EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 112

Issued with the authority of the Minister for Agriculture, Fisheries and Forestry

Primary Industries Levies and Charges Collection Act 1991

Primary Industries Levies and Charges Collection Amendment Regulations 2010 (No. 2)

Legislative Authority

The *Primary Industries Levies and Charges Collection Act 1991* (the Act) sets out the basic reporting and collection arrangements for all levies and charges on primary products imposed under the *Primary Industries (Excise) Levies Act 1999* and the *Primary Industries (Customs) Charges Act 1999*. Section 30 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.

Schedule 33 to the *Primary Industries Levies and Charges Collection Regulations 1991* (the Regulations) provides for levy collection details for sugar cane.

Background

The Act prescribes basic reporting and collection arrangements for levies and charges imposed for the purposes of marketing, research and development (R&D), industry body membership and/or emergency pest and disease response. These levies and charges are imposed under the *Primary Industries (Excise) Levies Act 1999* and the *Primary Industries (Customs) Charges Act 1999*.

The Emergency Plant Pest Response (EPPR) Deed, which came into effect in 2005, is a formal agreement between the Australian Government, all state and territory governments, Plant Health Australia (PHA) and plant industries covering the management and funding of a response to emergency plant pest incidents. Under this agreement, a statutory levy can provide a funding mechanism to enable industries to repay the Australian Government in the event that the government underwrites the industry parties’ shares of the costs of a response to a plant pest affecting their production, as determined under the EPPR Deed.

The industry representative bodies Canegrowers Australia, Australian Table Grape Association, Summerfruits Australia and Apple and Pear Australia Limited are signatories to the EPPR Deed. Under the EPPR Deed, industry parties to the deed must nominate how they will fund their share of costs related to plant pest eradication and/or containment. The sugar cane, table grapes, summer fruit, apple and pear industries have chosen to create the EPPR levies and/or charges for this purpose.

The Department of Agriculture, Fisheries and Forestry has received requests from these four industry bodies to establish EPPR levies for sugar cane, table grapes, stone
fruit, apples and pears, and EPPR charges for table grapes, stone fruit, apples and pears. The industry bodies requested that the EPPR levies and charges be initially set at zero. Following an agreed response to a plant pest outbreak, the size of the industry’s debt to the Australian Government will be known. The plant industry will then be advised of the total debt by PHA and repayment arrangements will be implemented. The EPPR levy and/or charge will then be activated at a positive rate.

**Purpose and Impact**

The *Primary Industries Levies and Charges Collection Amendment Regulations 2010 (No. 2)* (the Amendment Regulations) were part of a package of amendments. The package also included amendments to the following regulations:

- *Primary Industries (Excise) Levies Regulations 1999*
- *Primary Industries (Customs) Charges Regulations 2000.*

The amendments to these other regulations imposed, amongst other things, new EPPR levies on sugar cane, table grapes, stone fruit, apples and pears, and new EPPR charges on table grapes, stone fruit, apples and pears.

The Amendment Regulations amend the Regulations to make the requirements under the Act and the Regulations applicable to the new EPPR levy on sugar cane.

Amendments were not required to be made to the Regulations to enable collection of the other new horticultural product EPPR levies and charges (stone fruit, table grapes, apples and pears) as the Regulations already captured the horticultural EPPR levies and charges (see Schedule 22 of the Collection Regulations).

**Consultation**

The Minister took into account recommendations from the national peak representative industry body for sugar cane, Canegrowers Australia, in approving these Amendment Regulations.

For a new levy to be imposed, industry (generally through its representative body) must demonstrate that the Australian Government Levy Principles and Guidelines have been complied with. This includes demonstrating that sufficient consultation has been undertaken with all sectors of the potentially effected industry or current levy payers, and that there is industry support for the new levy. The proposal received by the Department of Agriculture, Fisheries and Forestry from Canegrowers Australia (August 2009) demonstrated industry compliance with the Australian Government Levy Principles and Guidelines.

The Office of Best Practice Regulation determined that the amendments would have a low impact on business and impose low compliance costs. Therefore, no further consultation in the form of a Business Cost Calculator or a Regulation Impact Statement was required for the amendments.

**Operation**

Details of the Amendment Regulations are set out below.
Regulation 1 specifies the name of the Amendment Regulations as the *Primary Industries Levies and Charges Collection Amendment Regulations 2010 (No. 2).*

Regulation 2 provides that the Amendment Regulations commence the day after registration on the Federal Register of Legislative Instruments.

Regulation 3 provides that Schedule 1 amends the *Primary Industries Levies and Charges Collection Regulations 1991.*

**Schedule 1 Amendments**

**Item 1** substitutes an amended paragraph 5 of the Reader’s Guide to explain that customs charges are collected for animal or plant health purposes, in addition to the purpose of distributing the funds to research, marketing and industry bodies for each primary industry commodity. This has no effect on the operation of the Regulations and is to assist readers only.

**Item 2** substitutes an amended paragraph 8 of the Reader’s Guide to explain that excise levies are collected for animal or plant health purposes, in addition to the purpose of distributing the funds to research, marketing and industry bodies for each primary industry commodity. This amendment has no effect on the operation of the Regulations and is to assist readers only.

The amendments made by items 1 and 2 were necessary as the animal and plant health purposes were not previously described in the Reader’s Guide. While these Amendment Regulations are part of a package that only imposes new EPPR levies and charges, emergency animal pest response levies and charges have been introduced by previous amendments. The Reader’s Guide to the Regulations was not previously amended to explain this.

**Item 3** inserts a definition of ‘levy’ into clause 2 of Schedule 33 to the Regulations. For the purposes of the Regulations, ‘levy’ means a levy imposed under Schedule 24 to the *Primary Industries (Excise) Levies Act 1999* and an EPPR levy imposed on sugar cane by clause 3 of Schedule 24 to the *Primary Industries (Excise) Levies Regulations 1999.* Insertion of this definition of ‘levy’ ensures that the Act and Regulations apply to the new EPPR levy on sugar cane. The new EPPR levy on sugar cane is imposed by the new clause 2 of Schedule 24 to the *Primary Industries (Excise) Levies Regulations 1999* (introduced by this package of amendments). This enables the new EPPR levy on sugar cane to be collected.