**EXPLANATORY STATEMENT**

Issued by Authority of the Acting Secretary of the Department of
Agriculture, Fisheries and Forestry

*Primary Industries Levies and Charges Collection Act 2024*

*Primary Industries Levies and Charges Collection Amendment (Grains and Other Matters) Rules 2025*

**Legislative Authority**

The *Primary Industries Levies and Charges Collection Act 2024* (the Act) provides for the collection of agricultural levies imposed by regulations under the *Primary Industries (Excise) Levies Act 2024* or the *Primary Industries (Services) Levies Act 2024* and agricultural charges imposed by regulations under the *Primary Industries (Customs) Charges Act 2024*.

Section 59 of the Act provides that, for better securing the payment of levy or charge imposed in relation to the collection of commodities/services, the Secretary of the Department of Agriculture, Fisheries and Forestry (the department) 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.

**Purpose**

The purpose of the *Primary Industries Levies and Charges Collection Amendment (Grains and Other Matters) Rules 2025* (the Amendment Rules) is to amend the *Primary Industries Levies and Charges Collection Rules 2024*(the Collection Rules) to provide for levy payers to pay levy and give a return when levy is imposed on grain sold to a business purchaser who does not maintain an office in Australia in connection with the carrying on of their business, rather than require payments to be made and returns to be given by collection agents when grain is sold in those circumstances.

The Amendment Rules also amend the Collection Rules consistently with amendments to the *Primary Industries (Excise) Levies Regulations 2024* (the Levies Regulations) by the *Primary Industries (Excise) Levies Amendment (Exemptions and Other Matters) Regulations 2025*.

**Background**

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

The Collection Rules set out detailed requirements for the collection of levies and charges for each product that is subject to a levy or charge imposed by the Levies Regulations or the *Primary Industries (Customs) Charges Regulations 2024*.

Levy or charge liability may be discharged either by payment of the levy or charge by a levy or charge payer themselves, or by payment of an amount equal to the levy or charge (an equivalent amount) by a collection agent on behalf of the levy or charge payer. Each collection agent who has an obligation to pay an equivalent amount will also be obliged to give a return. A levy or charge payer will only be obliged to give a return when the Rules do not impose obligations on collection agents to pay an equivalent amount and give a return.

Amounts equal to amounts collected under the Collection Rules are generally disbursed under the *Primary Industries Levies and Charges Disbursement Act 2024* to recipient bodies and other entities to support activities including research and development, marketing, biosecurity activities, biosecurity responses, and National Residue Survey testing.

**Impact and effect**

The Amendment Rules are intended to make it easier to collect the grain levy when it is imposed on grain that is sold by the person who owned the grain immediately after it is harvested to a business purchaser who does not maintain an office in Australia in connection with their business. The amendments in effect provide for the levy payer – the seller of the grain – to pay the levy and to give a return, rather than a collection agent, which may be the business purchaser. This ensures that collection agent obligations are not imposed on persons who do not maintain an office in Australia in connection with their business.

The other amendments ensure that the Collection Rules are consistent with the Levies Regulations following minor amendments made by the *Primary Industries (Excise) Levies Amendment (Exemptions and Other Matters) Regulations 2025*.

**Consultation**

Industry representative bodies who represent persons affected by the amendments were consulted during development of the measures in the Amendment Rules. The industry representative bodies consulted represent levy payers in the grains, livestock and wild game industries who could be affected by the proposed changes.

Industry bodies were either supportive of or did not raise concerns about the measures relevant to their industry.

**Details/Operation**

Details of the Amendment Rules are set out in Attachment A.

**Other**

The 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 July 2025. The Amendment Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

**ATTACHMENT A**

**Details of the *Primary Industries Levies and Charges Collection Amendment (Grains and Other Matters) Rules 2025***

Section 1—Name

This section provides that the name of the instrument is the *Primary Industries Levies and Charges Collection Amendment (Grains and Other Matters) Rules 2025* (the Amendment Rules).

Section 2—Commencement

This section provides that the Amendment Rules will commence on 1 July 2025.

Section 3—Authority

This section provides that the Amendment Rules are made under the *Primary Industries Levies and Charges Collection Act 2024* (the Act).

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 Levies and Charges Collection Rules 2024***

**Item 1 – Section 5 (before the note at the end of the definition of *proprietor*)**

This item inserts a new note before the existing note at the end of the definition of ***proprietor*** in section 5 of the *Primary Industries Levies and Charges Collection Rules 2024* (the Collection Rules). The note provides “Note 1: An example of an abattoir is a place where mobile abattoir activities are carried on”.

The purpose of the amendment is to explain the types of places that can be an abattoir for the purposes of the Collection Rules.

**Item 2 – Section 5 (note to the definition of *proprietor*)**

This item omits the word “Note” from before the existing note at the end of the definition of ***proprietor*** in section 5 of the Collection Rules, and substitutes “Note 2”.

The amendment is consequential to the amendment that is made by Item 1 to add a new note at the end of that definition.

**Item 3 – Section 5 (note to the definition of *proprietor*)**

This item omits the words “other premises” from the existing note at the end of the definition of ***proprietor*** in section 5 of the Collection Rules and substitutes “premises, other than an abattoir,”.

The purpose of the amendment to the note is to clarify that the examples in that note are of types of premises other than an abattoir.

**Item 4 – Subparagraph 22-2(a)(ii) of Schedule 1**

This item inserts the word “processed” after the word “are” in subparagraph 22-2(a)(ii) of Schedule 1 to the Collection Rules.

Clause 22-2 of Schedule 1 prescribes, for the purposes of paragraph 59(2)(c) of the Act, record keeping obligations for persons who consider that an exemption from the macropod processing levy applies in a financial year.

Paragraph 22-2(2)(a) is intended to reflect the circumstances in which the macropod processing levy would, subject to any exemptions, be imposed under subclause 22-1(1) of Schedule 1 to the *Primary Industries (Excise) Levies Regulations 2024* (the Levies Regulations).

The *Primary Industries (Excise) Levies Amendment (Exemptions and Other Matters) Regulations 2025* amended subclause 22-1(1) of Schedule 1 to the Levies Regulations to provide that levy is imposed on the processing at a processing establishment in Australia of macropods that were killed in their habitat by a shot from a firearm and are processed for human or animal consumption in or outside Australia.

The purpose of the amendment is to clarify that the record-keeping obligations prescribed by clause 22-2 of Schedule 1 have effect if:

* macropods are processed at a processing establishment in Australia in a financial year and the macropods were killed in their habitat by a shot from a firearm and are processed for human or animal consumption; and
* the proprietor of the establishment considers that an exemption from levy applies.

**Item 5 – Subclause 26-1(1) of Schedule 2**

This item repeals and substitutes subclause 26-1(1) of Schedule 2 to the Collection Rules, which prescribes, for the purposes of section 8 of the Act, when grain levy is due and payable.

New subclause 26-1(1) of Schedule 2 adds a new circumstance when grain levy is due and payable and makes a consequential adjustment to a legislative note, and otherwise substantively replicates the repealed subclause.

Division 26 of Schedule 2 to the Collection Rules provides for obligations on a levy payer or collection agent to pay levy or equivalent amounts, or to give returns, depending on different circumstances in which the levy is imposed. Subclause 26-1(1) of Schedule 2 prescribes when grain levy is due and payable in each of the specific circumstances in which levy is imposed that are specifically addressed in the Division.

Paragraph 26-1(1)(a) of Schedule 2 to the Levies Regulations provides that levy is imposed on grain that is harvested in Australia and is sold to a business purchaser (whether directly or through a selling agent or buying agent or both) by the person who owns the grain immediately after it is harvested.

The new subclause 26-1(1) of Schedule 2 prescribes, in table items 1 and 2, when levy is due and payable in two circumstances in which levy is imposed on grain that is sold by the levy payer in a quarter in a financial year:

* table item 1 provides for when levy is due and payable for grain sold to a business purchaser (whether directly or through a selling agent or buying agent or both) who maintains an office in Australia in connection with the carrying on of the business purchaser’s business.
* table item 2 provides for when levy is due and payable for grain sold to a business purchaser (whether directly or through a selling agent or buying agent or both) who does not maintain an office in Australia in connection with the carrying on of the business purchaser’s business.

Prior to this amendment, subclause 26-1(1) of Schedule 2 provided for when levy is due and payable on grain that is sold, covering grain sold to a business purchaser (whether directly or through a selling agent or buying agent or both) without differentiation, that is, with no reference to whether the business purchaser maintained an office in Australia.

The amendment to subclause 26-1(1), to provide for when levy is due and payable in two circumstances in which levy is imposed on grain that is sold by the levy payer in a quarter in a financial year, is consistent with the amendments made to Division 26 by items 6 and 7 of Schedule 1 to the Amendment Rules, which provide for different obligations on levy payers and collection agents in each of those circumstances. A detailed explanation for this approach is set out in the explanation for those items, below.

Items 3-5 of the table in new subclause 26-1(1), which provide for when grain processed by or for the levy payer is due and payable, and for to whom levy is payable in all circumstances, are identical to items 2-4 of subclause 26-1(1) prior to the amendments.

New Note 1 at the end of the subclause provides that for table items 1 and 3 in subclause 26-1(1), a collection agent is liable to pay an amount, on behalf of the levy payer, equal to the grain levy. The note refers to clause 26-2, which provides for the obligations of collection agents. Clause 26-2, as amended by item 7 of Schedule 1 to the Amendment Rules, sets out the obligations that are imposed on a collection agent when levy is imposed in the circumstances prescribed in table items 1 and 3 in new subclause 26-1(1).

**Item 6 – Subclause 26-1(3) of Schedule 2**

This item repeals and substitutes subclause 26-1(3) of Schedule 2 to the Collection Rules, which prescribes, for the purposes of paragraph 59(2)(a) of the Act, rules for when a levy payer must give a return.

Repealed table item 1 of subclause 26-1(3) of Schedule 2 is wholly replicated in paragraph (b) of table item 1 of the new subclause. The new subclause however includes a new circumstance – in paragraph (a) in table item 1 – in which a levy payer must give a return for levy imposed on grain. In this new circumstance, a levy payer is required to give a return for grain sold by the levy payer in the threshold quarter in the year or in a later quarter in the year to a business purchaser (whether directly or through a selling agent or buying agent or both) who does not maintain an office in Australia in connection with the carrying on of the business purchaser’s business.

Paragraph 26-1(1)(a) of Schedule 2 to the Levies Regulations provides that levy is imposed on grain that is harvested in Australia and is sold to a business purchaser (whether directly or through a selling agent or buying agent or both) by the person who owns the grain immediately after it is harvested.

Subsection 6(3) of the Collection Rules provides that a person is a ‘business purchaser’ if the person buys products, goods or services from levy payers for the products, goods or services, and does so in the course of carrying on a business.

The purpose of this amendment is to provide that if grain is sold to a business purchaser who does not maintain an office in Australia in connection with the carrying on of the business purchaser’s business – the business being carried out in purchasing the grain – the levy payer will have an obligation to give a return in relation to the grain.

The ordinary meaning of the terms ‘maintain’ and ‘office’ are intended to apply. A business purchaser will maintain an office in Australia in connection with the carrying on of their business if they keep in existence or continue a physical place in Australia for the transaction of business. A business purchaser that is a ‘company’ or ‘registered body’ that has a ‘registered office’ within the meaning of those terms in section 9 of the *Corporations Act 2001* would be an example of a business purchaser that maintains an office in Australia.

The overarching policy intention of the amendments made by items 5-7 of Schedule 1 to the Amendment Rules is to ensure that the Rules impose obligations on persons who maintain business operations in Australia. Accordingly, when levy is imposed on grain sold to a business purchaser who does not maintain an office in Australia in connection with the carrying on of the business purchaser’s business, the effect of the amendments made by item 6 of Schedule 1 is that the levy payer themselves must submit a return to the Secretary in connection with the levy payable.

A levy payer is required under subclause 26-1(4) of Schedule 2 to keep records to substantiate the amount of levy payable and paid by the levy payer on the grain. As noted in a legislative note after new subclause 26-1(3) of Schedule 2, section 17 of the Act provides that a person commits an offence of strict liability or contravenes a civil penalty provision if the person fails to give a return to the Secretary in accordance with the Collection Rules. Similarly, section 18 of the Act provides that a person commits an offence of strict liability or contravenes a civil penalty provision if the person fails to make or keep records in accordance with the Collection Rules.

Each offence is subject to 60 penalty units, and each civil penalty provision is subject to a civil penalty of 60 penalty units.

A return must contain information required by an approved form or approved electronic system. The approved forms and electronic system are expected to require the provision of information that relates to the levy that they are liable to pay, which may include information that relates to identifying the levy and calculating their liability.

The requirements to give returns, and to make and keep records, are directed towards ensuring the expeditious payment of levy, which is central to the integrity of the framework. It is appropriate therefore that non-compliance with these requirements be subject to an offence and civil penalty provision.

The principles in the Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers (the Guide) were considered in framing the provisions in the Act, including the strict liability offences and civil penalty provisions. The offences and civil penalty provisions provide for a graduated set of sanctions that take into account the gravity of the offences and the seriousness of the conduct that gives rise to the offences. The strict liability offences and civil penalty provisions are therefore consistent with the Guide and are appropriate.

The Act also triggers compliance and enforcement provisions in the *Regulatory Powers (Standard Provisions) Act 2014* (the Regulatory Powers Act) and thus enables the department to take appropriate and proportionate action in response to non-compliance with the Act and the Collection Rules.

It is necessary and appropriate to include the return and record making and keeping requirements – the breach of which is subject to a strict liability offence and civil penalty under the Act – in the Collection Rules.

The Act and the Collection Rules provide for the collection of levies and charges imposed under the agricultural levy and charge system. Importantly, the Act enables the Collection Rules to make provision for and in relation to requiring levy payers, charge payers and collection agents to give returns for the purposes of the Act or rules, and requiring persons to make and keep records in relation to the collection of commodities/services.

The Collection Rules provide for a consolidated suite of procedural requirements for the collection of levies and charges imposed in relation to each commodity on which levy or charge is imposed. Each Division of Schedule 1 and 2 prescribes requirements on levy or charge payers or collection agents to make payments, give returns, and make or keep records, and provide for certain processes, that are tailored to the particulars of each levy or charge (and the primary industry to which each relates).

Providing for these requirements in the Collection Rules allows flexibility for them to be amended relatively quickly to accommodate for example, evolving industry needs and practices or changing economic conditions.

Depending on the circumstances, the information that may be provided in returns and kept as records may include personal information, such as a person’s contact details (name, phone number, email address). The information will relate to amounts of levy payable by a person on grain.

Protections apply for personal information as outlined below.

Under Division 2 of Part 5 of the Act, the Secretary has information gathering powers to require a person to provide information or documents relevant to the operation of the Act or the Collection Rules, such as records made pursuant to subclause 26-1(4) of Schedule 2 to the Collection Rules.

Where a levy payer or charge payer is required to provide records to the department, those records would be protected by the *Privacy Act 1988* (the Privacy Act) and other laws, and the limitations in the Act. Each provision in Division 3 of Part 5 of the Act that authorises the use or disclosure of relevant information provides an authorisation for the purposes of the Privacy Act and other laws.

The Act contains restrictions relating to the disclosure of personal information. Specifically, subsection 28(4) of the Act provides that specified provisions authorising the use or disclosure of relevant levy/charge information for certain purposes do not apply to the disclosure of personal information.

There are requirements against unauthorised use or disclosure of *protected information* which are provided in Division 4 of Part 5 of the Act. Section 45 includes an offence and a civil penalty provision for the unauthorised use or disclosure of protected information, which covers information (including commercially sensitive information) the disclosure of which could reasonably be expected to found an action by a person (other than the Commonwealth) for breach of a duty of confidence.

Further, under Subdivision B of Division 3 of Part 5 of the Act, a declared recipient body or a statutory recipient body commits an offence if they use or disclose information they have received or accessed concerning levy payers or charge payers (including their names and contact details and the amounts of levy and charge they have paid), other than for an authorised purpose.

As an Australian Government agency, the department is bound by the Australian Privacy Principles (the APPs) in the Privacy Act and the Australian Government Agencies Privacy Code (the Privacy Code). These obligations extend to the department’s employees, contractors and agents. Personal information is held in accordance with the collection and security requirements of the APPs, the department’s policies and procedures and the Australian Government Protective Security Policy Framework.

The department maintains robust policies and procedures to protect any personal information which it holds, as documented in the department's Privacy Policy (https://www.agriculture.gov.au/about/commitment/privacy).

**Item 7 – Paragraph 26-2(1)(a) of Schedule 2**

This item inserts the text “who maintains an office in Australia in connection with the carrying on of the business purchaser’s business” in paragraph 26-2(1)(a) of Schedule 2 to the Collection Rules after the words, “or both)”.

Clause 26-2 of Schedule 2 sets out the obligations of collection agents to:

* pay equivalent amounts, on behalf of a levy payer, equal to the amount of the levy due for payment in relation to the grain on which levy is imposed (subclause 26-2(2));
* give quarterly returns in relation to that grain (subclause 26-2(3)); and
* make and keep records (subclause 26-2(4)).

The amendment to paragraph 26-2(1)(a) made by item 7 provides that these obligations are imposed on a person if levy is imposed on grain that is sold by the levy payer in a quarter in a financial year to a business purchaser (whether directly or through a selling agent or buying agent or both) who maintains an office in Australia in connection with the carrying on of the business purchaser’s business. This is referred to as the ***sale case***.

The obligations in the sale case apply to a ‘liable collection agent’. As provided for in subsection 6(4) of the Rules, the ‘liable collection agent’, in relation to the sale of a product, goods or services by a levy payer to a business purchaser (whether directly or through a selling agent or buying agent or both) means:

* the selling agent (if the product, goods or services is sold through a selling agent);
* the buying agent (if a selling agent is not involved, and the product, goods or services is sold through a buying agent); or
* the business purchaser themselves (if no selling agent or buying agent is involved).

In this way, one specific person is clearly identified as the collection agent by reference to the circumstances in which the relevant transaction or event occurred and the person’s role in that transaction or event.

The purpose of the amendment is to ensure that the obligations imposed by clause 26-2 on a liable collection agent in the sale case only apply when levy is imposed on grain sold to a business purchaser who maintains an office in Australia in connection with the carrying on of the business purchaser’s business. This gives effect to the policy objective that the Rules should impose financial and other obligations on persons who maintain business operations in Australia.

The implication of the amendment is that clause 26-2 of Schedule 2 does not impose obligations on collection agents when grain is sold to a business purchaser who does not maintain an office in Australia in connection with the carrying on of the business purchaser’s business. This is consistent with the amendments made by item 6, which provide for the levy payer to give a return when levy is imposed on grain in these circumstances. Further, given that a collection agent would not be obliged to pay an equivalent amount on behalf of the levy payer, equal to the amount of the levy due for payment in relation to the grain in these circumstances, the obligation to pay levy on grain sold in these circumstances would rest solely on the levy payer.

The return and record making and keeping obligations of liable collection agents in subclauses 26-2(3) and (4) of Schedule 2 are subject to the same civil penalty and offence provisions in sections 17 and 18 of the Act as the return and record making and keeping obligations of levy payers prescribed in subclauses 26-1(3) and (4) of Schedule 2 that are discussed in the explanation of the previous item.

These requirements are similarly directed towards ensuring the expeditious payment of amounts in respect of levy, which is central to the integrity of the framework. For the same reasons, it is appropriate that non-compliance with these requirements be subject to an offence and civil penalty provision. These amendments enhance that objective, by ensuring that collection agents have obligations to pay equivalent amounts and give returns only when a business purchaser maintains an office in Australia in connection with their business.

As discussed above, the principles in the Guide were considered in framing the strict liability offences and civil penalty provisions, and the strict liability offences and civil penalty provisions are consistent with the Guide and are appropriate. For the same reasons as are described above, it is necessary and appropriate to include the return and record making and keeping requirements in the Rules.

Further, depending on the circumstances, the information that may be provided in returns and kept as records by collection agents may include personal information, such as a person’s contact details (name, phone number, email address). The information will relate to amounts payable by a person in relation to the levy imposed on grain. The information will be subject to the same restrictions in the Act relating to the disclosure of personal information and the use and disclosure of protected information as are described 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 Levies and Charges Collection Amendment (Grains and Other Matters) Rules 2025***

This disallowable 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 Levies and Charges Collection Amendment (Grains and Other Matters) Rules 2025* (the Amendment Rules) is to amend the *Primary Industries Levies and Charges Collection Rules 2024*(the Collection Rules) to provide for levy payers to pay levy and give a return when levy is imposed on grain sold to a business purchaser who does not maintain an office in Australia in connection with the carrying on of their business, rather than require payments be made and returns to be given by collection agents when grain is sold in those circumstances.

The Amendment Rules also amend the Collection Rules consistently with amendments to the *Primary Industries (Excise) Levies Regulations 2024* by the *Primary Industries (Excise) Levies Amendment (Exemptions and Other Matters) Regulations 2025*.

**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.

**Justine Saunders APM**

**Acting Secretary of the Department of Agriculture, Fisheries and Forestry**