per

kilogram and that the research and development component be increased from 0.539 cents per kilogram of stone fruit to 0.98 cents per kilogram. These recommendations are supported by Horticulture Innovation Australia Limited.

There is no change to the net levy on stone fruit from 1 cent per kilogram under Part 15 of Schedule 15 to the Excise Regulations.

Impact and Effect

These Regulations will support the relevant industry bodies in leveraging export opportunities for stone fruit and will deliver returns for growers.

While there is no net impact on the levies paid by the stone fruit industry, there will be an impact on the government's underlying cash balance. An increase in the research and development component of the levy will increase the Australian Government's matched funding for industry research and development levies.

Consultation

The measures in the Regulations were developed with extensive consultation with stone fruit growers, in accordance with the Australian Government's *Levy Principles and Guidelines*. Interested parties were informed of the changes through multiple outreach and media outlets. The consultation and voting process was conducted by SAL, with 83.3 percent of votes supportive of the levy proposal. A six-week objection period was held from 19 October 2022 to 25 November 2022 to raise any concerns about the levy proposal and no objections were received.

The Office of Impact Analysis has been consulted and has advised that an Impact Assessment is not required for changes to existing levies (OBPR ID: 22416).

Details/ Operation

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

Other

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*. The Regulations will commence on 1 July 2023.

ATTACHMENT A

Details of the *Primary Industries (Excise) Levies Amendment (Stone Fruit) Regulations 2023*

Section 1 – Name

This section provides that the name of the regulation is the *Primary Industries (Excise) Levies Amendment (Stone Fruit) Regulations 2023* (the Regulations).

Section 2 – Commencement

This section provides for the Regulations to commence on 1 July 2023.

The note following subsection 2(1) highlights that the table only relates to the provisions of this instrument as originally made. The table is not amended to deal with any later amendments of this instrument.

Subsection 2(2) provides that any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument. Column 3 may contain relevant dates and details.

Section 3 – Authority

This section provides that this instrument is made under the *Primary Industries (Excise) Levies Act 1999*.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to this instrument is 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

Primary Industries (Excise) Levies Regulations 1999

Item 1 – Clause 15.3 of Schedule 15

This item omits the existing rate of levy in relation to the marketing component of 0.441 of a cent per kilogram of stone fruit and substitutes a nil rate of levy.

Item 2 – Clause 15.4 of Schedule 15

This item omits the existing rate of levy in relation to the research and development component of 0.539 of a cent per kilogram of stone fruit and substitutes a new rate of 0.98 of a cent per kilogram of stone fruit.

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 (Stone Fruit) Regulations 2023

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 (Stone Fruit) Regulations 2023* (the Legislative Instrument) is to make the following changes to the *Primary Industries (Excise) Levies Regulations 1999* to better reflect the current research and development needs of the sector:

- reduce the marketing component of the stone fruit levy from 0.441 cents per kilogram of stone fruit to 0.00 cents per kilogram;
- increase the research and development component of the stone fruit levy from 0.539 cents per kilogram of stone fruit to 0.98 cents per kilogram.

The Legislative Instrument commences on 1 July 2023.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

The measures in the Legislative Instrument 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 Legislative Instrument does not engage any human rights issues.

Senator the Hon. Murray Watt

Minister for Agriculture, Fisheries and Forestry