

Primary Industries Levies and Charges Collection (Almond) Regulations 1997 No. 335

EXPLANATORY STATEMENT

Statutory Rules 1997 No. 335

Issued by the Authority of the Minister for Primary Industries and Energy

Primary Industries Levies and Charges Collection Act 1991

Horticultural Levy Act 1987

Horticultural Export Charge Act 1987

Primary Industries Levies and Charges Collection (Almond) Regulations

The Governor-General may make regulations to impose levies and export charges on classes of horticultural products under subsection 14(1) of both the *Horticultural Levy Act 1987* (the Levy Act) and the *Horticultural Export Charge Act 1987* (the Export Charge Act). The Governor-General may also make regulations to provide for the collection of levy and export charge under subsection 30(1) of the *Primary Industries Levies and Charges Collection Act 1991* (the Collection Act). Section 6 of both the Levy and Export Charge Acts provides for the imposition of levy and export charge on horticultural products.

The Regulations impose a statutory levy and export charge on the almond industry, at the industry's request, under section 6 of both the Levy and the Export Charge Acts. The levy and export charge is set at a rate of.

- (a) 1 cent per kilogram for almonds, except almonds of the Nonpareil variety, in their shells;
- (b) 1.5 cents per kilogram for Nonpareil almonds in their shells; and
- (c) 2 cents per kilogram for shelled almonds.

Funds raised under the arrangements will be directed to the Horticultural Research and Development Corporation (HRDC) to be matched by the Government and used to support jointly funded research and development (R&D).

The Regulations also provide for the manner of payment of levy and export charge, the provision of returns by persons who must lodge an annual return for almond levy and export charge and the keeping of records.

Background

Section 9 of both the Levy and Export Charge Acts provides that regulations may fix a rate of levy and export charge in respect of the HRDC. The Regulations set a levy rate and export charge rate of 1 cent per kilogram for almonds, except almonds of the Nonpareil variety, in their shells; 1.5 cents per kilogram for almonds of the Nonpareil variety in their shells and 2 cents per kilogram for shelled almonds.

Subsection 14(4) of both the Levy and Export Charge Acts require the Governor-General to take into account any recommendation to the Minister for Primary Industries and Energy from the HRDC before making regulations to fix a rate of levy and export charge, or to exempt subclasses of horticultural product or classes of producers from levy or export charge.

Subsection 14(7) of the Levy and Export Charge Acts require the HRDC to consult with the body that is the eligible industry body for the relevant horticultural product before recommending rates of levy and export charge to the Minister for Primary Industries and Energy.

Subsection 14(8) of the Levy and Export Charge Acts require that a recommendation made by the HRDC to the Minister for Primary Industries and Energy be accompanied by a written statement of the views of the industry body consulted in relation to the recommendation.

Section 15 of the Regulations prescribe the Australian Almond Growers' Association Incorporated (AAGA) as the eligible industry body with which the HRDC must consult in relation to almonds.

The HRDC recommended the rate of levy and export charge to the Minister for Primary Industries and Energy after consultation with the AAGA. The Regulations give effect to the recommendations of the HRDC, which are consistent with the industry request.

Subsections 7(1), (2) and (3) of the Collection Act provide that intermediaries are liable to pay any levy and export charge that remains unpaid by the producer.

The Regulations prescribe almonds as a product for the purposes of the definition of producer in subsection 4(1) of the Collection Act. This allows collection of levy and export charge by intermediaries such as first purchasers who purchase almonds, buying and selling agents who trade in almonds and exporters and exporting agents who export almonds.

Section 8 of the Collection Act allows the intermediaries to deduct amounts paid from proceeds to the producer.

The Regulations commenced on 1 January 1998.