

EXPLANATORY STATEMENT

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

Primary Industries Levies and Charges Disbursement Act 2024

Primary Industries (Consequential Amendments and Transitional Provisions) Act 2024

Primary Industries Legislation Amendment (Fishing Levy Component and Transitional Provisions) Rules 2025

Legislative authority

Section 90 of the *Primary Industries Levies and Charges Disbursement Act 2024* (the Disbursement Act) provides that the Minister may, by legislative instrument, make rules prescribing matters required or permitted by the Act to be prescribed by the rules or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Item 16 of Schedule 4 to the *Primary Industries (Consequential Amendments and Transitional Provisions) Act 2024* (the Consequential Act) provides that the Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to: the enactment of the *Primary Industries Levies and Charges Collection Act 2024* or the Disbursement Act; or the amendments or repeals made by Schedule 1 or 2 to the Consequential Act.

Purpose

The purpose of Schedule 1 to the *Primary Industries Legislation Amendment (Fishing Levy Component and Transitional Provisions) Rules 2025* (the Amendment Rules) is to amend the *Primary Industries Levies and Charges Disbursement Rules 2024* (the Disbursement Rules) to prescribe rules for the purposes of paragraph 36(1)(a) of the Disbursement Act, providing for the component of the fishing levy for the 2024-25 financial year in respect of which amounts must be paid to the Fisheries Research and Development Corporation (the FRDC).

The purpose of Schedule 2 to the Amendment Rules is to amend the *Primary Industries (Consequential Amendments and Transitional Provisions) Rules 2024* (the Consequential Rules) to prescribe matters relating to the transition from the old disbursement law (within the meaning of item 1 of Schedule 4 to the Consequential Act) to the Disbursement Act. Specifically, to:

- preserve certain declared body declarations made under the old disbursement law;
- include amounts in relation to the fishing levy paid to the FRDC under the Disbursement Act in the calculation of amounts of matching payments paid to the FRDC under the old disbursement law in relation to the 2024-25 financial year; and
- provide for certain appropriations in the Disbursement Act to apply to certain payments made under the Acts that were repealed or amended by the Consequential Act, but which continue to apply under the Consequential Act or the Consequential Rules.

Background

The agricultural levy and charge system, known as the agricultural levy system, is a long-standing partnership between industry and the Australian Government to facilitate industry investment in strategic activities.

On 1 January 2025, a new legislative framework for the agricultural levy system commenced. Under that framework, the Disbursement Act requires the Commonwealth to pay amounts equal to the collected levy and charge to recipient bodies and other entities to support activities the levies and charges were imposed to fund, including research and development. The Consequential Act repealed or amended Acts forming part of the previous levies and charges framework (including Acts that form part of the old disbursement law), and set out related application, savings and transitional arrangements.

The Amendment Rules, made under the Disbursement Act and the Consequential Act, prescribe matters, respectively, relating to the disbursement of certain amounts under the Disbursement Act and the transition from the old disbursement law to the Disbursement Act.

Impact and effect

The Amendment Rules will amend the Disbursement Rules to provide for the component of the fishing levy in respect of which amounts equal to amounts received by the Commonwealth must be paid to the FRDC under the Disbursement Act. The FRDC may spend amounts paid to it under the Disbursement Act on research and development activities for the benefit of the fishing industry and certain other matters. The Amendment Rules will amend the Consequential Rules to prescribe matters relating to the transition from the old disbursement law to the Disbursement Act and facilitate the effective and efficient administration of the agricultural levy system in the transition period.

Consultation

The department consulted with the Australian Fisheries Management Authority (AFMA) in determining the component of the fishing levy in respect of which amounts must be paid to the FRDC. AFMA collects the fishing levy. The department has also notified the FRDC of the amendments to the Disbursement Rules. Both AFMA and the FRDC are supportive of the amendments to the Disbursement Rules that would be made by the Amendment Rules. No consultation was undertaken in respect of the balance of measures in the Amendment Rules, which are technical in nature and limited to ensuring the old disbursement law and the Disbursement Act operate as intended during the transition period.

Details

Details of the Amendment Rules are set out in [Attachment A](#).

Other

The Amendment Rules 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 Amendment Rules commence on 1 January 2025 or the day after they are registered. The Amendment Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the *Primary Industries Legislation Amendment (Fishing Levy Component and Transitional Provisions) Rules 2025*

Section 1—Name

This section provides that the name of the instrument is the *Primary Industries Legislation Amendment (Fishing Levy Component and Transitional Provisions) Rules 2025* (the Amendment Rules).

Section 2—Commencement

This section provides that the Amendment Rules commence as follows:

- Sections 1 to 4 and anything in the Amendment Rules not elsewhere covered by the table in subsection 2(1) commence on the day after the Amendment Rules are registered;
- Schedule 1 to the Amendment Rules commences on the day after the Amendment Rules are registered;
- Part 1 of Schedule 2 to the Amendment Rules is taken to have commenced on 1 January 2025; and
- Part 2 of Schedule 2 to the Amendment Rules commences on the day after the Amendment Rules are registered.

Section 3—Authority

This section provides that the Amendment Rules are made under:

- (a) the *Primary Industries Levies and Charges Disbursement Act 2024* (the Disbursement Act); and
- (b) item 16 of Schedule 4 to the *Primary Industries (Consequential Amendments and Transitional Provisions) Act 2024* (the Consequential Act).

Section 4—Schedules

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

Schedule 1—Fishing levy component

Primary Industries Levies and Charges Disbursement Rules 2024

Item 1—After section 20

This item adds after section 20 of the *Primary Industries Levies and Charges Disbursement Rules 2024* (the Disbursement Rules), new section 21 – Disbursement of amounts—fishing levy.

Subsection 36(1) of the Disbursement Act provides that the Commonwealth must pay to the Fisheries Research and Development Corporation (the FRDC) amounts equal to amounts received by the Commonwealth:

- of levy (the fishing levy) imposed by section 5 of the *Fishing Levy Act 1991* (Fishing Levy Act) to the extent that those amounts consist of the component of that levy worked out in accordance with the rules (paragraph 36(1)(a) of the Disbursement Act); and
- by way of penalty under section 112 of the *Fisheries Management Act 1991*, to the extent that those amounts are attributable to the non-payment of that component (paragraph 36(1)(b) of the Disbursement Act).

Item 6 of Schedule 3 to the Consequential Act provides that subsection 36(1) of the Disbursement Act applies in relation to the financial year beginning on 1 July 2024 and each later financial year.

New section 21 prescribes, for the purposes of paragraph 36(1)(a) of the Disbursement Act, the component of the fishing levy in respect of which amounts must be disbursed to the FRDC. Specifically, it provides that the component of the levy is the percentage of the levy worked out using the table provided in that section. Item 1 of the table in new section 21 provides that, for the financial year commencing on 1 July 2024, the component of the fishing levy is 6.36% of the levy.

In practice, the Australian Fisheries Management Authority (AFMA), a Commonwealth entity established under the *Fisheries Administration Act 1991*, collects the fishing levy.

It is intended, under policy, that each year the FRDC be paid an amount under subsection 36(1) of the Disbursement Act that is equal to the amount that is 0.25% of the gross value of production of Commonwealth fisheries levied under the Fishing Levy Act for the year (the intended amount). This reflects the notional rate of the component of the fishing levy in respect of which amounts are to be paid to the FRDC agreed by AFMA, the FRDC and the fishing industry.

The component of the fishing levy for a financial year is calculated in part based on the amount of fishing levy expected to be collected for the year. If the amount paid to the FRDC for the financial year is less than the intended amount, this would be accounted for in the calculation of the component of the fishing levy prescribed in section 21 for the following financial year.

The percentage prescribed in item 1 of the table in section 21 is the proportion of the amount of fishing levy expected to be collected for the 2024-2025 financial year that is intended to result in the payment to the FRDC under subsection 36(1) of the Disbursement Act of amounts equal to:

- the intended amount for the current financial year; and
- the difference between the payments in respect of the fishing levy made to the FRDC for the previous financial year and the intended amount for that year.

Schedule 2—Transitional provisions

Part 1—Preserving old declarations of declared bodies

Primary Industries (Consequential Amendments and Transitional Provisions) Rules 2024

Item 1—Section 4

This item inserts in section 4 of the *Primary Industries (Consequential Amendments and Transitional Provisions) Rules 2024* (the Consequential Rules) a definition of ***old disbursement law***.

The definition provides that ***old disbursement law*** has the meaning given by Schedule 4 to the Consequential Act. This term is used in new sections 10 and 12 of the Consequential Rules, as inserted into those Rules by item 3 and item 5 of Schedule 2 to the Amendment Rules, and subsection 9(2) of the Consequential Rules, as amended by item 2 of Schedule 2 to the Amendment Rules.

Item 2—Subsection 9(2)

This item omits from subsection 9(2) of the Consequential Rules the phrase “(within the meaning of Schedule 4 to the *Primary Industries (Consequential Amendments and Transitional Provisions) Act 2024*)”.

The phrase is redundant given the insertion of the definition of ***old disbursement law*** by item 1 above.

Item 3—At the end of Part 2

This item adds at the end of Part 2 of the Consequential Rules, new section 10 – ‘Preserving old declarations of declared bodies’.

New subsection 10(1) provides that a declared body declaration in force immediately before the commencement of item 1 of Schedule 4 to the Consequential Act continues in force on and after that commencement in relation to the continued application of the old disbursement law on and after that commencement.

The note to new subsection 10(1) explains that item 4 of Schedule 4 to the Consequential Act deals with the continued application of the old disbursement law.

New subsection 10(2) provides that a ***declared body declaration*** is:

- (a) a declaration made under section 60 or 61 of the *Australian Meat and Live-stock Industry Act 1997* before 1 January 2025; or
- (b) a declaration made under section 7 of the *Dairy Produce Act 1986* before 1 January 2025; or
- (c) a declaration made under section 6 of the *Egg Industry Service Provision Act 2002* before 1 January 2025; or
- (d) a declaration made under section 11 of the *Forestry Marketing and Research and Development Services Act 2007* before 1 January 2025; or

- (e) a declaration made under subsection 9(1) of the *Horticulture Marketing and Research and Development Services Act 2000* before 1 January 2025; or
- (f) a declaration made under section 11 of the *Pig Industry Act 2001* before 1 January 2025; or
- (g) a declaration made under section 9 of the *Sugar Research and Development Services Act 2013* before 1 January 2025; or
- (h) a declaration made under section 30 of the *Wool Services Privatisation Act 2000* before 1 January 2025.

The effect of new subsection 10(1) is to continue in force those declared body declarations made under each of the Acts specified in subsection 10(2) that were in force immediately before 1 January 2025. Each of the Acts specified in subsection 10(2) is a part of the **old disbursement law** as defined in item 1 of Schedule 4 to the Consequential Act.

The purpose of new subsection 10(1) is to clarify the operation of the old disbursement law (as it continues to apply under Schedule 4 to the Consequential Act), to the extent to which it refers to a body of a kind covered by a declaration under that law. Schedule 4 to the Consequential Act relevantly continues the operation of the old disbursement law in relation to making payments to bodies covered by declared body declarations.

Part 1 of Schedule 2 to the Amendment Rules will commence retrospectively on 1 January 2025. Section 12(2) of the *Legislation Act 2003* limits the effect of retrospective instruments to the extent that an instrument would adversely impact on persons (other than the Commonwealth or an authority of the Commonwealth) by imposing liabilities or disadvantageously affecting rights. The retrospective application of this Part supports the purpose of this provision to clarify the old disbursement law as it applies to these bodies. It will not have a disadvantageous impact on individuals nor impose liabilities on a person in respect of anything done or omitted to be done before the Amendment Rules commence.

Part 2—Fisheries payments and appropriations

Primary Industries (Consequential Amendments and Transitional Provisions) Rules 2024

Item 4—Section 4

This item inserts in section 4 the following definitions:

- **collection products** has the meaning given by Schedule 4 to the Consequential Act.
- **matching payments** has the meaning given by Schedule 4 to the Consequential Act.
- **old fisheries disbursement law** means the *Primary Industries Research and Development Act 1989* (the PIRD Act), and the *Fisheries Research and Development Corporation Regulations 1991*, as in force immediately before the commencement of item 1 of Schedule 4 to the Consequential Act.

Section 4 of the Consequential Rules already defines other terms used in provisions inserted by this Part, including **charge**, **fishing levy** and **levy**. These terms are defined in the Consequential Rules to have the same meaning as in Schedule 4 to the Consequential Act.

Item 5—At the end of Part 2

This item adds at the end of Part 2 new section 11 (Matching payments under the old fisheries disbursement law) and new section 12 (Appropriations).

New section 11 provides that for the purposes of the operation of the old fisheries disbursement law in relation to the financial year beginning on 1 July 2024, paragraph 30A(2)(b) of the PIRD Act applies as if a reference to the amounts paid to the Corporation (the FRDC) during the year under subparagraphs 30A(1)(a)(i) and (ii) of the PIRD Act included a reference to the amounts paid to the FRDC during the year under paragraph 36(1)(a) of the Disbursement Act.

The effect of new section 11 is that the amounts that are payable to the FRDC under paragraph 30A(1)(b) of the PIRD Act and worked out under subparagraph 30A(2)(b)(i) or (ii) of the PIRD Act for the 2024-25 financial year will be reduced by the amount (if any) by which the amount worked out under subparagraph 30A(2)(b)(i) or (ii) of the PIRD Act (whichever applies) exceeds the total of the fishing levy amounts paid to the FRDC during the year under:

- subparagraphs 30A(1)(a)(i) and (ii) of the PIRD Act (less the sum of any refunds in relation to levies attached to the FRDC); and
- paragraph 36(1)(a) of the Disbursement Act.

As noted above in the explanation of item 1 of Schedule 1 to the Amendment Rules, subsection 36(1) of the Disbursement Act requires the Commonwealth to pay to the FRDC certain amounts in respect of the fishing levy in relation to the financial year beginning on 1 July 2024 and each later year.

Conversely, subitem 4(2) of Schedule 4 to the Consequential Act provides that the old disbursement law, to the extent that it relates to matching payments to a body, continues to apply in relation to the financial year beginning on 1 July 2024 or an earlier financial year. The term ‘matching payments’ is defined in item 1 of Schedule 4 to the Consequential Act to include payments under paragraph 30A(1)(b) of the PIRD Act.

The purpose of new section 11 is to include the amounts in relation to the fishing levy paid to the FRDC under paragraph 36(1)(a) of the Disbursement Act in calculating the amounts of matching payments paid to the FRDC under paragraph 30A(1)(b) of the PIRD Act and worked out under paragraph 30A(2)(b) of the PIRD Act for the 2024-25 financial year.

New subsection 12(1) provides that section 37 of the Disbursement Act applies after the commencement of new section 12 as if it also applied to payments by the Commonwealth after that commencement under:

- (a) the old disbursement law (as that law continues to apply under Schedule 4 to the Consequential Act) in relation to a levy or charge for a collection product; or
- (b) the old disbursement law (as that law continues to apply under Schedule 4 to the Consequential Act) in relation to matching payments to a body; or
- (c) the PIRD Act (as that Act continues to apply under section 7 of the Consequential Rules) in relation to the fishing levy.

Section 37 of the Disbursement Act provides that the Consolidated Revenue Fund (the CRF) is appropriated for the purposes of payments in respect of levy and charge and matching payments by the Commonwealth to recipient bodies under specified provisions of that Act.

The effect of new subsection 12(1) is that the appropriation in section 37 of the Disbursement Act will also apply to certain payments made pursuant to the old disbursement law, as that law continues to apply under Schedule 4 to the Consequential Act, and to payments under the PIRD Act in relation to the fishing levy, to the extent that Act continues to apply under the Consequential Rules.

New subsection 12(2) provides that section 52 of the Disbursement Act applies after the commencement of section 12 as if it also applied to payments by the Commonwealth after that commencement under the *Australian Animal Health Council (Live-stock Industries) Funding Act 1996* (as that Act continues to apply under Schedule 4 to the Consequential Act) in relation to a levy or charge for a collection product.

New subsection 12(3) provides that section 62 of the Disbursement Act applies after the commencement of section 12 as if it also applied to payments by the Commonwealth after that commencement under the *Plant Health Australia (Plant Industries) Funding Act 2002* (as that Act continues to apply under Schedule 4 to the Consequential Act) in relation to a levy or charge for a collection product.

Section 52 and 62 of the Disbursement Act respectively provide that the CRF is appropriated for the purposes of payments in respect of levy and charge by the Commonwealth to Animal Health Australia and Plant Health Australia under specified provisions of that Act.

The effect of new subsections 12(2) and (3) is that the appropriations in sections 52 and 62 of the Disbursement Act will also apply to certain payments made pursuant to the *Australian Animal Health Council (Live-stock Industries) Funding Act 1996* and the *Plant Health Australia (Plant Industries) Funding Act 2002* respectively, as those Acts continue to apply under Schedule 4 to the Consequential Act.

The purpose of new section 12 is to simplify the administration of payments to recipient bodies and other entities by providing for the appropriations in the Disbursement Act to also apply to certain payments made pursuant to the Acts repealed by the Consequential Act, but which continue to apply in limited circumstances provided for by that Act.

Statement of Compatibility with Human Rights

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

Primary Industries Legislation Amendment (Fishing Levy Component and Transitional Provisions) Rules 2025

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 Schedule 1 to the *Primary Industries Legislation Amendment (Fishing Levy Component and Transitional Provisions) Rules 2025* (the Amendment Rules) is to amend the *Primary Industries Levies and Charges Disbursement Rules 2024* to prescribe rules for the purposes of paragraph 36(1)(a) of the *Primary Industries Levies and Charges Disbursement Act 2024* (the Disbursement Act), providing for the component of the fishing levy for the 2024-25 financial year in respect of which amounts must be paid to the Fisheries Research and Development Corporation (the FRDC).

The purpose of Schedule 2 to the Amendment Rules is to amend the *Primary Industries (Consequential Amendments and Transitional Provisions) Rules 2024* (the Consequential Rules) to prescribe matters relating to the transition from the old disbursement law (within the meaning of item 1 of Schedule 4 to the *Primary Industries (Consequential Amendments and Transitional Provisions) Act 2024* (the Consequential Act)) to the Disbursement Act. Specifically, to:

- preserve certain declared body declarations made under the old disbursement law;
- include amounts in relation to the fishing levy paid to the FRDC under the Disbursement Act in the calculation of amounts of matching payments paid to the FRDC under the old disbursement law in relation to the 2024-25 financial year; and
- provide for certain appropriations in the Disbursement Act to apply to certain payments made under the Acts that were repealed or amended by the Consequential Act, but which continue to apply under the Consequential Act or the Consequential Rules.

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.

The Hon Julie Collins MP

Minister for Agriculture, Fisheries and Forestry