

## **EXPLANATORY STATEMENT**

Issued by Authority of the Deputy Prime Minister and Minister for Agriculture and Water Resources

*Primary Industries (Customs) Charges Act 1999*

*Primary Industries (Customs) Charges Amendment (Avocados) Regulations 2017*

### **Legislative Authority**

Section 8 of the *Primary Industries (Customs) Charges Act 1999* (Customs Charges Act), provides that the Governor-General may make regulations prescribing matters required or permitted by that Act to be prescribed for carrying out or giving effect to that Act. The Act provides for the ability to impose levies on avocados.

Part 4 of Schedule 10 of the *Primary Industries (Customs) Charges Regulations 2000* sets out details for imposition of the avocado levy.

### **Purpose**

The purpose of the *Primary Industries (Customs) Charges Amendment (Avocados) Regulations 2017* (the Regulations) is to amend the avocado levy to establish a Plant Health Australia (PHA) levy on fresh avocados, set at 0.1 of a cent per kilogram, and reduce the existing avocado research and development (R&D) levy rate to 2.9 cents per kilogram.

The Regulations will apply to returns for quarters and financial years that start on or after 1 April 2017.

### **Background**

Levies and charges are introduced, administered and collected by the Australian Government, usually at the request of industry. The Department of Agriculture and Water Resources (the department) disburses the levy collected to the relevant recipient body.

The peak industry body for avocado growers, Avocado Australia Limited (AAL) has requested to establish a new PHA levy set at 0.1 of a cent per kilogram and reduce the existing avocado R&D levy rate to 2.9 cents per kilogram.

The levy will raise funds to meet a number of biosecurity commitments for the avocado industry, as agreed between PHA and AAL, including:

- To enable avocado industry participation in biosecurity management
  - The avocado industry's costs associated with membership of PHA and participation in PHA and Emergency Plant Pest Response Deed decision making processes are currently covered by AAL. Through the changes proposed, all levy payers would share this cost equitably.
- To fund essential avocado biosecurity management activities
  - Biosecurity planning for high priority pests

- Biosecurity response training and education to ensure that AAL has the capacity to respond effectively on behalf of the industry in the event of an incursion
- Supporting the Avocado Nursery Voluntary Accreditation Scheme
- Biosecurity risk analysis to allow a clear understanding of the biosecurity risk associated with potential imports of fresh avocados from countries such as Mexico, Chile and Peru.
- To cover the avocado industry commitment to the Exotic Fruit Flies in the Torres Strait Response Plan.

### **Impact and Effect**

The overall rate of the levy on avocados would not alter, remaining at a rate of 7.5 cents per kilogram. The levy would be applied as follows:

- R&D levy (fresh avocados): 0.1 cents per kilogram (from 3 cents per kilogram)
- Marketing levy (fresh avocados): 4.5 cents per kilogram (current rate)
- Plant Health Australia levy (fresh avocados): 0.1 cents per kilogram (from 0.0 cents per kilogram)
- Emergency plant pest response levy: nil (current rate).

### **Consultation**

Consistent with the Australian Government *Levy Principles and Guidelines*, the AAL conducted a thorough consultation campaign in with all known existing and potential levy payer. This campaign included information being distributed at industry meetings, through mail outs, a media release and on an e-bulletin.

In April 2016, the AAL also undertook an independent ballot of all avocado growers seeking support for the change. Results indicated that:

- a. 606 levy payers were sent the survey directly
- b. 40 per cent of the national production area voted and 96.92 per cent of the votes supported the change (3.08% indicated that they did not support the change)
- c. Those who completed the survey represented 3,005 hectares and those who voted no represented 18 hectares.

In accordance with the Australian Government's *Levy Principles and Guidelines*, a six week period for prospective levy payers to lodge objection to the levy submission was open from 13 October to 24 November 2016. No objections were received.

The department consulted the Departments of the Prime Minister and Cabinet and Treasury in preparing the Regulations. The Office of Best Practice Regulation has agreed that a regulation impact statement is not required (ID 21620).

### **Details / Operation**

Details of the Regulations are set out in the Attachment A.

The Regulations 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 B

The Regulations is a legislative instrument for the purposes of the *Legislation Act 2003*.

**Details of the *Primary Industries (Customs) Charges Amendment (Avocados) Regulations 2017***

**Section 1 – Name of Regulations**

This Section provides that the name of the Regulations is the *Primary Industries (Customs) Charges Amendment (Avocados) Regulations 2017*.

**Section 2 – Commencement**

This Section provides for the Regulations to commence on 1 April 2017.

**Section 3 – Authority**

This Section provides that the Regulations is made under the *Primary Industries (Customs) Charges Act 1999*.

**Section 4 – Schedule**

This Section provides for the *Primary Industries (Customs) Charges Regulations 1999* to be amended as set out in Schedule 1.

**Schedule 1 – Amendments**

**Item 1** changes the rate of R&D charge from 3 cents to 2.9 cents.

**Item 2** amends Part 4 of Schedule 10 to add:

**4.7 PHA charge**

- (1) For clause 2 of Schedule 14 to the Customs Charges Act, PHA charge is imposed on avocados on which charge is imposed by Schedule 10 to the Customs Charges Act.
- (2) For clause 5 of Schedule 14 to the Customs Charges Act, the rate of the charge for avocados is 0.1 cents per kilogram.
- (3) For clause 10 of Schedule 14 to the Customs Charge Act, PHA charge imposed on avocados is payable by the producer of the avocados.

## **Statement of Compatibility with Human Rights**

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

### ***Primary Industries (Customs) Charges Amendment (Avocados) Regulations 2017***

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**

The purpose of the *Primary Industries (Customs) Charges Amendment (Avocados) Regulations 2017* is to amend the avocado levy to establish a Plant Health Australia (PHA) levy on fresh avocados, set at 0.1 of a cent per kilogram, and reduce the existing avocado research and development (R&D) levy rate to 2.9 cents per kilogram.

#### **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**  
**Deputy Prime Minister and Minister for Agriculture and Water Resources**