

# **Grains Research and Development Corporation Regulations (Amendment) 1991 No. 179**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 1991 No. 179**

Issued by the Authority of the Minister of State for Primary Industries and Energy.

#### PRIMARY INDUSTRIES AND ENERGY RESEARCH AND DEVELOPMENT ACT 1989

#### GRAINS RESEARCH AND DEVELOPMENT CORPORATION REGULATIONS (AMENDMENT)

The Grains Research and Development Corporation Regulations (GRDC Regulations) established a Grains Research and Development Corporation R & D Corporation) on 1 October 1990. Regulation 5 of the GRDC Regulations attaches various grain levies to the GRDC as the basis for funding the Corporation's activities by industry and through matching Government contributions. Once a levy is attached to an R & D Corporation, amounts equivalent to the research component are appropriated to the Corporation, under section 30 of the Primary Industries and Energy Research and Development Act 1989 (R & D Act), to fund its activities.

Subregulation 5(2) of the GRDC Regulations provides that for the purposes of paragraph 5(3)(a) of the R & D Act, the whole of each of these levies is to be the research component.

Subsection 149(1) of the R & D Act provides that the Governor-General may make regulations for the purposes of the Act.

The proposed amendments to the GRDC Regulations will correct an inconsistency in regulation 5 of the Regulations, which Parliamentary Counsel identified, as they relate to the wheat levy. For wheat, paragraph 5(1)(e) of the GRDC Regulations purports to attach the research component of the levy imposed by section 5 of the Wheat Industry Fund Levy Act 1989 (WIF Act) to the Grains R & D Corporation. The WIF Act imposes a levy on wheat produced in Australia that is delivered by the grower to another person, other than for storage on behalf of the grower, or processed by or for the grower, on or after 1 July 1989. The levy consists of a research component and a Wheat Industry Fund (WIF) component. Section 85 of the Wheat Marketing Act 1989 (WM Act) provides that before the commencement of each season, the Grains Council of Australia shall determine the ad valorem percentage rate for each of these components of the levy. For season 1990/91, the research component was set at 0.77 per cent and the WIF component at 2 per cent.

Parliamentary Counsel advised that paragraph 5(1)(e) of the GRDC Regulations should simply declare the levy imposed by the WIF Act to be attached to the GRDC. Subregulation 5(2) should then provide that the research component be that percentage of the levy as fixed under subsection 85(3) of the WM Act from time to time.

To enable this deficiency in the regulations to be corrected, the R & D Act was amended by Part 7 of the Primary Industries and Energy Legislation Amendment Act 1990. Subsection 5(5) of the R & D Act now provides that where the wheat levy is attached to an R & D Corporation, the research component of the levy is the percentage determined by the Grains Council of Australia under subsection 85(3) of the WM Act for each season.

The amendment will provide for a proper and consistent legislative basis for the attachment of the wheat levy to the GRDC and the determination of the research component of the levy, to enable the appropriate payments to be made to the Corporation.

These changes will be deemed to have come into effect from 1 October 1990 when the GRDC commenced. The related amendments to the Primary Industries and Energy Legislation Amendment Act 1990 were made retrospective to that date. No person is disadvantaged by the retrospectivity.

Details of the proposed Regulations are:

Regulation 1 provides for the Regulations to be deemed to commence from 1 October 1990 when the GRDC was established. The associated amendments to the R & D Act were made retrospective to that date. This action will have no impact on the liability of levy payers but will ensure that the GRDC receives full payment equivalent to the research component of the wheat levy which has been collected from that date.

Regulation 2 establishes the GRDC Regulations as the Regulations to be amended.

Subregulation 3.1 provides that the levy imposed by section 5 of the WIF Act is attached to the GRDC.

Subregulation 3.2 provides that in the case of levies for grains other than wheat, which are attached to the GRDC under paragraph 5(1) (a), (b), (c) or (d) of the GRDC Regulations, the whole of each levy referred to is the research component of the levy. This continues the current arrangements in the Regulations for those grains. The research component in relation to the wheat levy is now specified in Subsection 5(5) of the R & D Act, which refers setting of the levy to Subsection 85131 of the WM Act. The Regulations note this situation.

Subregulation 3.3 is a consequential amendment to clarify that the grains industry is the primary industry to which each levy referred to in subregulation 3.1 relates.