EXPLANATORY STATEMENT

Select Legislative Instrument No. 206

Subject—Primary Industries (Excise) Levies Act 1999

Primary Industries (Excise) Levies Amendment Regulations 2011 (No. 4)

Legislative Authority

Section 8 of the Primary Industries (Excise) Levies Act 1999 (the Act) provides that the Governor-General may make regulations prescribing matters that are required, or permitted by the Act to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act, through its primary provisions and schedules, prescribes levies on a number of primary industry products (or classes of product) for a number of purposes, including marketing, research and development (R&D), government-industry body membership and emergency pest and disease responses. The rates of levy applicable to a particular product (or class of product) are contained in schedules to the Primary Industries (Excise) Levies Regulations 1999 (the Principal Regulations).

Schedule 6 to the Principal Regulations imposes an Animal Health Australia (AHA) levy on every kilogram of milk fat and every kilogram of protein for the purposes of Schedule 27 to the Act, and prescribes the relevant rate of AHA levy. The imposition of an AHA levy by Schedule 6 is made possible by Schedule 27 to the Act, which provides that the regulations may impose a levy on one or more specified primary industry products at a rate ascertained in accordance with the regulations. This is possible notwithstanding that another schedule to the Act might apply to a particular product.

Purpose and Impact

The Primary Industries (Excise) Levies Amendment Regulations 2011 (No.4) (the Amendment Regulations) amend the Principal Regulations to increase by 0.0207 of a cent the rate of AHA levy for every kilogram of milk fat. The Amendment Regulations also increase by 0.0505 of a cent the rate of AHA levy payable for every kilogram of protein. This results in the total AHA levy payable by producers increasing by approximately $235,000 per year.

Australian Dairy Farmers Limited (ADF), the peak national representative body for the dairy industry, requested that the Commonwealth increase the amount of AHA levy contained in the Principal Regulations. The request was made on the basis that the increase would enable ADF, as a member of Animal Health Australia, to meet increases in the annual financial contribution it is required to make to Animal Health Australia pursuant to the Australian Animal Health Council (Live-stock Industries) Funding Act 1996. The AHA levy imposed by Schedule 6 to the Principal Regulations is used by ADF to meet this annual financial contribution.
Consultation

Schedule 27 to the Act specifies that if there is a single body that is a designated body in relation to a particular product then the Minister must take into consideration any relevant recommendation made to the Minister by the body before the Governor-General makes a regulation in relation to the product. However, there is no designated body declared by the Minister for the product with which the Amendments Regulations are concerned.

For a levy to be amended, industry (generally through its representative body) must demonstrate that there has been compliance with the Australian Government Levy Principles and Guidelines. 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 or change in levy rate. ADF’s submission of 14 February 2011 to the Minister of Agriculture, Fisheries and Forestry indicates that there is widespread support for the increases in the AHA levy rates amongst members of the dairy industry.

The Office of Best Practice Regulation determined that no further consultation in the form of a Business Cost Calculator or a Regulation Impact Statement was required for the amendments.

Operation

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

Details of the Amendment Regulations are set out below.

Regulation 1 specifies that the name of the Amendment Regulations is the Primary Industries (Excise) Levies Amendment Regulations 2011 (No. 4).

Regulation 2 provides that the Amendment Regulations commence on 1 January 2012.

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

Schedule 1 Amendments

Item 1 amends paragraph 2(1)(b) of clause 2 of Schedule 6 to the Principal Regulations to increase the rate of AHA levy. The item omits the current levy rate of 0.0373 of a cent per kilogram of milk fat and inserts a new levy rate of 0.0580 of a cent.

Item 2 amends paragraph 2(2)(b) of clause 2 of Schedule 6 to the Principal Regulations to increase the rate of AHA levy. The item omits the current levy rate of 0.0880 of a cent per kilogram of protein and inserts a new levy rate of 0.1385 of a cent.