EXPLANATORY STATEMENT

**SELECT LEGISLATIVE INSTRUMENT No. 55, 2015**

Issued by Authority of the Minister for Agriculture

*Primary Industries (Excise) Levies Act 1999*

*Primary Industries (Excise) Levies Amendment (Honey) Regulation 2015*

**Legislative Authority**

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

Subclause 2(5) of Schedule 14 of the Excise Levies Act provides that Regulations may exempt a specified class of persons from a levy for the sale of honey.

Subclause 3(5) of Schedule 14 of the Excise Levies Act provides that levy imposed on the use of honey in the production of other goods is not payable under that Schedule by a prescribed class of persons.

Schedule 14 of the *Primary Industries (Excise) Levies Regulations 1999* (Principal Regulations) provides the rate of levy that applies to honey for research and development component on the sale of honey and on honey used in the production of other goods. The Schedule also provides for an Emergency Animal Disease Response (EADR) levy to be applied in certain circumstances.

**Purpose**

The purpose of the *Primary Industries (Excise) Levies Amendment (Honey) Regulation 2015* (Amendment Regulation) is to amend the Principal Regulations to:

* introduce a levy exemption for producers who in a levy year have sold (through prescribed sales) or used (in the production of other goods) a total weight of no more than 1500 kilograms of honey;
* remove the EADR levy on honey;
* introduce a Plant Health Australia (PHA) levy on honey; and
* introduce an Emergency Plant Pest Response (EPPR) levy on honey.

**Background**

The Excise Levies Act provides for the imposition of a levy on the sale of honey (produced in Australia) and the use of honey in the production of other goods, payable by the producer of the honey or user of the honey in the production of other goods.

The Australian Honey Bee Industry Council (AHBIC) is the peak industry body for honey producers in Australia and is a member of both Animal Health Australia (AHA) and PHA, and a signatory to both the EADR Agreement and EPPR Deed, legally binding agreements between the Commonwealth, state and territory governments, Animal Health Australia/Plant Health Australia and industry, for the management and funding of emergency responses to animal/plant disease incursions.

The AHBIC has requested the amendments contained in the Amendment Regulation in order to align the honey industry’s levy arrangements more appropriately with the plant sector rather than the animal sector, as over the last several years management of honey bee and pollination-related biosecurity has moved to the plant sector.

When initially implemented in 1963, the threshold for exemption from the levy was intended to keep the levy cost effective, by not collecting the levy from smaller producers where the cost of collection would exceed the revenue collected.

**Impact and Effect**

The introduction of PHA and EPPR levies on honey would allow levies to be provided directly to PHA, and allow AHBIC to cease its AHA membership and withdraw as a signatory to the EADR Agreement. This would result in reduction of costs to the industry for costs associated with AHA membership. The new levies would also facilitate industry funding of industry-supported investment in honey bee biosecurity programs.

The AHBIC proposal indicated that a recent rise in collection costs has resulted in an increased number of honey producers whose levy contribution is less than the corresponding collection cost, despite their annual retail sales of honey being greater than 600 kilograms. The Amendment Regulation would raise the threshold for the levy exemption to ensure that the levy is cost effective.

The levies proposal meets the requirements of the Australian Government *Levy Principles and Guidelines*.

**Consultation**

Clause 6 of Schedule 14 to the Excise Levies Act provides that before the Governor‑General makes regulations in relation to the product, the Minister must take into consideration any relevant recommendations made to the Minister by the producer’s organisation.

The amendments have been requested by AHBIC, who consulted with, and received majority support from, actual and potential levy and charge payers.

The Department of Treasury has confirmed costings undertaken by the Department of Agriculture (the Department) for the proposal and that the changes will have no net impact on the Budget.

The Department consulted with the Office of Parliamentary Counsel in the drafting of the amendments. The Office of Best Practice Regulation (OBPR) advised that the regulation impact statement (RIS) meets best practice consistent with the *Australian Government Guide to Regulation* (OBPR reference 17593).

The Amendment Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Amendment Regulation is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in the Attachment.

**Details of the *Primary Industries (Excise) Levies Amendment (Honey) Regulation 2015***

Section 1 – Name

This section provides that the name of the Amendment Regulation is the *Primary Industries (Excise) Levies Amendment (Honey) Regulation 2015*.

Section 2 – Commencement

This section provides that the Amendment Regulation commences on 1 July 2015.

Section 3 – Authority

This section provides that the Amendment Regulation is made under the *Primary Industries (Excise) Levies Act 1999*.

Section 4 – Schedule

This section provides that the *Primary Industries (Excise) Levies Regulations 1999* are amended as set out in Schedule 1.

Schedule 1 – Amendments

**Item 1** adds an exemption from the Excise Levy on honey (in addition to the exemptions prescribed in Schedule 14 to the Excise Levies Act for no more than 600 kilograms of honey) for producers of honey who in a levy year have sold (through prescribed sales) or used in the production of other goods a total weight of no more than 1500 kilograms of honey. The exemption does not apply to honey sales through an intermediary (such as a buying agent).

**Item 2** removes the EADR levy from Schedule 27 to the Principal Regulations and adds a new Part including a PHA levy set at 0.1 of a cent per kilogram of honey and payable by the producer of the honey, and an EPPR levy set at 2.9 cents per kilogram of honey and payable by the producer of the honey.

**Attachment**

**Statement of Compatibility with Human Rights**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

***Primary Industries (Excise) Levies Amendment (Honey) Regulation 2015***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

This Legislative Instrument amends the *Primary Industries (Excise) Levies Regulations 1999* to:

* introduce a levy exemption for producers who in a levy year have sold (through prescribed sales) or used (in the production of other goods) a total weight of no more than 1500 kilograms of honey;
* remove the Emergency Animal Disease Response (EADR) levy on honey;
* introduce a Plant Health Australia (PHA) levy on honey; and
* introduce an Emergency Plant Pest Response (EPPR) levy on honey.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon. Barnaby Joyce MP**

**Minister for Agriculture**