

EXPLANATORY STATEMENT

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

Primary Industries Research and Development Act 1989

Primary Industries Research and Development Regulations 2024

Legislative Authority

The *Primary Industries Research and Development Act 1989* (the Act) provides for, among other things, the establishment and governance of research and development corporations. Section 149 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, 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.

Section 4 of the *Acts Interpretation Act 1901* provides authority for the Governor-General to make the regulations after enactment, but before the commencement of amendments made to the Act. The *Primary Industries Research and Development Regulations 2024* (the Regulations) prescribe matters permitted by the 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 continue in existence certain corporations as research and development corporations (R&D Corporations) that are in regulations repealed by the *Primary Industries Legislation (Repeals and Consequential Amendments) Regulations 2024* (the Repeals Regulations). The Regulations also continue in operation certain accountability measures and accounting requirements for some of those R&D Corporations and the Rural Industries Research and Development Corporation (Rural Industries R&D Corporation). Remaining matters from the repealed regulations will generally be provided for in the *Primary Industries Levies and Charges Disbursement Act 2024* (the Disbursement Act) and rules proposed to be made under that Act.

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 (commonly known as R&D Corporations) 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.

Four of the recipient bodies that invest in research and development and marketing are established as R&D Corporations under the Act or regulations made under the Act. These R&D Corporations include the Cotton Research and Development Corporation, Fisheries Research and Development Corporation, Grains Research and Development Corporation and Rural Industries Research and Development Corporation.

The Regulations include references to matters intended to be provided in Minister's rules under the Disbursement Act.

Impact and effect

The Regulations consolidate regulations made under the Act and work in conjunction with the modernised legislative framework to better support industries' needs in the future.

The Regulations operate with the *Primary Industries (Excise) Levies Regulations 2024* made under the *Primary Industries (Excise) Levies Act 2024*; the *Primary Industries (Customs) Charges Regulations 2024* 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

The Regulations are informed by extensive consultation by the Department of Agriculture, Fisheries and Forestry (the department) with industry groups, levy payers, collection agents, bodies that receive levy and charge funding, and the public.

- 2017-18: The department reviewed the agricultural levies and charges legislative framework and undertook targeted consultation with approximately 70 stakeholder groups.
- 2019-20: The department released the 'Streamlining and modernising agricultural levies legislation – early assessment regulation impact statement' for public consultation.
- 2021-22: The department conducted further consultation with industry representatives and bodies that receive levy and charge funding (industry-owned and statutory R&D Corporations), Animal Health Australia and Plant Health Australia.
- 2023: Public consultation occurred on the draft Bills and a sample of the delegated legislation.
- 2024: Public consultation occurred on key draft delegated legislation. Relevant R&D Corporations were consulted on the draft Regulations.

Consultation on the modernised legislative framework also occurred with relevant Commonwealth agencies during the development of the legislation, including the Attorney-General's Department, the Australian Bureau of Statistics, the Australian Public Service Commission, the Department of Finance, the Department of the Prime Minister and Cabinet,

the Federal Court of Australia, the Federal Circuit and Family Court of Australia, the Office of the Australian Information Commissioner and the Treasury.

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 B.

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 Research and Development Regulations 2024*

The *Primary Industries Research and Development Regulations 2024* (the Regulations) are made up of two parts: Part 1 contains preliminary provisions relating to general matters and definitions; Part 2 contains matters relating to research and development corporations (R&D Corporations).

Part 1—Preliminary

Section 1—Name

This section provides that the name of the instrument is the *Primary Industries Research and Development 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 *Primary Industries Research and Development Act 1989* (the Act).

Section 4—Definitions

This section provides key definitions of terms used in the Regulations.

Part 2—Research and development corporations

Section 5—Continuing in existence research and development corporations

Section 8 of the Act enables the regulations to establish or continue in existence a research and development corporation.

Subsection 5(1) of the Regulations provides that, for the purposes of paragraph 8(b) of the Act, the body known immediately before the commencement of this subsection as the Cotton Research and Development Corporation (the Cotton R&D Corporation) continues in existence with the same name.

Subsection 5(2) of the Regulations provides that, for the purposes of paragraph 8(b) of the Act, the body known immediately before the commencement of this subsection as the Fisheries Research and Development Corporation (the Fisheries R&D Corporation) continues in existence with the same name.

Subsection 5(3) of the Regulations provides that, for the purposes of paragraph 8(b) of the Act, the body known immediately as the Grains Research and Development Corporation (the Grains R&D Corporation) continues in existence with the same name.

These R&D Corporations were established respectively under the *Cotton Research and Development Corporation Regulations 1990*, the *Fisheries Research and Development Corporation Regulations 1990* and the *Grains Research and Development Corporation Regulations 1990*. Those regulations are repealed by the *Primary Industries Legislation (Repeals and Consequential Amendments) Regulations 2024* (the Repeals Regulations). This section continues in existence research and development corporations established in regulations that are repealed by the Repeals Regulations.

Section 6—Fisheries Research and Development Corporation

Subsection 6(1) of the Regulations prescribes the fishing industry as a prescribed primary industry for the purposes of paragraph 28(d) of the Act. This requires the annual report prepared by directors of the Fisheries R&D Corporation and given to the Minister under section 46 of the *Public, Governance, Performance and Accountability Act 2013* to include, in respect of the fishing industry, particulars of sources and expenditure of funds. This includes commodity, cross commodity and regional classifications; and funds derived from transfer of assets, debts, liabilities and obligations under section 144 of the Act.

Subsection 6(2) of the Regulations prescribes the fishing industry as a prescribed primary industry for the purposes of subparagraph 29(b)(iii) of the Act.

Section 29 of the Act requires the Chairperson of an R&D Corporation to, as soon as practicable after the Corporation's annual report has been submitted to the Minister, provide copies of the report to each of the Corporation's representative organisations, and make arrangements with each of those organisations to attend the organisation's annual conference, or a meeting of the organisation's executive for the Chairperson to enable the annual report to be considered and to deliver an address in relation to the Corporation's activities and intended activities, in respect of prescribed industries, particulars of sources and expenditure of funds. Subsection 6(2) of the Regulations holds the Chairperson of the Fisheries R&D Corporation accountable to the Corporation's representative organisations by requiring the Chairperson to deliver an address in relation to particulars of sources and expenditure of funds of the fishing industry.

This section continues in operation certain accountability measures provided for under sections 5 and 6 of the *Fisheries Research and Development Corporation Regulations 1991*, which is repealed by the Repeals Regulations.

Section 7—Grains Research and Development Corporation

Section 7 of the Regulations requires that, for the purposes of paragraph 40(a) of the Act, the Grains R&D Corporation must keep separate accounting records of the funding of research and development activities carried out:

- in accordance with a joint venture agreement; or
- by a subsidiary of that Corporation.

Paragraph 40(a) of the Act provides that the regulations may require an R&D Corporation to keep separate accounting records in relation to the funding of specified classes of activities.

This section continues in operation certain accounting requirements provided for in section 7 of the *Grains Research and Development Corporation Regulations 1990*, which is repealed by the Repeals Regulations.

Section 8—Rural Industries Research and Development Corporation

Section 40 of the Act provides that the regulations may (a) require an R&D Corporation to keep separate accounting records in relation to the funding of specified classes of activities and (b) specify the amounts to be credited and debited in the accounting resources and the manner in which the amounts are to be calculated.

Subsection 8(1) of the Regulations provides that for the purposes of paragraph 40(a) of the Act, the Rural Industries R&D Corporation is required to keep separate accounting records of the funding of research and development activities for each primary industry set out in column 1 of the table below.

Subsection 8(2) of the Regulations requires, for the purposes of paragraph 40(b) of the Act, each of those accounting records to credit:

- amounts paid to the Rural Industries R&D Corporation under subsection 15(1) of the *Primary Industries Levies and Charges Disbursement Act 2024* (the Disbursement Act) that are equal to the research and development collected amount within the meaning of the Disbursement Act and relate to the levy or charge covered by column 2 of the applicable item of the table;
- amounts received by that Corporation as contributions to the cost of research and development activities relating to the primary industry identified in column 1 of the table;
- amounts received by that Corporation:
 - from the sale of property paid for by money spent by that Corporation under section 33 of the Act, or section 22 of the Disbursement Act, on research and development activities relating to that industry; or
 - from the sale of property produced in the course of carrying out research and development activities relating to that industry; or
 - from dealings in patents or other intellectual property arising from the carrying out of research and development activities relating to that industry; or
 - for work paid for by money spent by that Corporation under section 33 of the Act, or section 22 of the Disbursement Act, on research and development activities relating to that industry;
- amounts paid to that Corporation as interest on any of those amounts.

Subsection 8(3) of the Regulations requires for the purposes of paragraph 40(b) of the Act, those accounting records to debit all amounts spent by that Corporation under section 33 of the Act, or section 22 of the Disbursement Act, relating to each primary industry set out in column 1 of the table below.

This section continues in operation and consolidates certain accounting matters provided for under the *Rural Industries Research and Development Corporation Regulations 2000*, which are repealed by the Repeals Regulations.

Accounting records			
Item	Column 1 Industry	Column 2 Levy or charge	Column 3 Common name of levy or charge
1	The buffalo industry	Levy imposed by subclause 8-1(1) of Schedule 1 to the Levies Regulations Charge imposed by subclause 8-1(1) of Schedule 1 to the Charges Regulations	Buffalo slaughter levy Buffalo export charge
2	The deer industry	Levy imposed by subclause 10-1(1) of Schedule 1 to the Levies Regulations	Deer slaughter levy
3	The fodder industry	Charge imposed by subclause 72-1(1) of Schedule 2 to the Charges Regulations	Fodder export charge
4	The ginger industry	Levy imposed by subclause 46-1(1) of Schedule 2 to the Levies Regulations	Ginger levy
5	The goat fibre industry	Levy imposed by subclause 17-1(1) of Schedule 1 to the Levies Regulations	Goat fibre levy
6	The honeybee industry	Levy imposed by subclause 3-1(1) or (2) of Schedule 1 to the Levies Regulations Charge imposed by clause 3-1 of Schedule 1 to the Charges Regulations	Honey levy Honey export charge
7	The macropod industry	Levy imposed by subclause 22-1(1) of Schedule 1 to the Levies Regulations	Macropod processing levy
8	The meat chicken industry	Levy imposed by subclause 6-1(1) of Schedule 1 to the Levies Regulations	Meat chicken levy
9	The ostrich industry	Levy imposed by subclause 23-1(1) of Schedule 1 to the Levies Regulations	Ratite slaughter levy
10	The pasture seed industry	Levy imposed by subclause 27-1(1) of Schedule 2 to the Levies Regulations	Pasture seed levy
11	The queen bee breeding industry	Levy imposed by subclause 2-1(1) of	Queen bee levy

Accounting records			
Item	Column 1 Industry	Column 2 Levy or charge	Column 3 Common name of levy or charge
		Schedule 1 to the Levies Regulations Charge imposed by subclause 2-1(1) of Schedule 1 to the Charges Regulations	Queen bee export charge
12	The rice industry	Levy imposed by subclause 28-1(1) of Schedule 2 to the Levies Regulations	Rice levy
13	The tea tree oil industry	Levy imposed by subclause 74-1(1) of Schedule 2 to the Levies Regulations Charge imposed by subclause 74-1(1) of Schedule 2 to the Charges Regulations	Tea tree oil levy Tea tree oil export charge
14	The thoroughbred horse industry	Levy imposed by subclause 12-6(1) or (2) of Schedule 1 to the Levies Regulations	Thoroughbred horse levy

Statement of Compatibility with Human Rights

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

Primary Industries Research and Development 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 Research and Development Regulations 2024* (the Regulations), is to:

- continue in existence certain corporations as research and development corporations (R&D Corporations); and
- continue in operation certain accountability measures and accounting requirements for some of those corporations and the Rural Industries Research and Development Corporation.

The *Primary Industries Legislation (Repeals and Consequential Amendments) Regulations 2024* (Repeals Regulations) repeal a number of regulations made under the Act. The Regulations continue in existence certain corporations established as R&D Corporations in regulations to be repealed by the Repeals Regulations and continue in operation certain matters in those regulations to be repealed. The remaining matters from the repealed regulations will generally be provided for in the *Primary Industries Levies and Charges Disbursement Act 2024* and rules proposed to be made under that Act.

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 raise any human rights issues.

The Hon. Julie Collins

Minister for Agriculture, Fisheries and Forestry