EXPLANATORY STATEMENT

Select Legislative Instrument 2007 No. 262

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

Primary Industries (Excise) Levies Act 1999

Primary Industries (Excise) Levies Amendment Regulations 2007 (No. 9)

Section 8 of the Primary Industries (Excise) Levies Act 1999 (the 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.

The Levies Act provides for a range of levies on specified primary industry products. Clause 2 of Schedule 27 to the Levies Act provides that the regulations may impose a levy on one or more specified products in circumstances ascertained in accordance with the regulations. Subclause 14 (2) of Schedule 27 to the Levies Act provides that if there is a body designated in relation to a particular product, and before the Governor-General makes regulations, the portfolio Minister must take into consideration any relevant recommendation made to the Minister by the designated industry body.

The Regulations provide a mechanism to enable certain plant industries to fund their share of the costs of responding to emergency plant pests and diseases under the Government and Plant Industry Cost Sharing Deed in Respect of Emergency Plant Pest Responses, also referred to as the Emergency Plant Pest Response Deed (EPPRD).

The Regulations also make some minor corrections and clarifications to the Levies Regulations.

The EPPRD commenced on 26 October 2005. The parties to the EPPRD are the Australian Government, the state and territory governments and plant industries. Under the EPPRD, the Australian Government, relevant state and territory governments and affected plant industry members will share the eligible costs incurred in responding to emergency plant pests and diseases. The Australian Government has agreed to underwrite industry liabilities under the EPPRD. In turn, the EPPRD requires plant industry parties to have a funding mechanism in place that would enable them to repay the Australian Government in the event that the Government underwrites the industry parties’ shares of the costs of a response to a categorised plant disease affecting their production crops.

The Levies Regulations impose Emergency Plant Pest Response (EPPR) levies set at a zero operative rate on the cotton, almond, avocado, cherry, citrus, dried vine fruit, macadamia nut, mango, rice, strawberry, and wine grapes industries. As appropriate, these levies could be activated to a positive rate, following further industry consultation, to repay Government underwriting of affected industries’ share of the costs of an EPPR, or for other emergency plant pest-related purposes such as surveillance.

The Regulations also impose EPPR levies set at 0.005% of the value of leviable grains (coarse grain, grain legumes, oilseeds and wheat). This enables the grains industry to repay its
obligations to the Australian Government which in 2007 underwrote the grains industries’ share of the costs of the Khapra Beetle Eradication Programme in accordance with the provisions of the EPPRD. Following this, the levy will continue indefinitely and be used for emergency plant pest purposes and provide reserves for future emergency responses.

Details of the Regulations are contained in the Attachment.

The Regulations are a legislative instrument for the purposes of the Legislative Instruments Act 2003.

The Office of Best Practice Regulation has advised that the preparation of a Business Cost Calculator or a Regulation Impact Statement is not mandatory (OBPR ID: 2007/9284).

In accordance with the Government’s Levy Guidelines and Principles, levy payers within relevant industries have been consulted on the imposition of EPPR levies. Following consultation, the relevant representative industry organisations (Almond Board of Australia, Avocados Australia, Cherry Growers Australia, Australian Citrus Growers, Australian Cotton Growers Research Association, Australian Dried Fruit Association, Grains Council of Australia, Winemakers Federation of Australia, Australian Macadamia Society, Australian Mango Industry Association, Ricegrowers’ Association of Australia and Strawberries Australia), on behalf of their respective industries, have recommended to the Minister that the EPPR levies be introduced.

The Regulations commence on the day after they are registered.
ATTACHMENT

DETAILS OF THE PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT REGULATIONS 2007 (No. 9).

Regulation 1 provides for the name of the Regulations to be the Primary Industries (Excise) Levies Amendment Regulations 2007 (No. 9).

Regulation 2 provides for the Regulations to commence on the day after they are registered.

Regulation 3 provides that Schedule 1 will amend the Primary Industries (Excise) Levies Regulations 1999.

SCHEDULE 1 AMENDMENTS

Item 1 inserts a definition of “EPPR levy” in order to clarify that EPPR levy is described in the Plant Health Australia (Plant Industries) Funding Act 2002, rather than in the primary legislation, the Primary Industries (Excise) Levies Act 1999 (the Levies Act).

Coarse grain

Items 2 and 3 divide Schedule 4 into two parts through the insertion of new titles after the heading in Schedule 4 and after clause 4 of Schedule 4. The first part of Schedule 4, Product levy, retains the existing provisions relating to levy on coarse grain imposed under Schedule 4 to the Levies Act. The second part of Schedule 4, Special purpose levies, deals with levies imposed on coarse grain under clause 2 of Schedule 27 to the Levies Act. This part retains the existing provisions relating to PHA levy (used to fund subscriptions for membership of Plant Health Australia) and contains the new provisions for EPPR levy.

Item 4 inserts a new note after subclause 5(4) of Schedule 4. This provides an explanation of PHA levy by referencing the relevant legislation, the Plant Health Australia (Plant Industries) Funding Act 2002 (the PHA Act).

Item 5 inserts a new clause 6 that establishes the new EPPR levy on coarse grain and specifies the authority under which the levy is imposed, the rate of levy (0.005% of the sale value, except for popping corn which is exempt from the EPPR levy) and who pays the levy. This item also inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

Cotton

Items 6 and 7 divide Schedule 5 into two parts through the insertion of new titles after the heading in Schedule 5 and after clause 1 of Schedule 5. The first part of Schedule 5, Product levy, retains the existing provisions relating to levy on cotton imposed under Schedule 5 to the Levies Act. The second part of Schedule 5, Special purpose levies, deals with levies imposed on cotton under clause 2 of Schedule 27 to the Levies Act. This part retains the existing provisions relating to PHA levy and contains the new provisions for EPPR levy.

Item 8 inserts a new note after subclause 2(3) of Schedule 5. This provides an explanation of PHA levy by referencing the PHA Act.
Item 9 inserts a new clause 3 that establishes the new EPPR levy on cotton, and specifies the authority under which the levy is imposed, the rate of levy (nil) and who pays the levy. This item also inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

**Grain legumes**

Items 10 and 11 divide Schedule 12 into two parts through the insertion of new titles after the heading in Schedule 12 and after clause 4 of Schedule 12. The first part of Schedule 12, Product levy, retains the existing provisions relating to levy on grain legumes imposed under Schedule 12 to the Levies Act. The second part of Schedule 12, Special purpose levies, deals with levies imposed on grain legumes under clause 2 of Schedule 27 to the Levies Act. This part retains the existing provisions relating to PHA levy and contains the new provisions for EPPR levy.

Item 12 inserts a new note after subclause 5(2) of Schedule 12. This provides an explanation of PHA levy by referencing the PHA Act.

Item 13 inserts a new clause 6 that establishes the new EPPR levy on grain legumes and specifies the authority under which the levy is imposed, the rate of levy (0.005% of the value) and who pays the levy. This item also inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

**Grapes (Wine grape grower levies on wine grapes)**

Item 14 inserts a definition for “prescribed goods” that references Schedule 13 to the Levies Act. A note to the definition outlines that prescribed goods include fresh grapes, dried grapes and grape juice, whether single strength or concentrated.

Item 15 inserts a new note after subclause 2(3) of Schedule 13. This will provide an explanation of PHA levy by referencing the PHA Act.

Item 16 inserts a new clause 3 that establishes the new EPPR levy on grapes and specifies the authority under which the levy is imposed, the rate of levy (nil) and who pays the levy. This item also inserts a new note which provides an explanation of EPPR levy by referencing the relevant Act, the PHA Act.

**Horticultural products**

Item 17 omits the definition of “levy” from Schedule 15, Part 1, clause 1.1. This definition is redundant as levy is defined in clause 1.1 of Part 1 of Schedule 22 to the Primary Industries Levies and Charges Collection Regulations 1991 (the Collection Regulations).

**Horticultural products - almonds**

Items 18 and 19 create two divisions to Part 2 of Schedule 15 through the insertion of new titles after the heading in Schedule 15, Part 2 and after clause 2.5 of Schedule 15, Part 2. The first division (Division 2.1, Product levy) retains the existing provisions relating to levy on almonds imposed under Schedule 15 to the Levies Act. Division 2.2, Special purpose levies, deals with levies imposed on almonds under clause 2 of Schedule 27 to the Levies Act. This part contains the new provisions for EPPR levy.

Item 19 also inserts a new clause 2.6 that establishes the new EPPR levy on almonds and specifies the authority under which the levy is imposed, the rate of levy (nil) and who pays the
levy. In addition, this item inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

**Horticultural products - avocados**

**Items 20 and 21** create two divisions to Part 4 of Schedule 15 through the insertion of new titles after the heading in Schedule 15, Part 4 and after clause 4.5 of Schedule 15, Part 4. The first division (Division 4.1, Product levy) retains the existing provisions relating to levy on avocados imposed under Schedule 15 to the Levies Act. Division 4.2, Special purpose levies, deals with levies imposed on avocados under clause 2 of Schedule 27 to the Levies Act. This part contains the new provisions for EPPR levy.

**Item 21** also inserts a new clause 4.6 that establishes the new EPPR levy on avocados and specifies the authority under which the levy is imposed, the rate of levy (nil) and who pays the levy. In addition, this item inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

**Horticultural products - cherries**

**Items 22 and 23** create two divisions to Part 5 of Schedule 15 through the insertion of new titles after the heading in Schedule 15, Part 5 and after clause 5.5 of Schedule 15, Part 5. The first division (Division 5.1, Product levy) retains the existing provisions relating to levy on cherries imposed under Schedule 15 to the Levies Act. Division 5.2, Special purpose levies, deals with levies imposed on cherries under clause 2 of Schedule 27 to the Levies Act. This part contains the new provisions for EPPR levy.

**Item 23** also inserts a new clause 5.6 that establishes the new EPPR levy on cherries and specifies the authority under which the levy is imposed, the rate of levy (nil) and who pays the levy. In addition, this item inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

**Horticultural products - citrus**

**Item 24** creates a new division, Division 7.1 to Part 7 of Schedule 15, through the insertion of a new title, Product levy, after the heading in Schedule 15, Part 7. This new division retains the existing provisions relating to levy on citrus imposed under Schedule 15 to the Levies Act.

**Item 25** omits clause 7.4A of Part 7 of Schedule 15. This removes the existing provisions relating to PHA levy on citrus, in order to allow PHA levy to be included in the new division dealing with special purpose levies and to rationalise the order and numbering of clauses within Schedule 15, Part 7.

**Item 26** creates a new division, Division 7.2 of Part 7 of Schedule 15, through the insertion of a new title, Special purpose levies, after clause 7.5 of Schedule 15, Part 7. This new division deals with levies imposed on citrus under clause 2 of Schedule 27 to the Levies Act. Item 26 inserts a new clause 7.6 that specifies the rate of PHA levy on citrus, the authority under which the levy is imposed and who pays the levy. These provisions are the same as those in the clause that is omitted (7.4A), with the exception of the addition of two notes. The first note provides an explanation of PHA levy by referencing the PHA Act. The second note provides a reference to relevant definitions within Schedule 22 of the Collections Regulations. Item 26 also inserts a new clause 7.7 that establishes the new EPPR levy on citrus and specifies the authority under which the levy is imposed, the rate of levy (nil) and who pays the
levy. In addition, this item inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

**Horticultural products – dried vine fruits (dried grapes)**

**Items 27 and 28** create two divisions to Part 9 of Schedule 15 through the insertion of new titles after the heading in Schedule 15, Part 9 and after clause 9.4 of Schedule 15, Part 9. The first division (Division 9.1, Product levy) retains the existing provisions relating to levy on dried fruits imposed under Schedule 15 to the Levies Act. Division 9.2, Special purpose levies, deals with levies imposed on dried fruits under clause 2 of Schedule 27 to the Levies Act. This part contains the new provisions for EPPR levy.

**Item 28** inserts a new clause 9.5 that establishes the new EPPR levy on dried vine fruits and specifies the authority under which the levy is imposed, the rate of levy (nil) and who pays the levy. In addition, this item inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

**Horticultural products – macadamia nuts**

**Item 29** creates a new division, Division 10.1 of Part 10 of Schedule 15, through the insertion of a new title, Product levy, after the heading in Schedule 15, Part 10. This new division retains the existing provisions relating to levy on macadamia nuts imposed under Schedule 15 to the Levies Act.

**Item 30** creates a new division, Division 10.2 of Part 10 of Schedule 15, through the insertion of a new title, Special purpose levies, after clause 10.5 of Schedule 15, Part 10. Item 27 also inserts a new clause 10.6 that establishes the new EPPR levy on macadamia nuts and specifies the authority under which the levy is imposed, the rate of levy (nil) and who pays the levy. In addition, this item inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

**Horticultural products – strawberries**

**Item 31** creates a new division, Division 16.1 to Part 16 of Schedule 15, through the insertion of a new title, Product levy, after the heading in Schedule 15, Part 16. This new division retains the existing provisions relating to levy on strawberries imposed under Schedule 15 to the Levies Act.

**Item 32** omits clause 16.4A of Part 16 of Schedule 15. This removes the existing provisions relating to PHA levy on strawberries, in order to allow PHA levy to be included in the new division dealing with special purpose levies and to rationalise the order and numbering of clauses within Schedule 15, Part 16.

**Item 33** creates a new division, Division 16.2 of Part 16 of Schedule 15, through the insertion of a new title, Special purpose levies, after clause 16.5 of Schedule 15, Part 16. This new division deals with levies imposed on strawberries under clause 2 of Schedule 27 to the Levies Act. Item 33 inserts a new clause 16.6 that specifies the rate of PHA levy on strawberries, the authority under which the levy is imposed and who pays the levy. New subclause 16.6(1) refers to levy “imposed by Schedule 15 to the Levies Act”. This is more accurate than the equivalent subclause to be omitted (16.4A (1)), which refers to levy imposed by clause 16.2 of the Levies Regulations. Subclauses 16.6 (2) and (3) contains the same provisions as the equivalent subclauses which are omitted (16.4A (2) and (3)). Item 33 introduces a note which provides an explanation of PHA levy by referencing the PHA Act.
Item 33 also inserts a new clause 16.7 that establishes the new EPPR levy on strawberries and specifies the authority under which the levy is imposed, the rate of levy (nil) and who pays the levy. In addition, this item inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

Horticultural products – mangoes
Item 34 creates a new division, Division 21.1 of Part 21 of Schedule 15, through the insertion of a new title, Product levy, after the heading in Schedule 15, Part 21. This new division retains the existing provisions relating to levy on mangoes imposed under Schedule 15 to the Levies Act.

Item 35 creates a new division, Division 21.2 of Part 21 of Schedule 15, through the insertion of a new title, Special purpose levies, after clause 21.5 of Schedule 15, Part 21. Item 32 inserts a new clause 21.6 that establishes the new EPPR levy on mangoes and specifies the authority under which the levy is imposed, the rate of levy (nil) and who pays the levy. In addition, this item inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

Oilseeds
Items 36 and 37 create two parts to Schedule 20 through the insertion of new titles after the heading in Schedule 20 and after clause 3 of Schedule 20. The first part of Schedule 20, Product levy, retains the existing provisions relating to levy on oilseeds imposed under Schedule 20 to the Levies Act. The second part of Schedule 20, Special purpose levies, deals with levies imposed on oilseeds under clause 2 of Schedule 27 to the Levies Act. This part retains the existing provisions relating to PHA levy and contains the new provisions for EPPR levy.

Item 38 inserts a new note after subclause 4(3) of Schedule 20. This provides an explanation of PHA levy by referencing the PHA Act.

Item 39 inserts a new clause 5 that establishes the new EPPR levy on oilseeds and specifies the authority under which the levy is imposed, the rate of levy (0.005% of the value) and who pays the levy. This item also inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

Rice
Items 40 and 41 divide Schedule 23 into two parts through the insertion of new titles after the heading in Schedule 23 and after clause 2 of Schedule 23. The first part of Schedule 23, Product levy, retains the existing provisions relating to levy on rice imposed under Schedule 23 to the Levies Act. The second part of Schedule 23, Special purpose levies, deals with levies imposed on rice under clause 2 of Schedule 27 to the Levies Act. This part retains the existing provisions relating to PHA levy (with one change) and contains the new provisions for EPPR levy.

Item 42 removes potential ambiguity by specifying that PHA levy is imposed on rice on which levy is imposed by Schedule 23 to the Levies Act. This replaces previous references to “leviable rice”.

Item 43 inserts a new note after subclause 3(3) of Schedule 23. This provides an explanation of PHA levy by referencing the PHA Act.
**Item 44** inserts a new clause 4 that establishes the new EPPR levy on rice and specifies the authority under which the levy is imposed, the rate of levy (nil) and who pays the levy. This item also inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

**Wheat**  
**Items 45 and 46** divide Schedule 25 into two parts through the insertion of new titles after the heading in Schedule 25 and after clause 4 of Schedule 25. The first part of Schedule 25, Product levy, retains the existing provisions relating to levy on wheat imposed under Schedule 25 to the Levies Act. The second part of Schedule 25, Special purpose levies, deals with levies imposed on wheat under clause 2 of Schedule 27 to the Levies Act. This part retains the existing provisions relating to PHA levy and contains the new provisions for EPPR levy.

**Item 47** inserts a new note after subclause 5(3) of Schedule 25. This provides an explanation of PHA levy by referencing the PHA Act.

**Item 48** inserts a new clause 6 that establishes the new EPPR levy on wheat and specifies the authority under which the levy is imposed, the rate of levy (0.005% of the sale value) and who pays the levy. This item also inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.

**Wine grapes (winemaker levies on wine grapes)**  
**Item 49** creates a new part, Part 1, through the insertion of a new title, Product levy, after the heading in Schedule 26. This new part retains the existing provisions relating to levy on winegrapes imposed under Schedule 26 to the Levies Act.

**Item 50** changes the heading from the singular to the plural in recognition that a second definition is added to clause 1 of Schedule 26.

**Item 51** inserts a definition for “prescribed goods” that references Schedule 26 to the Levies Act. A note to the definition outlines that prescribed goods include fresh grapes, dried grapes and grape juice, whether single strength or concentrated.

**Item 52** creates a new part, Part 2, through the insertion of a new title, Special purpose levies, after clause 4 of Schedule 26.

**Item 53** inserts a new note after subclause 5(3) of Schedule 26. This provides an explanation of PHA levy by referencing the PHA Act.

**Item 54** inserts a new clause 6 that establishes the new EPPR levy on prescribed goods (dried or fresh wine grapes or grape juice used in the manufacture of wine) and specifies the authority under which the levy is imposed, the rate of levy (nil) and who pays the levy. In addition, this item inserts a new note that provides an explanation of EPPR levy by referencing the relevant legislation, the PHA Act.