

## **EXPLANATORY STATEMENT**

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

*Primary Industries (Excise) Levies Act 1999*

*Primary Industries (Excise) Levies Amendment (Sweet Potatoes) Regulations 2024*

### **Legislative Authority**

The *Primary Industries (Excise) Levies Act 1999* (the Act) authorises the imposition of primary industries levies that are duties of excise. Section 8 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the 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 *Primary Industries (Excise) Levies Amendment (Sweet Potatoes) Regulations 2024* (the Amendment Regulations) is to meet current industry needs by:

- decreasing the rate of the existing marketing component of the sweet potatoes levy to nil; and
- making Australian Sweetpotato Growers Inc. (ASPG) the eligible industry body in relation to all components of the levy on sweet potatoes.

### **Background**

Levies are generally imposed and changed under the Act on the request of industry and disbursed by the Commonwealth to certain bodies to undertake particular activities for the benefit of industry.

Clause 2 of Schedule 15 to the Act imposes a levy on certain leviable horticultural products produced in Australia that are sold by the producer or used by the producer in the production of other goods. Sweet potatoes are prescribed as leviable horticultural products under that Schedule. Under clause 3 and subclause 4(1) of Schedule 15 to the Act, the regulations may fix a rate of levy in relation to sweet potatoes that is a marketing component.

Clause 6 of Schedule 15 to the Act requires the Minister to consider certain matters before the Governor-General makes regulations for the purposes of those Schedules. This includes any relevant recommendation the industry services body makes to the Minister following consultation with the eligible industry body for the leviable horticultural product. In relation to this:

- Horticulture Innovation Australia Limited (Hort Innovation Australia) is the industry services body declared under section 9 of the *Horticulture Marketing and Research Development Services Act 2000*; and
- ASPG is the eligible industry body for sweet potatoes under subclause 30.4(1) of Schedule 15 to the *Primary Industries (Excise) Levies Regulations 1999* (the principal Regulations).

ASPG recommended that the marketing component of the levy be reduced to nil. Hort Innovation Australia supported ASPG's recommendations but did not make any recommendations to the Minister. Therefore, there was no relevant recommendation made to the Minister by the industry services body that the Minister was required to take into consideration under subclause 6(1) of Schedule 15 to the Act.

Under the Act, the eligible industry body must be consulted on, and may make recommendations to, the Minister in a number of circumstances in relation to levies. Such circumstances include fixing a rate for the marketing component, the research and development component of the levy and a rate of levy destined for other purposes and providing for exemptions from levies.

Clause 30.4 of Schedule 15 to the principal Regulations identified the eligible industry body for sweet potatoes as:

- ASPG in relation to a recommendation relating to the marketing component of a levy; and
- Ausveg Limited in relation to a recommendation relating to any other component of a levy.

It was proposed that ASPG – the national peak industry body for sweet potatoes – be the eligible industry body for all components of the levy on sweet potatoes.

## Impact and Effect

The amendments will benefit sweet potatoes farmers by:

- decreasing the marketing component of the levy in line with current industry requirements to nil; and
- making ASPG, which is the national peak industry body for sweet potatoes, the eligible industry body for all components of the levy on sweet potatoes.

Complementary amendments to the *Primary Industries (Customs) Charges Regulations 2000* by the *Primary Industries (Customs) Charges Amendment (Sweet Potatoes) Regulations 2024* align changes in the charge rates for sweet potatoes with the changes in excise levy.

## Consultation

The decrease in the rate of the marketing component of the levy was developed with widespread consultation with sweet potatoes growers, in accordance with the Australian Government's *Levy Principles and Guidelines*. ASPG consulted with sweet potatoes growers for several months before holding a ballot which was managed by an independent third party. The majority of the votes from the ballot supported the proposal. There was a six-week objection period following the result of the ballot; no objections were received. The department assessed the proposal and considered it to meet the requirements of the *Levy Principles and Guidelines*.

The proposal to make ASPG the eligible industry body for all components of the levy on sweet potatoes is supported by ASPG and Ausveg Limited.

The Office of Impact Analysis has been consulted and has advised that a detailed analysis is not required for the change to the eligible industry body (OIA24-07379). A carve-out applies to the change in the rate of levy (OBPR ID: 22416).

**Details/ Operation**

Details of the Regulations are set out in Attachment A.

**Other**

The Regulations are 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 will commence on 1 July 2024. The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

**ATTACHMENT A****Details of the *Primary Industries (Excise) Levies Amendment (Sweet Potatoes) Regulations 2024*****Section 1 – Name**

This section provides that the name of the proposed Regulations is the *Primary Industries (Excise) Levies Amendment (Sweet Potatoes) Regulations 2024* (the Regulations).

**Section 2 – Commencement**

Subsection 2(1) provides that each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Item 1 of the table specifies that the whole of the instrument commences on 1 July 2024.

The note to subsection 2(1) provides that this table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

Subsection 2(2) provides that any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

**Section 3 – Authority**

This section provides that this instrument is made under *Primary Industries (Excise) Levies Act 1999*.

**Section 4 – Schedules**

This section provides that each instrument that is specified in a Schedule to this instrument is 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**

### ***Primary Industries (Excise) Levies Regulations 1999***

#### **Item 1 – Clause 30.2 of Schedule 15**

This item repeals the existing clause 30.2 of Schedule 15 to the principal Regulations, which sets the current rate of levy on sweet potatoes in relation to the marketing component and substitutes a new nil rate of the marketing component of the levy on sweet potatoes.

#### **Item 2 – Subclause 30.3(3) of Schedule 15**

This item repeals and substitutes subclause 30.3(3) of Schedule 15 to the principal Regulations (not including the note).

Clause 30.3(3) of Schedule 15 to the principal Regulations provides that the amount that would have been paid for the sweet potatoes is the amount that would have been paid for the sweet potatoes calculated in accordance with subclauses 30.2(3) and (4) of this Schedule. The repeal is consequential to the repeal and substitution of clause 30.2 of Schedule 15 by item 1 above.

New subclauses 30.3(3) and 30.3(4) are identical to the existing subclauses 30.2(3) and 30.2(4) and specify how to calculate the amount that would have been paid for the sweet potatoes if sweet potatoes are first sold after being processed. This amount would be used to calculate the amount of levy paid for the research and development component of the levy under clause 30.3 of Schedule 15 to the principal Regulation. The amendment ensures that clause 30.3 continues to operate and is not affected by the repeal and substitution of clause 30.2 of Schedule 15 to the principal Regulations by item 1 above.

#### **Item 3 – Clause 30.4 of Schedule 15**

This item repeals and substitutes clause 30.4 of Schedule 15 to the principal Regulations.

Clause 30.4 of Schedule 15 to the principal Regulations identifies the eligible industry body for sweet potatoes as:

- Australian Sweetpotato Growers Inc. in relation to a recommendation relating to the marketing component of a levy; and
- Ausveg Limited in relation to a recommendation relating to any other component of a levy.

New clause 30.4 specifies that the eligible industry body for sweet potatoes is the Australian Sweetpotato Growers Inc (ABN 82 577 850 667).

#### **Item 4 – Subclause 30.5(4) of Schedule 15**

This item omits “30.2(3)”, and substitute “30.3(3)” in clause 30.5(4) of Schedule 15 to the principal Regulations. As a result of this amendment, clause 30.5(4) reads: “For subclause (3), the expected price of the sweet potatoes is the amount that would have been paid for the sweet potatoes calculated in accordance with subclauses 30.3(3) and (4) of this Schedule.”.

This item is consequential to the repeal and substitution of clause 30.2 of Schedule 15 by item 1 above and of subclause 30(3) of Schedule 15 by item 2 above.

**ATTACHMENT B****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 (Sweet Potatoes) Regulations 2024***

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 (Excise) Levies Amendment (Sweet Potatoes) Regulations 2024* (the Legislative Instrument) is to make the following changes to the *Primary Industries (Excise) Levies Regulations 1999* to meet current industry needs of the sector:

- decreasing the rate of the existing marketing component of the sweet potatoes levy to nil; and
- making Australian Sweetpotato Growers Inc. (ASPG) the eligible industry body in relation to all components of the levy on sweet potatoes.

The Legislative Instrument commences on 1 July 2024.

**Human rights implications**

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

**Conclusion**

The measures in the Legislative Instrument are 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* as the Legislative Instrument does not engage any human rights issues.

**Senator the Hon. Murray Watt**

**Minister for Agriculture, Fisheries and Forestry**