

## **EXPLANATORY STATEMENT**

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

*Australian Meat and Live-stock Industry Act 1997*

*Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997*

*Competition and Consumer Act 2010*

*Customs Act 1901*

*Primary Industries Research and Development Act 1989*

*Wine Australia Act 2013*

*Wool Services Privatisation Act 2000*

*Primary Industries Legislation (Repeals and Consequential Amendments) Regulations 2024*

### **Legislative Authority**

This instrument is made by the Governor-General under the following Acts which enable regulations to be made: the *Australian Meat and Live-stock Industry Act 1997*, the *Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997*, the *Competition and Consumer Act 2010*, the *Customs Act 1901*, the *Primary Industries Research and Development Act 1989*, the *Wine Australia Act 2013* (Wine Australia Act) and the *Wool Services Privatisation Act 2000*. Further details of the authorising provisions are set out in Attachment B.

Section 4 of the *Acts Interpretation Act 1901* provides authority for the Governor-General to make regulations after enactment, but before the commencement of amendments made to the Act. The *Primary Industries Legislation (Repeals and Consequential Amendments) Regulations 2024* (the Regulations) prescribe matters permitted by the Wine Australia Act, as amended by Schedule 2 to the *Primary Industries (Consequential Amendments and Transitional Provisions) Act 2024* commencing 1 January 2025.

### **Purpose**

The purpose of the Regulations is to:

- repeal regulations that are, or would become, redundant upon commencement of the relevant provisions in Schedules 1 and 2 to the *Primary Industries (Consequential Amendments and Transitional Provisions) Act 2024*;
- make consequential amendments to regulations to reflect the amendments made by that Act; and
- support transitional arrangements to the modernised agricultural levies and charges legislative framework (modernised legislative framework).

## **Background**

The agricultural levy and charge system, known as the agricultural levy system, is a long-standing partnership between industry and the Australian Government to facilitate industry investment in strategic activities. Levies and charges are generally payable by farmers, producers, processors and exporters.

Amounts equal to the collected levy and charge are generally disbursed by the Commonwealth to recipient bodies and other entities to support the activities the levies and charges were imposed to fund. This includes research and development, marketing, biosecurity activities, biosecurity responses, and National Residue Survey testing. Without this arrangement most individual producers could not invest effectively in these activities.

A 2018 review in relation to the sunseting of legislative instruments making up the pre-existing legislative framework found the legislative framework should be modernised to be more effective in meeting industries' needs in the future.

## **Impact and effect**

The Regulations make consequential changes that aid the transition to the modernised legislative framework to better support industries' needs in the future.

The Regulations operate with the *Primary Industries (Customs) Charges Regulations 2024* (the Charges Regulations) made under the *Primary Industries (Customs) Charges Act 2024*, rules proposed to be made under the *Primary Industries Levies and Charges Collection Act 2024* (Collection Rules) and rules proposed to be made under the *Primary Industries Levies and Charges Disbursement Act 2024* (Disbursement Rules).

## **Consultation**

Consultation on the modernised legislative framework occurred with industry groups, levy payers, collection agents, bodies that receive levy and charge funding, and the public.

Consultation also occurred with relevant Commonwealth agencies during the development of the legislation.

The Minister for Agriculture, Fisheries and Forestry obtained the support and agreement of the Assistant Minister for Competition, Charities and Treasury and the Minister for Home Affairs as the Ministers responsible for, respectively, the *Competition and Consumer Act 2010* and the *Customs Act 1901*, to the consequential amendments to the regulations made under those Acts.

The Office of Impact Analysis was consulted in relation to the Impact Analysis (OBPR22-03525) for modernising the agricultural levies legislation.

## **Details of the instrument**

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 C.

The Regulations will commence on 1 January 2025. The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

## **Details of the *Primary Industries Legislation (Repeals and Consequential Amendments) Regulations 2024***

The *Primary Industries Legislation (Repeals and Consequential Amendments) Regulations 2024* (the Regulations) are made up of preliminary provisions and two Schedules. The preliminary provisions contain general matters. Schedule 1 repeals regulations that are, or would become, redundant upon commencement of the modernised legislative framework. Schedule 2 contains consequential amendments to Commonwealth regulations.

### **Section 1—Name**

This section provides that the name of the instrument is the *Primary Industries Legislation (Repeals and Consequential Amendments) Regulations 2024*.

### **Section 2—Commencement**

This section provides for the Regulations to commence on 1 January 2025.

### **Section 3—Authority**

This section provides that the Regulations are made under the following Acts: the *Australian Meat and Live-stock Industry Act 1997*, the *Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997*, the *Competition and Consumer Act 2010*, the *Customs Act 1901*, the *Primary Industries Research and Development Act 1989*, the *Wine Australia Act 2013* and the *Wool Services Privatisation Act 2000*.

### **Section 4—Schedules**

This section gives effect to the repeals and amendments made in the Schedules and provides that other items in a Schedule have effect according to their terms.

### **Schedule 1—Repeals**

This Schedule repeals the whole of the instruments, as set out in the table below, that are redundant upon commencement of the relevant provisions in Schedules 1 and 2 to the *Primary Industries (Consequential Amendments and Transitional Provisions) Act 2024* (the Consequential Act) on 1 January 2025. In most cases, the matters provided for under the repealed regulations continue to be provided for in the *Primary Industries Research and Development Regulations 2024* and rules proposed to be made under the *Primary Industries Levies and Charges Disbursement Act 2024*.

The table below provides which regulations are repealed and how the matters contained within those regulations are dealt with following the commencement of the new modernised legislative framework.

<b>Item to the Schedule</b>	<b>Regulations</b>	<b>What they do</b>	<b>Location in modernised legislation</b>
1	<i>Cotton Research and Development Corporation Regulations 1990</i>	provide for the Cotton Research and Development Corporation (the Cotton R&D Corporation) as a Research and Development Corporation (R&D Corporation);	the Cotton R&D Corporation is continued in existence as an R&D Corporation by the <i>Primary Industries Research and Development Regulations 2024</i> (the PIRD Regulations);
		identify the levies and charges that are attached to the Cotton R&D Corporation;	these matters are provided for in the <i>Primary Industries Levies and Charges Disbursement Act 2024</i> (the Disbursement Act) and the rules proposed to be made under that Act
		prescribe how the gross value of production (GVP) of cotton, for a financial year, is determined	
2	<i>Fisheries Research and Development Corporation Regulations 1991</i>	provide for the Fisheries Research and Development Corporation (the Fisheries R&D Corporation) as an R&D Corporation;	the Fisheries R&D Corporation is continued in existence as an R&D Corporation by the PIRD Regulations;
		identify the levies and charges that are attached to the Fisheries R&D Corporation;	these matters are provided for in the Disbursement Act and the rules proposed to be made under that Act;
		prescribe how the GVP of the fishing industry, Commonwealth managed fisheries and State or Territory managed fisheries, for a financial year, is determined;	
		make provision in respect of the annual report of the Corporation, and its accountability to representative organisations	these matters are continued in operation by the PIRD Regulations
3	<i>Grains Research and Development</i>	provide for the Grains Research and Development Corporation	the Grains R&D Corporation is continued in existence

<b>Item to the Schedule</b>	<b>Regulations</b>	<b>What they do</b>	<b>Location in modernised legislation</b>
	<i>Corporation Regulations 1990</i>	(the Grains R&D Corporation) as an R&D Corporation;  identify the levies that are attached to the Grains R&D Corporation;  prescribe how the GVP of grain, for a financial year, is determined;	as an R&D Corporation by the PIRD Regulations;  these matters are provided for in the Disbursement Act and the rules proposed to be made under that Act;
		make provision in respect of the accounting records that the Corporation must keep under the <i>Primary Industries Research and Development Act 1989</i> (the PIRD Act)	these matters are continued in operation by the PIRD Regulations
4	<i>Rural Industries Research and Development Corporation Regulations 2000</i>	specify primary industries in respect of which the Rural Industries Research and Development Corporation (Rural Industries R&D Corporation) is established;  identify the levies and charges that are attached to the Rural Industries R&D Corporation;  prescribe how the GVP of the produce of those primary industries, for a financial year, is determined;	these matters are provided for in the Disbursement Act and the rules proposed to be made under that Act;
		make provision in respect of the expenditure of money in relation to those primary industries;	these matters are generally provided for in the Disbursement Act and the rules proposed to be made under that Act;
		make provision in respect of the accounting records that the Rural Industries R&D Corporation must keep under the PIRD Act	these matters are generally continued in operation by the PIRD Regulations

<b>Item to the Schedule</b>	<b>Regulations</b>	<b>What they do</b>	<b>Location in modernised legislation</b>
5	<i>Wool Services Privatisation (Miscellaneous Provisions) Regulations 2000</i>	prescribe the levies and charges for the purposes of the definition of <b>wool levy</b> for the <i>Wool Services Privatisation Act 2000</i> (the WSP Act);  prescribe how the GVP of eligible wool produced in Australia, in a financial year, is calculated	these matters are provided for in the Disbursement Act and the rules proposed to be made under that Act
6	<i>Wool Services Privatisation (Wool Levy Poll) Regulations 2003</i>	set out requirements for the conduct of a poll under section 32 of the WSP Act in relation to the rate of wool levy	these matters are provided for by instruments proposed to be made under the <i>Primary Industries (Excise) Levies Act 2024</i> and the <i>Primary Industries (Customs) Charges Act 2024</i>

## **Schedule 2—Consequential amendments**

This Schedule makes amendments to the regulations below, which are consequential to, and support the transition to, the commencement of the modernised legislative framework.

### ***Amendments to the Australian Meat and Live-stock Industry Regulations 2023***

#### **Item 1 – Section 1**

Item 1 of Schedule 2 omits “*Australian Meat and Live-stock Industry Regulations 2023*” and substitutes “*Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Regulations 2024*”.

This amendment updates the name of the instrument to reflect that it will only specify matters for the purposes of the *Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997* (the AMLI Repeals and Consequential Provisions Act) on commencement.

#### **Item 2 —Sections 3 and 4**

Item 2 of Schedule 2 repeals sections 3 and 4 of the *Australian Meat and Live-stock Industry Regulations 2023* (the AMLI Regulations) and substitutes new section 3 which provides that the instrument is made under the AMLI Repeals and Consequential Provisions Act.

The effect of this amendment is to provide that the new legislative authority for the instrument is the AMLI Repeals and Consequential Provisions Act, which is not being repealed.

The AMLI Regulations were originally made under both the *Australian Meat and Live-stock Industry Act 1997* (the AMLI Act) and the AMLI Repeals and Consequential Provisions Act.

This amendment is consequential to the repeal of the AMLI Act by the Consequential Act.

### **Item 3—Parts 2 and 3**

Item 3 of Schedule 2 repeals Parts 2 and 3 of the AMLI Regulations. In most cases, the matters provided for under the repealed parts continue to be provided for in the modernised legislative framework.

Part 2 of the AMLI Regulations prescribed certain animals as live-stock for the AMLI Act. The Disbursement Act, and the rules proposed to be made under that Act, provide for the declaration of bodies as meat and live-stock bodies and prescribe primary industries or parts of primary industries in relation to those bodies. Rules proposed to be made under the Disbursement Act also contain a definition of live-stock.

Part 2 of the AMLI Regulations also prescribes various industry bodies for the purposes of section 59 of the AMLI Act. That section provides that the Minister must, in exercising Ministerial powers under Part 3 of that Act, have regard to any broad policies formulated jointly by prescribed bodies.

The rules proposed to be made under the Disbursement Act require the Minister to continue to have regard to the industry policies of the same bodies in declaring meat and live-stock bodies.

Part 3 of the AMLI Regulations prescribes how the Gross Value of Production (GVP) of the live-stock industry, for a financial year, is to be determined. It also specifies certain payments that can be made by the industry marketing body or the industry research body (currently Meat & Livestock Australia Limited) from amounts paid to it under the AMLI Act, in addition to payments for marketing and promotion, or research and development.

These matters are provided for by the Disbursement Act, and rules proposed to be made under that Act.

### ***Amendments to the Competition and Consumer (Industry Codes—Dairy) Regulations 2019***

#### **Item 4—Section 5 (definition of *Agriculture Minister*)**

Item 4 of Schedule 2 omits “*Dairy Produce Act 1986*” from the definition of ***Agriculture Minister*** in section 5 of the *Competition and Consumer (Industry Codes—Dairy) Regulations 2019* (the Industry Codes—Dairy Regulations) and substitutes “*Primary Industries Levies and Charges Collection Act 2024*”

This item updates the reference from the *Dairy Produce Act 1986* (the Dairy Produce Act) to the *Primary Industries Levies and Charges Collection Act 2024* (the Collection Act) as a consequence of the repeal of the Dairy Produce Act by the Consequential Act.



### **Item 5—Section 5 (definition of *milk*)**

Item 5 of Schedule 2 repeals the definition of milk in section 5 of the Industry Codes—Dairy Regulations and substitutes a new definition. The new definition provides that ***milk*** means the lacteal fluid product: (a) of the dairy cow; and (b) that is unprocessed.

This item substitutes a new definition of milk that does not refer to the Dairy Produce Act that is repealed by the Consequential Act. The new definition of milk would have the same meaning in effect as the repealed definition.

### ***Amendments to the Competition and Consumer (Industry Codes—Horticulture) Regulations 2017***

#### **Item 6—Subclause 39(1) of Schedule 1**

Item 6 of Schedule 2 omits “*Horticulture Marketing and Research and Development Services Act 2000*” from Schedule 1 to the *Competition and Consumer (Industry Codes—Horticulture) Regulations 2017* (Industry Codes—Horticulture Regulations) and substitutes “*Primary Industries Levies and Charges Collection Act 2024*”.

Subclause 39(1) of the Schedule 1 to the Industry Codes—Horticulture Regulations provides for the Minister administering certain legislation to appoint a mediation adviser.

This item updates the reference from the *Horticulture Marketing and Research and Development Services Act 2000* (the HMRDS Act) to the Collection Act because of the repeal of the HMDRS Act by the Consequential Act.

### ***Amendment to the Customs (Prohibited Imports) Regulations 1956***

#### **Item 7—Subregulation 4K(8) (definition of *responsible Minister*)**

Item 7 of Schedule 2 omits “*Primary Industries Levies and Charges Collection Act 1991*” from the definition of ***responsible Minister*** in subregulation 4K(8) of the *Customs (Prohibited Imports) Regulations 1956* (the Prohibited Imports Regulations) and substitutes “*Primary Industries Levies and Charges Collection Act 2024*”.

The definition of ***responsible Minister*** in subregulation 4K(8) of the Prohibited Imports Regulations means the Minister administering certain legislation. The regulation relates to matters prescribed for the importation of woolpacks.

This item updates the reference from the *Primary Industries Levies and Charges Collection Act 1991* to the Collection Act because of the repeal of the *Primary Industries Levies and Charges Collection Act 1991* by the Consequential Act.

## ***Amendments to the Wine Australia Regulations 2018***

### **Item 8—At the end of Part 2**

Item 8 of Schedule 2 adds at the end of Part 2 in the *Wine Australia Regulations 2018* (the Wine Australia Regulations) a new section “6B Grapes research levy, wine export charge and wine grapes levy”.

Subsection 6B(1) provides that for the purposes of the definition of **grapes research levy** in subsection 4(1) of the Act, a prescribed provision is Division 68 of Part 2-4 of Schedule 2 to the *Primary Industries (Excise) Levies Regulations 2024* (the Levies Regulations).

Subsection 6B(2) provides that for the purposes of the definition of **wine export charge** in subsection 4(1) of the Act, a prescribed provision is Division 70 of Part 2-4 of Schedule 2 to the *Primary Industries (Customs) Charges Regulations 2024* (the Charges Regulations).

Subsection 6B(3) provides that for the purposes of the definition of **wine grapes levy** in subsection 4(1) of the Act, a prescribed provision is Division 69 of Part 2-4 of Schedule 2 to the Levies Regulations.

The purpose of this item is to prescribe the provisions of the Levies Regulations and the Charges Regulations that impose the relevant levies and charges for the purposes of the grapes research levy, wine export charge and wine grapes levy defined in the *Wine Australia Act 2013*.

This amendment is consequential to amendments made to the *Wine Australia Act 2013* by the Consequential Act.

### **Item 9—In the appropriate position in Part 10**

Item 9 of Schedule 2 inserts a new Division 3 in Part 10 of the Wine Australia Regulations, “Division 3—Transitional provisions relating to the *Primary Industries Legislation (Repeals and Consequential Amendments) Regulations 2024*” and a new section “120 Transitional provisions”.

New section 120 provides that Division 2 of Part 3 of the Wine Australia Regulations applies on and after the commencement of this section as if a reference to wine export charge included a reference to charge imposed by Schedule 13 to the former *Primary Industries (Customs) Charges Act 1999* (the former Charges Act).

Division 2 of Part 3 of the Wine Australia Regulations relates to export licences and deals with matters such as the grant of a licence to export grape products from Australia; determining whether an applicant meets the fit and proper person test for grant of a licence; the period a licence is in force; information the Authority may request from a licence; and suspension and cancellation of a licence.

The purpose of this item is to insert a transitional provision to ensure that references to a wine export charge include a reference to charge imposed by Schedule 13 to the former Charges Act. For example, for the purposes of determining whether a person meets the fit and proper person test for the grant of a licence, an element of which is that any wine export charge that

is due and payable by the applicant, or an associate of the applicant, has been paid, the reference to wine export charge includes both a reference to charge imposed by Schedule 13 to the former Charges Act as well as wine export charge as defined in the *Wine Australia Act 2013*.

**AUTHORISING PROVISIONS**

The provisions of the following Acts provide that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to each of the below the Acts.

The following provisions of each of the following Acts may be relevant:

- Section 74 of the *Australian Meat and Live-stock Industry Act 1997*
- Section 9 of the *Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997*
- Section 172 of the *Competition and Consumer Act 2010*
- Section 270 of the *Customs Act 1901*
- Section 149 of the *Primary Industries Research and Development Act 1989*
- Section 46 of the *Wine Australia Act 2013*
- Section 39 of the *Wool Privatisation Act 2000*

## Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*  
*Primary Industries Legislation (Repeals and Consequential Amendments) Regulations 2024*

This disallowable 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 Legislation (Repeals and Consequential Amendments) Regulations 2024* (the Regulations) is to:

- repeal regulations that are, or would become, redundant upon commencement of the relevant provisions in Schedules 1 and 2 to the *Primary Industries (Consequential Amendments and Transitional Provisions) Act 2024*;
- make consequential amendments to regulations to reflect the amendments made by that Act; and
- support transitional arrangements to the modernised agricultural levies and charges legislative framework.

This legislative instrument commences on 1 January 2025.

### Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

### Conclusion

The legislative instrument is compatible with the human rights as it does not raise any human rights issues.

**The Hon. Julie Collins**

**Minister for Agriculture, Fisheries and Forestry**