EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 350

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

Primary Industries (Excise) Levies Act 1999
Primary Industries (Customs) Charges Act 1999

Primary Industries (Excise) Levies Amendment Regulations 2009 (No. 6)
Primary Industries (Customs) Charges Amendment Regulations 2009 (No. 3)

Section 8 of the Primary Industries (Excise) Levies Act 1999 (the Levies Act) and section 8 of the Primary Industries (Customs) Charges Act 1999 (the Charges Act) provide that the Governor-General may make regulations prescribing matters required or permitted by those Acts to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to each Act.

The purpose of the proposed Regulations is to implement a proposal by Australian Macadamia Society Limited (AMS) to increase the macadamia research and development (R&D) levy and export charge and to decrease the macadamia marketing levy and export charge, payable to Horticulture Australia Limited (HAL).

HAL is the relevant industry services body for the administration of the macadamia levy and charge for marketing and R&D. HAL co-ordinates marketing and R&D programs for many horticultural industries and is funded by statutory levies and export charges, voluntary contributions and Australian Government (Government) matching funding for eligible R&D expenditure. This matching funding is provided under the Horticultural Marketing and Research and Development Services Act 2000.

Specifically, the proposed Regulations would:

- increase the macadamia R&D levy and export charge rate by 1.32 cents from 7.25 cents per kilogram of kernel to 8.57 cents per kilogram of kernel; and
- decrease the macadamia marketing levy and export charge rate by 1.32 cents from 17.33 cents per kilogram of kernel to 16.01 cents per kilogram of kernel.

Based on current production, the proposed change would reduce monies collected by the marketing levy and charge by between $180,000 to $200,000 annually, and increase that collected by the macadamia R&D levy and charge by an equal amount. The increase in the R&D levy and charge and the reduction in the marketing levy and charge would offset each other, so that the individual macadamia levy payer’s overall liability of levy and charge paid would not change. The additional R&D monies raised would potentially require the Government to provide approximately $180,000 to $200,000 annually in additional matching funding.
The proposed Regulations would also correct the names of the eligible industry bodies for chestnuts, citrus, dried fruits, potatoes and vegetables.

*Primary Industries (Excise) Levies Regulations 1999*

Subclause 4(1) of Schedule 15 to the Levies Act provides that regulations may fix rates of levy for marketing purposes for leviable horticultural products.

Subclause 4(3) of Schedule 15 to the Levies Act provides that regulations may fix rates of levy for R&D purposes for leviable horticultural products.

Subclause 6(4) of Schedule 15 to the Levies Act provides that before the Governor-General makes regulations to fix rates of levy for marketing, the Minister must take into consideration any relevant recommendations made to the Minister by HAL.

Subclause 6(6) of Schedule 15 to the Levies Act provides that before the Governor-General makes regulations to fix rates of levy for R&D, the Minister must take into consideration any relevant recommendations made to the Minister by HAL.

Subclause 6(7) of Schedule 15 to the Levies Act requires HAL to consult with the body that is the eligible industry body for the relevant horticultural product before recommending rates of levy for marketing to the Minister.

Subclause 6(8) of Schedule 15 to the Levies Act requires HAL to consult with the body that is the eligible industry body for the relevant horticultural product before recommending rates of levy for R&D to the Minister.

Subclause 6(9) of Schedule 15 to the Levies Act requires that a recommendation made by HAL to the Minister be accompanied by a written statement of the views of the industry body consulted in relation to the recommendation.

The *Primary Industries (Excise) Levies Regulations 1999* prescribe AMS as the eligible industry body with which HAL must consult in relation to macadamias. AMS has proposed the changes in the statutory levies and export charges on macadamias to HAL, and HAL has in turn recommended the changes to the Minister. The Regulations give effect to the recommendations of HAL, which are consistent with the macadamia industry's request.

*Primary Industries (Customs) Charges Regulations 2000*

Subclause 3(3) of Schedule 10 to the Charges Act provides that regulations may fix rates of export charge for marketing purposes for leviable horticultural products.

Subclause 3(5) of Schedule 10 to the Charges Act provides that regulations may fix rates of export charge for R&D purposes for leviable horticultural products.

Subclause 5(3) of Schedule 10 to the Charges Act provides that before the Governor-General makes regulations to fix rates of export charge for marketing, the Minister must take into consideration any relevant recommendations made to the Minister by HAL.
Subclause 5(5) of Schedule 10 to the Charges Act provides that before the Governor-General makes regulations to fix rates of export charge for R&D, the Minister must take into consideration any relevant recommendations made to the Minister by HAL.

Subclause 5(6) of Schedule 10 to the Charges Act requires HAL to consult with the body that is the eligible industry body for the relevant horticultural product before recommending rates of export charge for marketing to the Minister.

Subclause 5(7) of Schedule 10 to the Charges Act requires HAL to consult with the body that is the eligible industry body for the relevant horticultural product before recommending rates of export charge for R&D to the Minister.

Subclause 5(8) of Schedule 10 to the Charges Act requires that a recommendation made by HAL to the Minister be accompanied by a written statement of the views of the industry body consulted in relation to the recommendation.

The Primary Industries (Customs) Charges Regulations 2000 prescribe AMS as the eligible industry body with which HAL must consult in relation to macadamias. AMS has proposed the changes in the statutory levies and export charges on macadamias to HAL, and HAL has in turn recommended the changes to the Minister. The Regulations give effect to the recommendations of HAL, which are consistent with the macadamia industry's request.

AMS has endeavoured to contact and consult all known levy payers on this proposal, in line with the Australian Government’s levy principles and guidelines. The proposal went to a postal ballot and 97 percent levy payers who voted (representing 68 percent of production) were in favour of the proposed change in the statutory levies and export charges on macadamias.

Details of the Regulations are contained in the attachment.

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

The Office of Best Practise Regulation was consulted in the preparation of the Regulations and agreed that a Regulation Impact Statement was not required for this amendment (OBPR Ref. 10506).

Amendment Regulations 1 to 3 will commence on the day after the proposed Regulations are registered and Schedule 1 will commence on the first day of the first month after the month in which regulations 1 to 3 commence.
DETAILS OF THE PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT REGULATIONS 2009 (No. 6)

Regulation 1 – Name of Regulations

This regulation provides for the name of the Regulations to be the Primary Industries (Excise) Levies Amendment Regulations 2009 (No. 6).

Regulation 2 – Commencement

This regulation would provide for regulations 1-3 to commence the day after they are registered and schedule 1 to commence on the first day of the month following.

Regulation 3 – Amendment of Primary Industries (Excise) Levies Regulations 1999

This regulation provides that Schedule 1 amends the Primary Industries (Excise) Levies Regulations 1999 (the Levies Regulations).

Schedule 1 – Amendments to Reader’s Guide and Schedule 15

Item [1] – substitutes wording in paragraphs 5 and 5A. The change updates the Reader’s Guide, so that it takes account of significant changes made to Schedule 27 which now covers eggs, queen bees, sugar, ostriches and certain logs as well, and of the replacement of Schedule 3 by Schedules 3A and 3B. The Levies Regulations have 28 Schedules because Schedule 3 was replaced by Schedules 3A and 3B.

Item [2] – substitutes wording in paragraphs 9 and 9A. The change updates the Reader’s Guide, so that it takes account of significant changes to Schedule 14 which now covers queen bees, sugar and wheat as well, and of the replacement of Schedule 3 by Schedules 3A and 3B. The Primary Industries (Customs) Charges Regulations 2000 (the Custom Charges Regulations) have 15 Schedules because Schedule 3 was replaced by Schedules 3A and 3B.

Item [3] – substitutes wording in clause 6.5 of Schedule 15. The change corrects the name of the eligible industry body for chestnuts, which is “Chestnuts Australia Incorporated (ABN 11 727 740 190)”.

Item [4] – substitutes wording in clause 7.5 of Schedule 15. The change corrects the name of the eligible industry body for citrus, which is “Citrus Australia Limited (ABN 75 130 238 792)”.

Item [5] – inserts a new clause after clause 9.4 of Schedule 15. The change identifies the name of the eligible industry body for dried fruits, which is “Australian Dried Fruits Association Incorporated (ABN 88 658 293 079)”.
Item [6] – substitutes wording in clause 10.3 of Schedule 15. Clause 10.3 would set an operative rate of marketing levy on macadamia nuts of 16.01 cents per kilogram of dried kernel. This is a reduction of 1.32 cents per kilogram of dried kernel.

Item [7] – substitutes wording in clause 10.4 of Schedule 15. Clause 10.4 would set an operative rate of R&D levy on macadamia nuts of 8.57 cents per kilogram of dried kernel. This is an increase of 1.32 cents per kilogram of dried kernel.

Item [8] – substitutes wording in subclause 14.5(a) of Schedule 15. The change corrects the name of the eligible industry body for unprocessed potatoes, which is “Ausveg Limited (ABN 25 107 507 559)”.

Item [9] – substitutes wording in clause 17.6 of Schedule 15. The change corrects the name of the eligible industry body for vegetables, which is “Ausveg Limited (ABN 25 107 507 559)”.

DETAILS OF THE PRIMARY INDUSTRIES (CUSTOMS) CHARGES AMENDMENT REGULATIONS 2009 (No. 3)

Regulation 1 – Name of Regulations

This regulation provides for the name of the Regulations to be the *Primary Industries (Customs) Charges Amendment Regulations 2009 (No. 3)*.

Regulation 2 – Commencement

This regulation would provide for regulations 1-3 to commence the day after they are registered and schedule 1 to commence on the first day of the month following.

Regulation 3 – Amendment of *Primary Industries (Customs) Charges Amendment Regulations 2000*

This regulation provides that Schedule 1 amends the *Primary Industries (Customs) Charges Regulations 2000* (the Custom Charges Regulations).

Schedule 1 – Amendments to Reader’s Guide and Schedule 10

Item [1] – substitutes wording in paragraphs 5, 5A and 6. The change updates the Reader’s Guide, so that it takes account the replacement of Schedule 3 by Schedules 3A and 3B. The Custom Charges Regulations have 15 Schedules because Schedule 3 was replaced by Schedules 3A and 3B.

Item [2] – substitutes wording in paragraph 9. The change updates the Reader’s Guide, so that it takes account of the replacement of Schedule 3 by Schedules 3A and 3B. The *Primary Industries (Excise) Levies Regulations 1999* (the Levies Regulations) have 28 Schedules because Schedule 3 was replaced by Schedules 3A and 3B.
Item [3] – substitutes wording in clause 6.5 of Schedule 10. The change corrects the name of the eligible industry body for chestnuts, which is “Chestnuts Australia Incorporated (ABN 11 727 740 190)”.  

Item [4] – substitutes wording in clause 7.5 of Schedule 10. The change corrects the name of the eligible industry body for citrus, which is “Citrus Australia Limited (ABN 75 130 238 792)”.  

Item [5] – inserts a new clause after clause 9.3 of Schedule 10. The change identifies the name of the eligible industry body for dried fruits, which is “Australian Dried Fruits Association Incorporated (ABN 88 658 293 079)”.  

Item [6] – substitutes wording in clause 10.3 of Schedule 10. Clause 10.3 would set an operative rate of marketing levy on macadamia nuts of 16.01 cents per kilogram of dried kernel. This is a reduction of 1.32 cents per kilogram of dried kernel.  

Item [7] – substitutes wording in clause 10.4 of Schedule 10. Clause 10.4 would set an operative rate of R&D levy on macadamia nuts of 8.57 cents per kilogram of dried kernel. This is an increase of 1.32 cents per kilogram of dried kernel.  

Item [8] – substitutes wording in clause 14.5 of Schedule 10. The change corrects the name of the eligible industry body for unprocessed potatoes, which is “Ausveg Limited (ABN 25 107 507 559)”.  

Item [9] – substitutes wording in clause 17.6 of Schedule 10. The change corrects the name of the eligible industry body for vegetables, which is “Ausveg Limited (ABN 25 107 507 559)”.  