

EXPLANATORY STATEMENT

Select Legislative Instrument No. 66 of 2015

Issued by Authority of the Minister for Agriculture

Primary Industries (Excise) Levies Act 1999

Primary Industries (Excise) Levies Amendment (Bananas) Regulation 2015

Legislative Authority

Section 8 of the *Primary Industries (Excise) Levies Act 1999* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted to be prescribed by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Schedule 27 of the Act provides that Regulations may impose levies on produce of a primary industry in Australia, set the rate of the levies and identify the person liable to pay the levy.

Clause 27.7 of Schedule 15 to the *Primary Industries (Excise) Levies Regulations 1999* provides that an Emergency Plant Pest Response (EPPR) levy is imposed on bananas.

Purpose

The purpose of the *Primary Industries (Excise) Levies Amendment (Bananas) Regulation 2015* (Amendment Regulation) is to increase the EPPR levy on bananas from nil to 0.75 of a cent per kilogram.

Background

The Levies Act authorises the imposition of primary industries levies that are duties of excise. Funds raised by imposition of the levies are distributed to research, marketing and industry bodies for each primary industry commodity or class of commodities. Levies are also imposed on a number of plant products to fund national EPPR activities.

The Australian Banana Growers' Council (ABGC), the peak national industry body for the banana industry, is a signatory to the Emergency Plant Pest Response Deed (EPPRD). The EPPRD is a legally binding agreement between the Australian Government, state and territory governments and industry signatories, for the management and funding of emergency responses to plant pest incursions. EPPR levies provide a mechanism for industry to meet its financial obligations for national cost-shared emergency responses under that agreement if the need arises.

Impact and Effect

The funds raised will be used to repay up to an agreed \$10.37 million to the Australian Government (depending on final costs) for costs paid on the industry's behalf in relation to an emergency response to banana freckle in the Northern Territory.

The levy proposal submitted by the ABGC meets the requirements of the Australian Government *Levy Principles and Guidelines*, and includes a plan to review the levy once the industry's liability has been fully met.

Consultation

The ABGC wrote to every commercial banana grower, presented information at regional grower association meetings, published media releases on its website and also informed growers of the proposal via articles, industry periodicals and advertisements in newspapers in banana-growing regions.

Majority support was demonstrated through supportive responses from four of the five of the regional banana grower associations. The fifth association did not object, and indicated that it felt that its growers had been well informed and that it did not intend to hold a special meeting to discuss the proposal. Three of the five largest banana levy payers wrote independently to express support for the proposal. The only objector supported an increase at a higher rate, but majority support was demonstrated for the proposed rate of 0.75 of a cent per kilogram.

The Department of the Treasury confirmed costings undertaken by the Department of Agriculture (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, and the Office of Best Practice Regulation has advised that a regulation impact statement was not required (ID 18602).

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 (Bananas) Regulation 2015*

Section 1 – Name

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

Section 2 – Commencement

This section provides for the Amendment Regulation to commence 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 for each instrument specified in a Schedule to the Amendment Regulation to be amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Item 1 increases the rate of the EPPR levy imposed on bananas by subclause 27.7(2) of Schedule 15 to the *Primary Industries (Excise) Levies Regulations 1999* from nil to 0.75 of a cent per kilogram.

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 (Bananas) 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 activate the Emergency Plant Pest Response levy on bananas in order to repay costs paid on the banana industry's behalf by the Australian Government for an emergency response to banana freckle in the Northern Territory.

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**