**Explanatory Statement**

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

*Primary Industries Research and Development Act 1989*

*Cotton Research and Development Corporation Amendment (Seed Cotton) Regulations 2017*

**Legislative Authority**

The *Primary Industries Research and Development Act 1989* (the Act) authorises the undertaking of Research and Development (R&D) relating to primary industries and natural resources and for related purposes. Section 149 of the Act provides that the Governor-General may make regulations not inconsistent with the Act, prescribing matters required or permitted by this Act to be prescribed; or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

**Purpose**

The purpose of the *Cotton Research and Development Corporation Amendment (Seed Cotton) Regulations 2017* (the proposed Regulations) is to amend the *Cotton Research and Development Corporation Regulations 1990* (the Regulations) by attaching levies to the Cotton Research and Development Corporation (CRDC). For the purposes of the proposed Regulations, the attached levies will be the research component of the levy imposed on leviable cotton as described by the Act and the research component of the levies and charges imposed on seed cotton as prescribed in the *Primary Industries (Excise) Levies Regulations 1999* and the *Primary Industries (Customs) Charges Regulations 2000.* Attaching a levy to the CDRC enables the R&D component of the levy to be paid to the CRDC and used for R&D purposes.

**Background**

The cotton industry’s R&D, plant health and Emergency Plant Pest Response (EPPR) activities are funded by excise levies imposed on producers of cotton lint. The current excise levy imposed by the *Primary Industries (Excise) Levies Act 1999* is paid against the ‘natural fibrous hairs that are produced from seed cotton by separating the hairs from the seeds and not further processing those hairs’.

Exports of seed cotton, which by definition have not undergone processing to remove the fibrous hairs from the seeds at the time of export, do not attract this levy, thus creating an anomaly. Exports of seed cotton have recently become economically viable, meaning that this anomaly did not exist when the current excise levy was first imposed. Amendments through the *Primary Industries (Customs) Charges Amendment (Seed Cotton) Regulations 2017* and *Primary Industries (Excise) Levies Amendment (Seed Cotton) Regulations 2017* will resolve this anomaly.

**Impact and Effect**

The proposed Regulations will attach the levies imposed by the *Primary Industries (Customs) Charges Amendment (Seed Cotton) Regulation 2016* and *Primary Industries (Excise) Levies Amendment (Seed Cotton) Regulation 2016* to the CRDC. The proposed Regulations will identify the attached levies as allocated wholly towards the research component of the seed cotton levies. Under the *Primary Industries Research and Development Act 1989,* eligible cotton R&D expenditure is matched dollar for dollar by the Australian Government up to a cap of 0.5 per cent of the gross value of production. This cap will apply to matching of expenditure derived from the export of seed cotton.

The proposed amendments to the Regulations will prevent the undermining of the cotton industry’s research systems by ensuring all cotton producers contribute proportionately to the statutory levy scheme regardless of where primary processing (ginning) occurs. There will be no net change to the amount of levy paid by producers against the total amount of cotton they produce, or the government matching contribution paid for R&D. The proposed Regulations will also enable the maintenance of cotton research programmes. The proposed Regulations will likely have a minimal regulatory burden on cotton producers who may be required to lodge a return within 28 days after the end of the month in which seed cotton is exported, and maintain records on seed cotton harvested, bought, sold or exported to validate their return.

**Consultation**

The Department of Agriculture and Water Resources (the department) liaised with Cotton Australia, Cotton Research and Development Corporation and the Office of Best Practice Regulation (OBPR) in developing the seed cotton levies. Cotton Australia, which is the peak representative body for the cotton supply chain, consulted closely with its members (including all ginners, cotton co-operatives, consultants and grower associations), and obtained unanimous support to implement a levy on cotton that is exported as seed cotton, at a rate equivalent to the existing levy on cotton lint. The department also consulted the company that indicated plans to export seed cotton and found it was satisfied with the department’s proposed approach.

The department consulted OBPR to determine whether a Regulation Impact Statement (RIS) was required for the seed cotton levy amendment proposal. OBPR assessed the proposal to have minor regulatory impact, and determined a RIS was unnecessary at this time (Ref: OBPR ID 21237).

**Details**

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 Attachment B.

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

**Attachment A**

Details of the Cotton Research and Development Corporation Amendment (Seed Cotton) Regulations 2017

Section 1 – Name

This section provides that the name of the proposed Regulations the *Cotton Research and Development Corporation Amendment (Seed Cotton) Regulations 2017.*

Section 2 – Commencement

This section provides for the proposed Regulations to commence the day after the instrument is registered.

Section 3 – Authority

This section provides that the proposed Regulations is made under the *Primary Industries Research and Development Act 1989.*

Section 4 – Schedules

This section provides for the *Cotton Research and Development Corporation Regulations 1990* is amended as set out in the applicable items in Schedule 1.

Schedule 1 – Amendments

**Item 1** amends the definition of ‘Act’ in Regulation 3 to omit ‘and Energy’.

**Item 2** repeals Regulation 5 relating to levies attached to the CRDC.

Subregulation 5(1) attaches to the CRDC the levy imposed on leviable cotton and seed cotton by the *Primary Industries (Excise) Levies Act 1999,*the levy imposed on seed cotton bythe *Primary Industries (Excise) Levies Regulations 1999* and the charge imposed on seed cotton by the *Primary Industries (Customs) Charges Regulations 2000.*

Subregulation 5(2) provides that for the purposes of paragraph 5(3)(a) of the Act, the levies mentioned in Subregulation 5(1) will be declared as research components of the levies.

Subregulation 5(3) provides that for the purposes of paragraph 5(3)(b) of the Act, the cotton industry will be declared to be the primary industry to which the levies relate.

**Attachment B**

**Statement of Compatibility with Human Rights**

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

***Cotton Research and Development Corporation Amendment (Seed Cotton) 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 *Cotton Research and Development Corporation Amendment (Seed Cotton) Regulations 2017* is to amend the *Cotton Research and Development Corporation Regulations 1990* by attaching certain levies relating to leviable cotton and seed cotton to the Cotton Research and Development Corporation. For the purposes of the proposed Regulations, the attached levies will be the levy imposed on leviable cotton as described by the Act and the levies and charges imposed on seed cotton as described in the *Primary Industries (Excise) Levies Regulations 1999* and the *Primary Industries (Customs) Charges Regulations 2000.*

**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**