

Primary Industries Levies and Charges Collection Amendment Regulations 2001 (No. 1) 2001 No. 62

EXPLANATORY STATEMENT

STATUTORY RULES 2001 No. 62

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

Primary Industries (Excise) Levies Act 1999

Primary Industries (Excise) Levies Amendment Regulations 2001 (No. 2)

Primary Industries Levies and Charges Collection Act 1991

Primary Industries Levies and Charges Collection Amendment Regulations 2001 (No. 1)

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

Clause 6 of Schedule 24 of the Excise Act provides that, before making regulations for the purposes of this section, the Minister shall take into consideration any relevant recommendation arising out of consultations between the Minister and the sugar industry organisations.

The sugar industry organisations are prescribed in the Sugar Cane Levy Regulations as the Australian Cane Growers Council Ltd (ACGC), represented by CANEGROWERS, the Australian Sugar Milling Council (ASMC) and the Australian Cane Farmers Association (ACFA).

Clause 3 of Schedule 24 of the Excise Act imposes a levy on sugar cane produced in Australia and accepted at a sugar mill for processing. Clause 4 of Schedule 24 of the Excise Act provides that the rate of levy may be changed by regulations but shall not exceed \$0.15 per tonne.

Section 30 of the *Primary Industries and Energy Research and Development Act 1989* provides for research levy money to be paid to Research and Development Corporations. The sugar cane research levy has been attached to the Sugar Research and Development Corporation (SRDC) since 1 October 1990.

The Commonwealth Government contributes matching amounts to cover research expenditure recommended by the SRDC and approved by the Minister. In any one financial year the Commonwealth contribution is limited to 0.5 per cent of the gross value of production (GVP). Estimated Commonwealth expenditure for 2000/01 is \$4.26 million.

Section 30 of the *Primary Industries Levies and Charges Collection Act 1991* (the Collection Act) provides that the Governor-General may make regulations prescribing matters required or permitted by that Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

The sugar industry organisations have requested a decrease in the sugar cane levy rate from \$0.15 per tonne to \$0.12 per tonne for the 2001/02 season. The Amendment Regulations impose a new rate of 12 cents per tonne consistent with the sugar industry organisations' recommendation. The new rate will apply from 1 May 2001 to ensure that it applies to the entire 2001 harvest.

The request has been made as a result of significant reductions in sugar industry incomes because of a combination of reduced production, primarily as a result of adverse weather and

rust problems, and low world prices. The new rate will maintain the industry contribution at approximately 0.5% of the gross value of production for the 2001 season.

The change will not impact on the ability of the SRDC to meet its existing research commitments. The Corporation is also well positioned to continue to maintain a viable research program consistent with the priorities and objectives outlined in its 5 Year R&D Plan.

Implementation of the change in the levy rate also requires some minor amendments to legislation associated with the imposition and collection of the sugar cane research levy.

Prior to the implementation of the Excise Act, the levy was imposed under the *Sugar Cane Levy Act* 1987 (the Levy Act) with the current prescribed rate of levy of \$0.15 per tonne set under regulation 3 of the Sugar Cane Levy Regulations made under the Levy Act. These regulations continued to have effect through transitional arrangements under the Excise Act when it commenced on 1 July 1999.

The Sugar Cane Levy Regulations are being repealed with their sugar specific provisions incorporated under the Primary Industries (Excise) Levies Regulations 1999 through the Primary Industries (Excise) Levies Amendment Regulations 2001 which also give effect to the change in the levy rate from 1 May 2001. This will continue the consolidation of individual commodity levy regulations into the Primary Industries (Excise) Levies Regulations 1999.

Some of the minor consequential changes involved will also require changes to the Primary Industries Levies and Charges Collection Regulations 1991. This will allow for further consolidation of the individual commodity collection regulations within these regulations. The Primary Industries Levies and Charges Collection Amendment Regulations 2001 will repeal the Primary Industries Levies and Charges (Sugar Cane) Regulations and incorporate the sugar cane specific provisions under a Schedule to the new regulations.

There are no policy changes or new requirements for levy payers under these consequential amendments. Some of the terminology has been updated but this has not resulted in any substantive change of intent from the previous individual commodity regulations. The details for each levy or charge now follows a standard format to simplify readability.

Details of the Primary Industries (Excise) Levies Amendment Regulations 2001 (No. 2) and the Primary Industries Levies and Charges Collection Amendment Regulations 2001 (No. 1) are included in Attachments 1 and 2 respectively.

The regulations commence on 1 May 2001.

ATTACHMENT 1

Regulation 1 provides that the Regulations be known as the Primary Industries (Excise) Levies Amendment Regulations 2001 (No. 2).

Regulation 2 provides that the Regulations will commence on 1 May 2001.

Regulation 3 provides for the Primary Industries Excise Levies Regulations 1999 to be amended as set out in Schedule 1.

Regulation provides for the repeal of the Sugar Cane Levy Regulations.

Schedule 1

Item 1 replaces previous references to Schedule 24, which relates to sugar cane.

Clause 1 defines sugar industry organisations.

Clause 2 sets the operative rate of levy applicable to leviable sugar cane at \$0.12 per tonne. This represents a reduction of 3 cents per tonne.

ATTACHMENT 2

PRIMARY INDUSTRIES LEVIES AND CHARGES COLLECTION AMENDMENT REGULATIONS 2001 (No. 1)

Regulation 1 provides for the regulations to known as the Primary Industries Levies and Charges Collection Amendment Regulations 2001 (No. 1).

Regulation 2 provides that the regulations will commence on 1 May 2001.

Regulation 3 provides for the amendment of the Primary Industries Levies and Charges Collection Regulations 1991 as set out in Schedule 1.

Regulation 4 provides that the old regulations that were kept in force by transitional arrangements under Schedule 24 to the *Primary Industries (Excise) Levies Act 1999* are repealed. The old regulations, namely the Primary Industries Levies and Charges (Sugar Cane) Regulations, were made under the *Primary Industries Levies and Charges Collection Act 1991* and the former *Sugar Cane Levy Act 1987*.

Regulation 5 provides a saving provision that, despite the repeal of the regulations mentioned in regulation 4, allows for those regulations to have a continuing effect for levies imposed before the commencement of these regulations.

Item 1 substitutes previous references to Schedule 33, which relates to sugar cane.

It provides the main criteria for collection of the sugar cane levy.

Clause 1 provides that the Schedule applies to sugar cane.

Clause 2 provides definitions of accepted sugar cane and sugar cane for use in the Schedule.

Clause 3 provides what is a levy year, namely a financial year.

Clause 4 provides that the miller is a processor.

Clause 5 provides who is a producer. There are two classifications of producer: the first is the person who owns the sugar cane immediately after it is harvested, and the second is the processor (the miller). This is to ensure that both parties are equally liable for payment of the levy. This reinforces the intention of section 5 of Schedule 24 of the *Primary Industries (Excise) Levies Act 1999*.

Clause 6 provides that sugar cane is the prescribed product for the purpose of outlining the liability of intermediaries. This aids in establishing that the processor is responsible for collecting the entire levy and forwarding it to the Commonwealth.

Clause 7 sets out when is levy due for payment.

Clause 8 sets out who must lodge a return, namely the processor.

Clause 9 sets the period when a return must be lodged, namely within 28 days after the end of the month.

Clause 10 prescribes what must be included in a return.

Clause 11 sets out what records must be kept. A penalty of 10 penalty units (currently \$1,100) is prescribed for failure to keep the required records.