

## **EXPLANATORY STATEMENT**

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

*Primary Industries (Excise) Levies Act 1999*

*National Residue Survey (Excise) Levy Act 1998*

*Primary Industries Excise Levies Legislation Amendment (Live-stock Transactions)  
Regulations 2024*

### **Legislative Authority**

#### *Primary Industries (Excise) Levies Act 1999*

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

Section 8 of the Excise Levies 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.

Subclause 5(1) of Schedule 3 to the Excise Levies Act provides when cattle transaction levy is imposed, which includes on each transaction entered into by which the ownership of cattle is transferred from one person to another. Subclause 5(2) of that Schedule sets out the circumstances in which cattle transaction levy is not imposed, including in paragraph 5(2)(h), in such other circumstances (if any) as are prescribed.

Subclause 3(1) of Schedule 18 to the Excise Levies Act provides when live-stock transaction levy is imposed, which includes on each transaction entered into by which the ownership of live-stock is transferred from one person to another. Subclause 3(2) of that Schedule sets out the circumstances in which live-stock transaction levy is not imposed, including in paragraph 3(2)(f), in such other circumstances (if any) as are prescribed.

#### *National Residue Survey (Excise) Levy Act 1998*

The *National Residue Survey (Excise) Levy Act 1998* (the NRS Levies Act) authorises the imposition of national residue survey (NRS) levies that are duties of excise (NRS levy).

Section 8 of the NRS Levies Act provides that the Governor-General may make regulations prescribing either 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.

Subclause 2(1) of Schedule 1 to the NRS Levies Act provides when NRS cattle transaction levy is imposed, which includes on each transaction entered into by which the ownership of cattle is transferred from one person to another. Subclause 2(2) of that Schedule sets out the circumstances in which the NRS cattle transaction levy is not imposed, including in paragraph 2(2)(h), in such other circumstances (if any) as are prescribed.

Subclause 2(1) of Schedule 15 to the NRS Levies Act provides when NRS sheep, lamb and goats transaction levy is imposed, which includes on each transaction entered into by which the ownership of sheep, lambs or goats is transferred from one person to another. Subclause 2(2) of that Schedule sets out the circumstances in which the NRS sheep, lamb and goats transaction levy is not imposed, including in paragraph 2(2)(f), in such other circumstances (if any) as are prescribed.

## **Purpose**

The purpose of the *Primary Industries Excise Levies Legislation Amendment (Live-stock Transactions) Regulations 2024* (the Regulations) is to clarify that primary industries excise levy and NRS levy are not imposed on:

- a cattle or live-stock transaction by which a transfer of ownership occurs between the parties to the transaction when the animal is not located in Australia; or
- the sale of cattle or live-stock if the transfer of ownership of the animal from one person to another occurs immediately before or subsequent to the commencement of the loading of the animals on a ship or aircraft for the intended export of the animal from Australia.

Specifically, the Regulations prescribe two exemption cases in which a primary industries excise levy or NRS levy are not imposed on certain cattle or live-stock transactions. In the first case, a transaction is exempt from levy if the transfer of ownership occurs when the animal is located outside Australia. In the second case, a transaction is exempt from levy if the transfer of ownership occurs immediately before or during the loading of the animal, or while the animal is located on board, a ship or aircraft in which they are intended to be exported.

## **Background**

The Regulations establish two exemptions to clarify the scope of the primary industries excise, emergency animal disease response, and national residue survey levies imposed on cattle and live-stock transactions. Certain transactions are excluded from the imposition of each levy by reference to the location of the animal at the time the ownership of the animal is transferred from one person to another.

## **Impact and Effect**

The amendments will benefit the relevant levy payers by clarifying the scope of the levies and aligning with industry arrangements.

## **Consultation**

The Department of Agriculture, Fisheries and Forestry consulted with the following industry representative bodies on the proposed amendments in meetings held in April 2024:

- Goat Industry Council of Australia, Sheep Producers Australia Limited, Australian Lot Feeders' Association, and Cattle Australia, which represent cattle and live-stock transaction levy payers / farmers; and
- Australian Livestock Exporters' Council Limited, which represents cattle and live-stock export charge payers / live-stock exporters.

Industry supports the measures in the Regulations.

The Office of Impact Analysis advised that an Impact Analysis is not required (reference number: OIA23-05478).

### **Details/ Operation**

Details of the Regulations are set out in Attachment A.

### **Other**

The *Primary Industries Excise Levies Legislation Amendment (Livestock Transactions) Regulations 2024* 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 *Primary Industries Excise Levies Legislation Amendment (Live-stock Transactions) Regulations 2024* is a legislative instrument for the purposes of the *Legislation Act 2003*.

**Details of the *Primary Industries Excise Levies Legislation Amendment (Live-stock Transactions) Regulations 2024***

**Section 1 – Name**

This section provides that the name of the Regulations is the *Primary Industries Excise Levies Legislation Amendment (Live-stock Transactions) Regulations 2024* (the Regulations).

**Section 2 – Commencement**

This section provides for the Regulations to commence on the day after the instrument is registered.

**Section 3 – Authority**

This section provides that the Regulations are made under the *National Residue Survey (Excise) Levy Act 1998* and the *Primary Industries (Excise) Levies Act 1999*.

**Section 4 – Schedules**

This section provides that each instrument that is specified in a Schedule to the Regulations 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 – At the end of clause 2 of Schedule 3**

This item adds two new subclauses at the end of clause 2 of Schedule 3, prescribing two exemptions from primary industry excise levies imposed by paragraph 5(1)(a) of Schedule 3 to the *Primary Industries (Excise) Levies Act 1999* (Excise Levies Act). The exemptions are prescribed for the purposes of paragraph 5(2)(h) of Schedule 3 to that Act. The exemptions clarify the intended application of the levy by reference to the location of the cattle at the time the ownership of the cattle is transferred from one person to another.

A new subclause (5) is inserted at the end of clause 2 of Schedule 3, providing that levy is not imposed on a transaction entered into by which the ownership of cattle is transferred from one person to another if the cattle are not in Australia at the time the transfer of ownership occurs. The exemption ensures that the levy is not imposed on the entering into of a transaction if the cattle are not located in Australia when the transfer of ownership occurs between parties to the transaction.

A new subclause (6) is inserted at the end of clause 2 of Schedule 3, providing that, in relation to a sale of cattle, levy is not imposed if the transfer of ownership occurs immediately before, or during the period the cattle are loaded on board a ship or aircraft or while the cattle are on board a ship or aircraft, in which they are intended to be exported. The exemption clarifies the

scope of the levy in relation to sale transactions entered into by which the transfer of ownership occurs prior to the imminent export of the cattle from Australia.

The amendments by operation of law also apply to the emergency animal disease response (EADR) levy imposed by clause 5 of Schedule 3 to the *Primary Industries (Excise) Levies Regulations 1999* (the Excise Levies Regulations). Subclause 5(1) of Schedule 3 provides that the EADR levy is imposed on cattle transactions on which levy is imposed by clause 5 of Schedule 3 to the Excise Levies Act.

#### **Item 2 – At the end of clause 3 of Schedule 18**

This item adds two new subclauses at the end of clause 3 of Schedule 18, prescribing two exemptions from the primary industry excise levy imposed by paragraph 3(1)(a) of Schedule 18 to the Excise Levies Act. The exemptions are prescribed for the purposes of paragraph 3(2)(f) of Schedule 18 to that Act. The exemptions clarify the intended application of the levy by reference to the location of the live-stock at the time the ownership of the live-stock is transferred from one person to another.

A new subclause (4) is inserted at the end of clause 3 of Schedule 18, providing that levy is not imposed on a transaction entered into by which the ownership of live-stock is transferred from one person to another if the live-stock are not in Australia at the time the transfer of ownership occurs. The exemption ensures that the levy is not imposed on the entering into of a transaction if the live-stock are not located in Australia when the transfer of ownership occurs between the parties to the transaction.

A new subclause (5) is inserted at the end of clause 3 of Schedule 18, providing that, in relation to the sale of live-stock, levy is not imposed if the transfer of ownership occurs immediately before, or during the period the live-stock are loaded on board a ship or aircraft or while the live-stock are on board the ship or aircraft, in which they are intended to be exported. The exemption clarifies the scope of the levy in relation to sale transactions entered into by which the transfer of ownership occurs prior to the imminent export of the live-stock from Australia.

The amendments by operation of law also apply to the EADR levy imposed by clause 7 of Schedule 18 to the Excise Levies Regulations. Subclause 7(1) of Schedule 18 provides that the EADR levy is imposed on sheep transactions, lamb transactions or goat transactions on which levy is imposed by clause 3 of Schedule 18 to the Excise Levies Act.

#### ***Primary Industries Levies and Charges (National Residue Survey Levies) Regulations 1998***

#### **Item 3 – At the end of regulation 27**

The *National Residue Survey (Excise) Levy Act 1998* (the NRS Levies Act) authorises the imposition of national residue survey (NRS) levies that are duties of excise (NRS levy). Amounts of NRS levy collected by or on behalf of the Commonwealth must be credited to the National Residue Survey Account and amounts standing in credit of the Account may be debited for making payments, including the monitoring, testing and reporting the level of, and preventing contamination in, applicable products such as food products or products of a primary industry.

This item adds two new subclauses at the end of regulation 27, prescribing two exemptions from NRS levy imposed by paragraph 2(1)(a) of Schedule 1 to the NRS Excise Levy Act. The exemptions are prescribed for the purposes of paragraph 2(2)(h) of Schedule 1 to that Act. The exemptions clarify the intended application of the NRS levy by reference to the location of the cattle at the time the ownership of the cattle is transferred from one person to another.

A new subclause (3) is inserted at the end of regulation 27, providing that NRS levy is not imposed on a transaction entered into by which the ownership of cattle is transferred from one person to another if the cattle are not in Australia at the time the transfer of ownership occurs. The exemption ensures that the NRS levy is not imposed on the entering into a transaction if the cattle are not located in Australia when the transfer of ownership occurs between the parties to the transaction.

A new subclause (4) is inserted at the end of regulation 27 providing that, in relation to the sale of cattle, NRS levy is not imposed if the transfer of ownership occurs immediately before, or during the period the cattle are loaded on board a ship or aircraft or while the cattle are on board the ship or aircraft, in which they are intended to be exported. The exemption clarifies the scope of the levy in relation to sale transactions entered into by which the transfer of ownership occurs prior to the imminent export of the cattle from Australia.

#### **Item 4 – At the end of regulation 239B**

This item adds two new subclauses at the end of regulation 239B, prescribing two exemptions from NRS excise levy imposed by paragraph 2(1)(a) of Schedule 1 to the NRS Excise Levy Act. The exemptions are prescribed for the purposes of paragraph 2(2)(h) of Schedule 1 to that Act. The exemptions clarify the intended application of the NRS excise levy by reference to the location of the sheep, lambs or goats at the time the ownership of the sheep, lambs or goats is transferred from one person to another.

A new subclause (3) is inserted at the end of regulation 239B, providing that NRS excise levy is not imposed on a transaction entered into by which the ownership of sheep, lambs or goats is transferred from one person to another if the sheep, lambs or goats are not in Australia at the time the transfer of ownership occurs. The exemption ensures that the NRS excise levy is not imposed on the entering into a transaction if the animals are not located in Australia when the transfer of ownership occurs between the parties to the transaction.

A new subclause (4) is inserted at the end of regulation 239B, providing that, in relation to the sale of sheep, lambs or goats, the NRS excise levy is not imposed if the transfer of ownership occurs immediately before, or during the period the animals are loaded on board a ship or aircraft or while the animals are on board the ship or aircraft, in which they are intended to be exported. The exemption clarifies the scope of the NRS excise levy in relation to sale transactions entered into by which the transfer of ownership occurs prior to the imminent export of the sheep, lambs or goats from Australia.

**Statement of Compatibility with Human Rights**

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

**Primary Industries Excise Levies Legislation Amendment (Live-stock Transactions)  
Regulations 2024**

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 Legislative Instrument establishes two exemptions to clarify the scope of the primary industries excise, emergency animal disease response, and national residue survey levies imposed on cattle and live-stock transactions. Certain transactions are excluded from the imposition of each levy by reference to the location of the animal at the time the ownership of the animal is transferred from one person to another.

**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.

**Senator the Hon Murray Watt  
Minister for Agriculture, Fisheries and Forestry**