EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 242

Issued by 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 2011 (No. 1)

Section 30 of the Primary Industries Levies and Charges Collection Act 1991 (the Act) provides, in part, 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 peak industry body for the cherry industry, Cherry Growers Australia Inc (CGA), has requested a change to the levy year associated with the cherry levy and export charge. The change better aligns the due dates for submitting levy returns and payments with the cherry production season.

The Regulations amend the Primary Industries Levies and Charges Collection Regulations 1991 (the Principal Regulations) to change the levy year for the cherry levy/charge. The levy year has been redefined as a period of 12 months commencing on 1 April. Consequently, the due dates for the payment of the cherry levy and charge have moved to 28 April in the following levy year. The Regulations also include transitional arrangements in the first year.

The cherry levy/charge is payable on cherries produced in Australia that are sold in or exported from Australia. It is payable by the producer of the cherries at a rate of 7 cents per kilogram. For ease of levy collection, generally the levy/charge is payable to the Commonwealth by an intermediary, such as a market agent or exporter, and then the intermediary is able to recover the levy/charge from the producer. The Regulations do not change the amount of cherry levy/charge that a levy payer is required to pay.

Details of the Regulations are contained in Attachment A.

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

The Office of Best Practice Regulations (OBPR) was consulted in the preparation of the Regulations. The OBPR has advised that it is not necessary to prepare a Regulation Impact Statement for this matter (Reference number 13270).

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

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DETAILS OF THE PRIMARY INDUSTRIES LEVIES AND CHARGES COLLECTION AMENDMENT REGULATIONS 2011 (No. 1)

Regulation 1 provides for the name of the Regulations to be the Primary Industries Levies and Charges Collection Amendment Regulations 2011 (No. 1).

Regulation 2 provides for the commencement date to be the day after they are registered.

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

Schedule 1 Amendments to Part 5 of Schedule 22

Item [1] inserts a new clause 5.3 which defines a levy year for cherries as a period of 14 months beginning on 1 February 2011; and in subsequent years as a period of 12 months beginning on 1 April. The 14 month levy year has been included as a transitional arrangement.

Item [2] inserts a new clause 5.6 which prescribes that levy or charge for a levy year is due for payment on the last day on which the return for the levy year must be lodged as set out in clause 5.8 (being 28 April in the following levy year).

- The note indicates penalties can be imposed under section 15 of the Collection Act for late payment.

Item [3] inserts a new clause 5.8 which prescribes that a return for a levy year must be lodged by 28 April 2012 for the levy year beginning on 1 February 2011; and for subsequent levy years, by 28 April in the following levy year.

- The note indicates offences under section 24 of the Collection Act may be applicable if a return is not submitted.