

Primary Industries Levies and Charges Collection Amendment Regulations 2003 (No. 12) 2003 No. 334

EXPLANATORY STATEMENT

Statutory Rules 2003 No. 334

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

Primary Industries (Excise) Levies Act 1999

Primary Industries (Customs) Charges Act 1999

Primary Industries Levies and Charges Collection Act 1991

Primary Industries (Excise) Levies Amendment Regulations 2003 (No. 18)

Primary Industries (Customs) Charges Amendment Regulations 2003 (No. 11)

Primary Industries Levies and Charges Collection Amendment Regulations 2003 (No. 12)

Section 8 of the *Primary Industries (Excise) Levies Act 1999* (the Levies Act), section 8 of the *Primary Industries (Customs) Charges Act 1999* (the Charges Act) and section 30 of the *Primary Industries Levies and Charges Collection Act 1991* (the Collection Act) provide that the

Governor-General may make regulations prescribing matters required or permitted by those Acts to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to each Act.

The purpose of the regulations is to implement a marketing and research and development (R&D) levy and export charge scheme for the lychee industry. The levy and export charge will be imposed on lychees directed to fresh domestic and export markets and the domestic processing market and payable at first point of sale. Currently, there are no Commonwealth levies or export charges on lychees.

Horticulture Australia Limited (HAL) is the relevant industry services body for the administration of the lychee industry levy and charge scheme and would be the body to manage moneys collected from the levies and export charges imposed on lychee growers. HAL co-ordinates marketing and R&D programs for many horticultural industries. HAL is funded by statutory levies and export charges, voluntary contributions and Australian Government matching funding for eligible R&D expenditure. This matching funding is provided under the *Horticultural Marketing and Research and Development Services Act 2000*.

Primary Industries (Excise) Levies Regulations 1999

Subclause 4(1) of Schedule 15 to the Levies Act provides that regulations may fix rates of levy for marketing purposes.

Subclause 4(3) of Schedule 15 to the Levies Act provides that regulations may fix rates of levy for R&D purposes.

Subclause 6(4) of Schedule 15 to the Levies Act provides that before the Governor-General makes regulations to fix rates of levy for marketing, the Minister must take into consideration any relevant recommendations made to the Minister by HAL.

Subclause 6(6) of Schedule 15 to the Levies Act provides that before the Governor-General makes regulations to fix rates of levy for R&D, the Minister must take into consideration any relevant recommendations made to the Minister by HAL.

Subclause 6(7) of Schedule 15 to the Levies Act requires HAL to consult with the body that is the eligible industry body for the relevant horticultural product before recommending rates of levy for marketing to the Minister.

Subclause 6(8) of Schedule 15 to the Levies Act requires HAL to consult with the body that is the eligible industry body for the relevant horticultural product before recommending rates of levy for R&D to the Minister.

Subclause 6(9) of Schedule 15 to the Levies Act requires that a recommendation made by HAL to the Minister be accompanied by a written statement of the views of the industry body consulted in relation to the recommendation.

The Regulations prescribe the Australian Lychee Growers Association (ALGA) as the eligible industry body with which HAL must consult in relation to lychees. HAL recommended the initial operative rates of levy to the Minister after consultation with the ALGA. The Regulations give effect to the recommendations of HAL, which are consistent with the lychee industry's request.

Subclause 2(4) of Schedule 15 to the Levies Act provides that regulations may exempt certain horticultural products from levy.

Primary Industries (Customs) Charges Regulations 1999

Subclause 3(3) of Schedule 10 to the Charges Act provides that regulations may fix rates of export charge for marketing purposes.

Subclause 3(5) of Schedule 10 to the Charges Act provides that regulations may fix rates of export charge for R&D purposes.

Subclause 5(3) of Schedule 10 to the Charges Act provides that before the Governor-General makes regulations to fix rates of export charge for marketing, the Minister must take into consideration any relevant recommendations made to the Minister by HAL.

Subclause 5(5) of Schedule 10 to the Charges Act provides that before the Governor-General makes regulations to fix rates of export charge for R&D, the Minister must take into consideration any relevant recommendations made to the Minister by HAL.

Subclause 5(6) of Schedule 10 to the Charges Act requires HAL to consult with the body that is the eligible industry body for the relevant horticultural product before recommending rates of export charge for marketing to the Minister.

Subclause 5(7) of Schedule 10 to the Charges Act requires HAL to consult with the body that is the eligible industry body for the relevant horticultural product before recommending rates of export charge for R&D to the Minister.

Subclause 5(8) of Schedule 10 to the Charges Act requires that a recommendation made by HAL to the Minister be accompanied by a written statement of the views of the industry body consulted in relation to the recommendation.

The Regulations prescribe the Australian Lychee Growers Association (ALGA) as the eligible industry body with which HAL must consult in relation to lychees. HAL recommended the initial operative rates of export charge to the Minister after consultation with the ALGA. The Regulations give effect to the recommendations of HAL, which are consistent with the lychee industry's request.

Primary Industries Levies and Charges Collection Regulations 1991

The Collection Act specifies no conditions that need to be met before the power to make Regulations may be exercised.

Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991* sets out the details for payment of levy and export charge, provision of returns by liable persons and other collection matters for various leviable horticultural products.

The Regulations also:

- impose a statutory marketing and R&D levy and export charge on lychees directed for sale on the fresh domestic, fresh export or processed domestic markets;
- set an initial operative marketing levy and export charge, each of 2.5 cents per kilogram(/kg) on fresh lychees; an initial operative R&D levy and export charge, each of 5.5 cents/kg on fresh lychees; and an initial operative R&D levy of 1 cent/kg on lychees directed to processing; all payable at first point of sale. The moneys raised would go to HAL to fund marketing and R&D. The Commonwealth will match eligible expenditure by HAL on R&D on a dollar for dollar basis;
- exempt from levy lychees sold by the producer by retail sale where the amount of levy payable on lychees sold this way in a year would be less than \$100; and
- provide for the manner of payment of levy and export charge, the provision of returns by persons who become liable to pay the levy and export charge and the keeping of records.

Details of the regulations are set out in Attachment A.

The Office of Regulation Review was consulted in the preparation of the Regulations. A Regulation Impact Statement is attached, as Annex "A".

The regulations commenced on 1 February 2004.

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ATTACHMENT A

PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT REGULATIONS 2003 (No. 18)

Regulation 1 provides for the name of the regulations to be the *Primary Industries (Excise) Levies Amendment Regulations 2003 (No. 18)*.

Regulation 2 provides for the commencement date to be 1 February 2004.

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

Schedule 1

Item 1 inserts a new Part 23 about lychees into Schedule 15 to the Excise Levies Regulations.

Clause 23.1 provides a definition of "fresh lychees" for use in the part.

- Note provides a cross-reference to the definition of process and which operations are not considered to be processes.

Clause 23.2 provides that lychees are leviable horticultural products for the purposes of the definition in clause 1 of Schedule 15 to the Levies Act.

Clause 23.3 specifies that lychees are exempt from levy where a producer sells lychees by retail sale in a levy year and the total amount of levy that the producer would be liable to pay in a year on lychees sold by retail sale would be less than \$100.

- Note 1 provides a cross-reference to the definition of retail sale.

- Note 2 indicates that levy is not imposed by Schedule 15 to the Excise Levies Act on leviable horticultural products that are exported from Australia.

Clause 23.4 sets an initial operative rate of marketing levy on fresh lychees of 2.5 cents per kilogram (/kg).

Clause 23.5 sets an initial operative rate of R&D levy of: 5.5 cents/kg on fresh lychees; and 1 cent/kg on lychees sold or used by a producer for processing.

Clause 23.6 provides that the Australian Lychee Growers Association is the eligible industry body for lychees.

PRIMARY INDUSTRIES (CUSTOMS) CHARGES AMENDMENT REGULATIONS 2003 (No. 11)

Regulation 1 provides for the name of the regulations to be the *Primary Industries (Customs) Charges Amendment Regulations 2003 (No. 11)*.

Regulation 2 provides for the commencement date to be 1 February 2004.

Regulation 3 provides that Schedule 1 amends the *Primary Industries (Customs) Charges Regulations 2000*, (the Customs Charges Regulations).

Schedule 1

Item 1 inserts a new Part 23 about lychees into Schedule 10 to the Customs Charges Regulations.

Clause 23.1 provides that lychees are chargeable horticultural products for the purposes of the definition in clause 1 of Schedule 10 to the Charges Act.

- Note 1 indicates that charge is not imposed on lychees that have had levy previously paid on them.
- Note 2 advises that clause 23.2 is intentionally not used.

Clause 23.3 sets an initial operative rate of marketing charge on lychees of 2.5 cents/kg.

Clause 23.4 sets an initial operative rate of R&D charge on lychees of 5.5 cents/kg.

Clause 23.5 provides that the Australian Lychee Growers Association is the eligible industry body for lychees.

PRIMARY INDUSTRIES LEVIES AND CHARGES COLLECTION AMENDMENT REGULATIONS 2003 (No. 12)

Regulation 1 provides for the name of the regulations to be the *Primary Industries Levies and Charges Collection Amendment Regulations 2003 (No. 12)*.

Regulation 2 provides for the commencement date to be 1 February 2004.

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

Schedule 1

Item 1 inserts a new Part 23 about lychees into Schedule 22 to the Collection Regulations.

Clause 23.1 provides that the part applies to lychees.

Clause 23.2 provides definitions for use in the part. The definitions are for "chargeable lychees", "deal", "exporter", "leviable lychees", "lychee" and "retail sale".

- Note 1 provides a cross-reference to lychees being chargeable horticultural products.
- Note 2 provides a cross-reference to lychees being leviable horticultural products.

Clause 23.3 provides that a levy year for lychees is a financial year.

Clause 23.4 prescribes operations (cleaning, sorting, grading and packing) that are not considered processes in relation to lychees.

Clause 23.5 defines who is a processor of lychees.

- Note identifies a processor to be the proprietor of the processing establishment that processes the product, unless immediately before delivery, the proprietor of another processing establishment (who is then defined to be the processor) owns the product.

Clause 23.6 prescribes lychees for the definition of producer.

- Note 1 clarifies that a producer can be the person who owns the product immediately after it is harvested (as defined in paragraph (b) of the definition of producer in the Collection Act).
- Note 2 identifies the person who exports chargeable horticultural products, in this case lychees, from Australia as a producer.

Clause 23.7 prescribes lychees for the purpose of subsection 7(3) of the Collection Act in relation to the liability of exporting agents.

- Note indicates that exporting agents are liable to pay, on behalf of producers, unpaid charge and late payment penalty.

Clause 23.8 prescribes lychees for the purpose of subsection 7(2) (b) of the Collection Act in relation to the liability of processors.

- Note indicates that processors are liable to pay, on behalf of producers, unpaid charge and late payment penalty.

Clause 23.9 prescribes that for people who lodge monthly returns, levy or charge is due for payment 28 days after the end of the month to which the levy or charge relates.

- Note indicates penalties can be imposed for late payment.

Clause 23.10 prescribes the following persons who deal in leviable or chargeable lychees in a month must lodge a return for a month:

A person who buys lychees in the month;

A buying agent who buys lychees in the month;

A selling agent who sells lychees in the month;

An exporter who exports lychees in the month;

An exporting agent who exports lychees in the month;

A processor who processes lychees in the month;

A producer who sells lychees other than by retail sale in the month.

- Note indicates offences may be applicable.

Clause 23.11 provides that a monthly return must be lodged within 28 days of the end of the month to which it relates.

- Note indicates offences may be applicable.

Clause 23.12 prescribes that for people who lodge annual returns, levy or charge is due for payment on 28 August in the following levy year.

- Note indicates penalties can be imposed for late payment.

Clause 23.13 specifies that a producer who sells leviable lychees by retail sale in a levy year must lodge an annual return.

- Note indicates offences may be applicable.

Clause 23.14 prescribes that an annual return must be lodged by 28 August in the next levy year.

- Note indicates offences may be applicable.

Clause 23.15 stipulates what must be included in a monthly or annual return.

- Note indicates offences may be applicable.

Clause 23.16 stipulates what records must be kept by producers. A penalty of 10 penalty units is provided for breaches of the regulations. Section 4AA of the *Crimes Act 1914* provides that a penalty unit equals \$110. An offence under this clause is an offence of strict liability.

- Note provides a cross-reference to offences in relation to how long records must be kept.

Clause 23.17 stipulates what records must be kept by first purchasers, agents and processors. A penalty of 10 penalty units is provided for breaches of the regulations. An offence under this clause is an offence of strict liability.

- Note provides a cross-reference to offences in relation to how long records must be kept.

Clause 23.18 stipulates what records must be kept by exporters and exporting agents. A penalty of 10 penalty units is provided for breaches of the regulations. An offence under this clause is an offence of strict liability.

- Note provides a cross-reference to offences in relation to how long records must be kept.

REGULATION IMPACT STATEMENT**REGULATIONS FOR A LYCHEE MARKETING AND PROMOTION AND RESEARCH AND DEVELOPMENT LEVY AND CHARGE****Background**

The Australian lychee industry emerged in the 1980s as one of a number of new exotic horticultural industries. While it has not achieved the profile of the mango, avocado or blueberry industries, the lychee industry has become an established industry within the overall horticultural industry. Currently the lychee industry comprises approximately 300 producers located in five principal production regions: far north Queensland; north Queensland; central Queensland; south east Queensland; and northern New South Wales. Approximately 90% of Australian production occurs in Queensland.

In 1988 the Australian Lychee Growers Association (ALGA) was formed as the peak industry body to represent the lychee industry in Australia. Each of the five principal production regions has one representative on the ALGA.

Lychee production in 1997-98 was 4,500 tonnes valued at \$22.5 million and in 2001-02 was 6,000 tonnes valued at \$30 million (source ALGA). Furthermore the ALGA forecasts that production in 2003-04 will be 8,000 tonnes valued at \$40 million, in 2006-07 12,000 tonnes valued at \$60 million and in 2010-11 24,000 tonnes valued at \$120 million. The current and forecast growth in production is partly occurring because some primary producers are diversifying their farming enterprises away from depressed industries like sugar and tobacco into potentially more lucrative horticultural crops.

For eight years until 30 June 2003 Queensland growers paid a compulsory Queensland state levy on lychees sold on the domestic and export markets. Initially this levy was put in place to undertake marketing and promotion (M&P) and research and development (R&D). From 1997 most of this levy was utilised to undertake R&D activities. The whole Australian lychee industry has benefited significantly from this levy paid to Queensland Fruit and Vegetable Growers (QFVG) through improved knowledge of farm management and post-harvest handling practices. The Queensland state levy became voluntary on 1 July 2003 with the sunset of Queensland legislation and the implementation of a new QFVG structure.

Problem to be addressed

While the lychee industry has been expanding it is still a relatively small industry producing a product not traditionally consumed by most Australians, particularly those of a non-Asian background. The industry needs to address the forecast expansion in production and at the same time address the fall in monies available to undertake M&P and R&D following the cessation of the compulsory Queensland state levy. Levy monies collected fell in anticipation of the end of compulsory levy and have fallen further as the voluntary scheme now in place has significantly reduced participation.

The 'free rider' problem in the Australian lychee industry causes under-investment in M&P and R&D. This under-investment leads to:

- domestic market focus and dependence;
- inconsistent supply due to inconsistent cropping. This causes difficulties when developing markets, especially export markets which require large volumes committed well before the harvest season;

- inferior orchard management practices and supply chain handling practices leading to a high incidence of post harvest breakdown and fruit being rejected at the market or sold at prices below the cost of production; and
- poor consumer confidence due to the variability in quality and shelf life of the product, leading to fluctuating market prices and declining industry profitability.

Also, the forecast increase in lychee production means additional activities in M&P and R&D will be required to maintain real returns to growers and hence a long-term viable industry.

Objective of the Regulations

The objective of the regulations is to increase M&P and R&D activities in the lychee industry for the benefit of growers, consumers and the general community. Monies collected will be forwarded to Horticulture Australia Limited (HAL) which administers funds collected on 20 other statutory horticultural levies as well as funds provided on a voluntary basis.

ALGA wishes to introduce a statutory levy/charge to enable the lychee industry to meet the objectives of its 2003-2008 Strategic Plan. Key issues of the Plan are:

- increase consumer demand for Australian lychees on the domestic and export markets;
- ensure growers produce lychees which match consumer needs and expectations;
- improve farm operating systems and health and safety; and
- increase industry participation in decision making thereby enabling growers to collectively and better drive their industry.

The desired outcomes from the proposed M&P and R&D programs in the lychee industry Strategic Plan include:

- achieving an average annual growth in sales volumes of 10% at profitable prices on the domestic market; and
- doubling the level of exported product by 2008.

Identification of options to achieve the objective

Queensland Levy

The option of a compulsory Queensland levy is no longer feasible as State Governments are prohibited from collecting excise taxes. In any case the levy was inequitable nationally because lychee growers in New South Wales did not contribute. Further, the voluntary Queensland levy that has replaced the compulsory levy is not being supported by the same number of growers. Based on Queensland production of 5,400 tonnes of lychees in 2001-02, it was expected collections from the Queensland state levy for that year would be around \$400,000. However, collections in 2001-02 amounted to only \$60,000. Collections fell further in 2002-03 to \$55,000.

Voluntary Levies

The experience following the cessation of the Queensland compulsory levy reveals the 'free rider' syndrome will result in a shortfall of monies to undertake the necessary M&P and R&D required to address the objectives of the industry's 2003-2008 Strategic Plan. Many growers are still benefiting from the M&P and R&D activities being undertaken but are not contributing to the money pool. This could eventually lead to a complete breakdown in the voluntary scheme. Therefore ALGA have not recommended the option of a voluntary contribution scheme.

Industry Cooperatives/Marketing Groups

There is no single dominant grower of lychees in Australia nor a group of growers that dominate the industry. Therefore this option is not considered appropriate.

Private research providers

While there would be some privately funded research undertaken by some growers, there has not been a major need to do so because the Queensland compulsory levy provided funding for R&D. Without a dominant grower or grower group any private research would not address the major problem confronting the industry, namely the forecast sizeable increase in production. Thus this option would result in insufficient funding to achieve the objectives of the 2003-2008 Strategic Plan and result in under investment in the areas of lychee crop management, supply chain management, natural resource sustainability, crop forecasting, consumer research and export market research. In addition, the likelihood of a lack of regularly available funds would be a barrier to the formation of a specific private research industry.

Proposed Compulsory National Levy

A new national statutory levy and export charge is proposed for the Australian lychee industry. The new levy will be compulsory Australia-wide and will enable the industry to fund essential M&P and R&D programs outlined in the 2003-2008 Strategic Plan.

The lychee industry proposal is for a statutory marketing levy and export charge of 2.5 cents/kg and an R&D levy and export charge of 5.5 cents/kg on lychees directed to the fresh market, payable at first point of sale. In addition, for lychees directed to processing an R&D levy of 1 cent/kg is proposed.

A compulsory national levy and export charge will address the market failure in M&P and R&D applicable to the lychee industry. In addition, The R&D component of the levy/charge will attract worthwhile Australian Government matching of R&D expenditure.

Impact analysis

Likely Costs

Based on a crop of 6,000 tonnes, the proposed lychee levy and export charge is expected to raise around \$480,000 annually. With almost 300 growers and a crop valued at \$30 million, the 'average' grower would produce 20 tonnes of lychees earning \$5,000/tonne. Thus the 'average' grower would earn \$100,000 from lychee growing annually. With a levy of 8 cents/kg the cost of the levy/charge to the 'average' lychee grower would be \$1,600 or 1.6% of annual revenue.

Up until 30 June 2003 many Queensland growers were paying the equivalent of 8 cents/kg for lychees directed to the fresh market under the Queensland compulsory levy. For these growers the cost of the levy will already be factored into their financial accounts.

There will be a cost to the Australian Government of \$285,000 annually in matching funds for R&D expenditure based on a crop of 6,000 tonnes. This annual sum is expected to increase over the medium term as production increases, higher levy receipts are collected and more funds are allocated to R&D expenditure. The Government does not match expenditure on M&P programs.

There will be no administrative costs for the Australian Government in collecting and remitting the levy and export charge as the Levies Revenue Service of the Australian Government Department of Agriculture, Fisheries and Forestry operates under full cost recovery.

As the levy and charge is borne by the producers of lychees there is not expected to be any extra costs to consumers. The reason being most monies from statutory fruit levies are collected from agents operating in the central wholesale markets or from Woolworths and Coles if produce is

purchased direct by supermarkets. The agents and supermarkets deduct the amount of levy from the sale price payable to growers, they do not add the levy to the sale price. This ensures the levy is borne by the grower. Growers accept this arrangement because they are the ones who approach the Government to be taxed - they willingly bear short term loss for expected longer term gain. Of course, over the medium term a higher quality product may result in premium prices. However, increasing supply is expected to keep a check on any price rises.

Likely Benefits

After deducting collection costs and the HAL administrative fee, it is expected there would be around \$130,000 available for the M&P program and \$570,000 available for the R&D program (including government matching funds). The financial commitment for government matching funds will be accounted for in the Australian Government Department of Agriculture, Fisheries and Forestry's forward estimates of Commonwealth expenditure.

The ALGA believes the levy and export charge will benefit all lychee growers as well as consumers and the general community.

Lychee producers would benefit through improvements in orchard management and supply chain efficiency and through the development of domestic and export markets. Such benefits would in turn improve productivity and increase domestic and export sales.

For consumers benefits could potentially include: improved product quality and food safety; greater consistency of supply; and a more stable price range of lychee fruit.

The broader Australian population would also benefit through the expansion of the industry generating employment and investment. Other potential benefits could be: improved natural resource management and environmental sustainability (including reduced land degradation and more efficient water use) and worker safety.

Based on an industry gross value for 2001-02 of \$30 million and costs being 30% of farm gate value, the ALGA concludes that a one percent increase in productivity (for example, a one percent reduction in costs nationally) would generate a net benefit of \$90,000.

In the longer term the benefits of the proposed statutory national lychee levy is likely to significantly exceed the costs. This scenario has occurred in other industries where a national statutory levy is in place.

For example, the benefit/cost ratio of promotional programs for fresh stone fruit has been in the range of 3:1 to more than 20:1. For example, public relations work with food media undertaken by HAL of \$35,000 per annum has consistently yielded media coverage estimated in excess of \$750,000 per annum. Food media public relations activities undertaken by QFVG have consistently yielded media coverage of greater than 20 times the dollar value invested.

Overall, the lychee industry has set a targeted return of 11:1 on levy/charge monies invested over the five year term of the 2003-2008 Strategic Plan.

The Australian Government sees R&D as one of the keys to achieving profitable, competitive and sustainable rural industries. This was confirmed when Senator the Hon Judith Troeth, Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry, launched the 2002 edition of *Innovating Rural Australia: Research and Development Corporation Outcomes* on 27 March 2003.

The report highlights the important role R&D plays in improving the competitiveness and sustainability of agricultural industries and the benefits they provide to rural communities across regional Australia. In 2001-02 rural industries contributed \$209 million to R&D with the Australian Government adding another \$196 million.

On 27 March 2003 Senator Troeth also announced the Australian Government 's rural research priorities which come under the umbrella of the national research priorities announced by the Prime Minister in December 2002. The new rural research priorities are:

- sustainable natural resource management;
- improving competitiveness through a whole-of-industry approach that emphasises efficient and effective supply chain management;
- maintaining confidence in the integrity of Australia's food, fish and forestry products;
- improving trade and market access;
- making use of 'frontier' technologies;
- protecting Australia from invasive diseases and pests; and
- creating a culture of innovation, largely by investing in the sector's most important asset - its people.

The R&D programs to be funded from the national compulsory lychee R&D levy and charge proposed by the ALGA will be compatible with the Australian Government 's rural research priorities.

Competition Policy

The levy and export charge will be applied equitably to all lychee growers and the M&P and R&D activities are designed to assist the industry as a whole. The proposed levy and export charge will therefore have no impact on competition within the industry. Continued funding for M&P and R&D is expected to enhance the industry's efficiency.

Consultation

The ALGA conducted a thorough consultation campaign with all known potential levy payers in line with the Australian Government's levy principles and guidelines.

The Government's principles and guidelines provide that it is a requirement for a majority of those that vote to be achieved if a new levy/charge is to be implemented. An independently managed ballot was conducted in July 2003. Ballot papers were forwarded to 287 known lychee growers with 100 formal ballots returned. The marketing levy/charge was supported by 86 growers (86% support) while the R&D levy/charge was supported by 82 growers (82% support). Since HAL/ALGA lodged their formal submission with the Government no known verbal or written opposition to the proposal has emerged. Thus ALGA has a solid mandate for the proposed levy and export charge.

Conclusion and recommended option

The proposed compulsory national lychee levy and charge is regarded as the only effective means of correcting market failure in funding M&P and R&D that exists in the industry.

The proposal for a national statutory levy and export charge for M&P and R&D for the lychee industry:

- conforms to the Australian Government's levy principles and guidelines;
- does not restrict competition;
- has limited financial impact on the Commonwealth; and

- has clear potential to benefit the industry.

The recommended option is to implement a compulsory levy and export charge under the *Primary Industries Levies and Charges Collection Act 1991*, the *Primary Industries (Excise) Levies Act 1999* and the *Primary Industries (Customs) Charges Act 1999* to fund lychee M&P and R&D through HAL.

Implementation and review

The levy is to be implemented as soon as practicable, depending on the legislative process.

The ALGA does not expect to review the levy and export charge within a designated time frame. However, the compulsory annual levy payers meeting (currently held for all the 20 existing horticultural industries with statutory levies in place and to be obligatory for the lychee industry once a statutory levy and charge has been enacted) provides growers with an annual forum in which levy matters can be raised and reviewed.

Horticulture Policy
Food and Agriculture
Australian Government Department of Agriculture, Fisheries and Forestry

November 2003