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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT BILL 2013

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Agriculture, Fisheries and Forestry, Senator the Hon. Joe Ludwig)
GENERAL OUTLINE

The Primary Industries (Excise) Levies Amendment Bill 2013 will make amendments to implement the government’s rural research and development (R&D) policy, along with two companion Bills - the Rural Research and Development Legislation Amendment Bill 2013 and the Primary Industries (Customs) Charges Amendment Bill 2013.

The Primary Industries (Excise) Levies Act 1999 (the Act) authorises the imposition of levies on the products of primary industries. Levies are generally imposed at the request of an industry, to allow the relevant primary producers to manage their own investment in R&D and marketing. Each R&D and marketing levy is attached to one of the 15 rural research and development corporations (RDCs). The Act sets maximum levy rates, and provides for operative levy rates to be set through regulations (the Primary Industries (Excise) Levies Regulations 1999).

The Bill will amend the schedules of the Act to remove product specific maximum levy rates for R&D levies and marketing levies. Levies for R&D and marketing provide funding for important industry services, and the levy rates are changed at the request of an industry body that represents the levy payers. The process to change a levy rate involves significant industry consultation on the rationale for changing a levy, a vote of levy payers, and the preparation of a proposal to the government containing a recommendation on the preferred levy rate. The government must then approve the proposal, and make the necessary legislative change to impose the new levy rate. On average, it takes about twelve months for an industry body to prepare a levy proposal, and the cost can be several hundreds of thousands of dollars. The process for proposing new or amended primary industries levies and charges is described in the Levy Principles and Guidelines published by the Department of Agriculture, Fisheries and Forestry.

Under the current process, if the government approves a change to the levy rate, the relevant regulations then need to be amended to specify the new rate. If the proposed change increases the levy rate above the maximum rate specified in the Act, the Act must also be amended. Amending the primary legislation is a lengthy process, and the change may not come into effect until years after the levy payers have voted in favour of the change. The delay reduces the responsiveness of the industry and limits the ability of the RDC to provide the level of service required by the industry.

The amendments in this Bill will mean that the Act no longer needs to be amended to change levy rates. Changes to the operative levy rate will still require amendment of regulations.

Most schedules of the Act contain a requirement for the Minister to consult with industry bodies and take into account their recommendations when specifying operative levy rates in regulations. The Bill will strengthen these requirements. To safeguard against the arbitrary imposition of levies, each schedule is amended to specify that the regulations cannot set an R&D or marketing levy rate that is higher than the rate recommended by the relevant industry body. In effect, the maximum levy rate that can be imposed will be the rate that is requested by the levy payers themselves, ensuring that levy amounts are not increased in an excessive or undue manner.
There are other examples of Acts which allow levy rates to be set in regulations, where this is appropriate in the circumstances and where the process for setting the levy rate is transparent. For example, the *Fishing Levy Act 1991* imposes levies without specifying maximum levy rates, and allows the levy rates to be prescribed in regulations. This provides the flexibility for the levy rates to be changed annually and allows the levy rates to be responsive to changes in management costs, changes in priorities that alter the amount of resources required, and adjustments for prior year over or under collection.

Similarly, the *Offshore Petroleum and Greenhouse Gas Storage (Regulatory Levies) Act 2003* imposes levies on holders of offshore petroleum titles, without specifying maximum levy rates, and allows levy rates to be prescribed in regulations. The levies are imposed to recover the costs of the regulatory activities of the National Offshore Petroleum Safety Authority. Setting the levy rates in the regulations allows the rate to be varied as needed to ensure that sufficient funds are raised to meet the costs and expenses of the Authority.

The Department of Agriculture, Fisheries and Forestry consulted relevant Australian Government agencies and industry stakeholders on the policy changes. In 2011 the Productivity Commission and the Rural Research and Development Council reviewed the rural research, development and extension system in Australia. Around the country, meetings were held with industry representative bodies, RDCs and other stakeholders and many submissions were received in response to the two reviews. The department has continued to consult with RDCs and industry representative bodies throughout the process leading to these legislative amendments.

The Bill includes several technical amendments to remove provisions that are no longer required, and to improve consistency between schedules where this is possible.

**FINANCIAL IMPACT STATEMENT**

The proposed amendments have no financial impact on the Australian Government.
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 Bill 2013

This Bill 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 Bill

Context

This Bill is one of a suite of three designed to improve the accountability, effectiveness and efficiency of rural research and development corporations (RDCs). The accompanying bills are the Rural Research and Development Legislation Amendment Bill 2013 and the Primary Industries (Customs) Charges Amendment Bill 2013.

Rural industries fund RDCs by requesting government to impose a levy or levies to invest in research and development. There are two types of RDCs, statutory and industry-owned. Statutory RDCs receive levies from primary producers to fund research, development and extension for the benefit of that industry, and for the benefit of the Australian community generally. Industry-owned RDCs do the same and can also carry out marketing functions, if a marketing levy is in place.

The Commonwealth provides matching funding for research and development levies up to a cap. The cap is set by the Primary Industries and Energy Research and Development Act 1989 for statutory RDCs and the relevant ‘industry service provision act’ for each industry-owned RDC. No matching funding is provided for marketing levies.

This Bill

The Bill provides for the following changes to the existing system:

1. Product-specific maximum levy rates will be removed from levies attached to RDCs. A process for establishing and increasing levy rates has been in place for some years, which is driven by industry, rather than by government. The process requires industry consensus and an equitable levy burden before a new or altered levy can be imposed.

2. The Bill standardises and clarifies the industry bodies which must be consulted by the Minister prior to setting new or changed rates. If an industry body has not been prescribed, the Bill sets out how the relevant industry should be consulted.
3. To safeguard against the arbitrary imposition of levies, the levy cannot exceed the industry body’s recommended rate.

**Human rights implications**
This Bill does not engage any of the applicable rights or freedoms.

**Conclusion**
This Bill is compatible with human rights as it does not raise any human rights issues.

Joe Ludwig, Minister for Agriculture, Fisheries and Forestry
PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT BILL 2013

NOTES ON ITEMS

Clause 1: Short Title

Clause 1 is a formal provision specifying that the short title of the Act may be cited as the Primary Industries (Excise) Levies Amendment Act 2013.

Clause 2: Commencement

Clause 2 provides for the commencement of the Act.

Sections 1 to 3 of the Act and Items 1 to 107 of Schedule 1 to the Act will commence on the day the Act receives Royal Assent. Items 108-110 of Schedule 1 commence on the day the Act receives Royal Assent, but will not commence at all if Schedule 1 to the Sugar Research and Development Services (Consequential Amendments—Excise) Act 2013 commences before this Act. Items 111 to 124 of Schedule 1 will commence on the day the Act receives Royal Assent.

The items in Part 1 of Schedule 2 commence on the day the Act receives Royal Assent, but only if Schedule 1 to the Sugar Research and Development Services (Consequential Amendments—Excise) Act 2013 commences first. The items in Part 2 of Schedule 2 commence immediately after Schedule 1 to the Sugar Research and Development Services (Consequential Amendments—Excise) Act 2013, but only if that Schedule commences after the start of the day this Bill receives the Royal Assent.

Clause 3: Schedule(s)

Clause 3 provides that each Act specified in a schedule to the Act is amended or repealed as set out in the applicable items of the schedule concerned and that any other item in a schedule to the Act has effect according to its terms.

Schedule 1—Amendments

Primary Industries (Excise) Levies Act 1999

Item 1 (Section 3 – Simplified outline)

This item makes a minor amendment to the text in the simplified outline, to reflect the fact that, as a result of the amendment made by Item 122 of Schedule 1, the amended Schedule 27 of the Act deals with the maximum levy rate that can be imposed by regulations, but does not set out the maximum rate for all levies imposed under that Schedule.

Item 2 (Paragraph 3(1)(a) of Schedule 1 – Beef production)

This item removes the maximum levy rates for the marketing levy imposed on the slaughter of cattle. The operative levy rate for this levy, as set out in Schedule 1 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.
Item 3  (Paragraph 3(1)(b) of Schedule 1 – Beef production)

This item removes the maximum levy rates for the R&D levy imposed on the slaughter of cattle. The operative levy rate for this levy, as set out in Schedule 1 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 4  (Subclause 5(1) of Schedule 1 – Beef production)

This item replaces “recommendation” with “recommendations” to allow a declared body to make more than one recommendation regarding the rates of the marketing and R&D levies imposed on the slaughter of cattle.

Item 5  (At the end of clause 5 of Schedule 1 – Beef production)

This item inserts additional subclauses to require the Minister, in the absence of a declared industry body, to take into account recommendations from the meat processor marketing body and the meat processor research body on the rate of the marketing and R&D levies (respectively) on the slaughter of cattle. Before these bodies make a recommendation to the Minister, they must consult with levy payers on the proposed levy rate. At the present time, the Australian Meat Processor Corporation is both the meat processor marketing and research body.

Subclause 5 prevents the regulations from prescribing a levy rate for the marketing and R&D levies that is higher than the rate recommended by a declared body, or in the absence of a declared body, the meat processor marketing body or the meat processor research body.

Item 6  (Paragraph 2(a) of Schedule 2 – Buffalo slaughter)

This item removes the maximum levy rate for the R&D levy imposed on the slaughter of buffaloes. The operative levy rate as set out in the Act remains unchanged.

Item 7  (Clause 2 of Schedule 2 (note 1) – Buffalo slaughter)

This item removes the words “and Energy” from Note 1 of subclause 2. This reflects the expected change in title of the Primary Industries and Energy Research and Development Act 1989, and is consequential on the passage of the Rural Research and Development Legislation Amendment Bill 2013.

Item 8  (After clause 3 of Schedule 2 – Buffalo slaughter)

This item inserts a new clause to require the Minister to take into account recommendations from a declared body on the rate of the R&D levy imposed on the slaughter of buffaloes. The Minister may declare, via the Gazette, a body whose recommendation must be taken into account.

In the absence of a declared industry body, the Minister must take into account recommendations from the Rural Industries Research and Development Corporation (which is the RDC to which the R&D levy is attached) on the rate of the R&D levy. Before the Rural Industries Research and Development Corporation makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate.
Subclause 5 prevents the regulations from prescribing a levy rate for the R&D levy that is higher than the rate recommended by a declared body, or in the absence of a declared body, the Rural Industries Research and Development Corporation.

**Item 9** *(Paragraph 6(1)(a) of Schedule 3 – Cattle transactions)*

This item removes the maximum levy rate for the marketing levy imposed on cattle. The operative levy rate, as set in Schedule 3 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

**Item 10** *(Paragraph 6(1)(b) of Schedule 3 – Cattle transactions)*

This item removes the maximum levy rate for the R&D levy imposed on cattle. The operative levy rate, as set in Schedule 3 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

**Item 11** *(Paragraph 6(2)(a) of Schedule 3 – Cattle transactions)*

This item removes the maximum levy rate for the marketing levy on leviable bobby calves. The operative levy rate, as set in Schedule 3 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

**Item 12** *(Paragraph 6(2)(b) of Schedule 3 – Cattle transactions)*

This item removes the maximum levy rate for the R&D levy on leviable bobby calves. The operative levy rate, as set in Schedule 3 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

**Item 13** *(Paragraph 6(3)(a) of Schedule 3 – Cattle transactions)*

This item removes the maximum levy rate for the marketing levy on lot-fed cattle. The operative levy rate, as set in Schedule 3 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

**Item 14** *(Paragraph 6(3)(b) of Schedule 3 – Cattle transactions)*

This item removes the maximum levy rate for the R&D levy on lot-fed cattle. The operative levy rate, as set in Schedule 3 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

**Item 15** *(At the end of clause 8 of Schedule 3 – Cattle transactions)*

This item inserts additional subclauses to require the Minister, in the absence of a declared industry body, to take into account recommendations from the industry marketing body and the industry research body on the rate of the marketing and R&D levies (respectively) on cattle. Before these bodies make a recommendation to the Minister, they must consult with levy payers on the proposed levy rate. At the present time, Meat and Livestock Australia is both the industry marketing and research body.
Subclause 5 prevents the regulations from prescribing a levy rate for the marketing and R&D levies that is higher than the rate recommended by a declared body, or in the absence of a declared body, the industry marketing body or the industry research body.

**Item 16**  
(Clause 1 of Schedule 4 (paragraph (b) of the definition of growers’ organisation) – Coarse grains)

Item 15 replaces “the Grains Council of Australia” with “Grains Producers Australia” as the listed growers organisation in relation to any grain other than grain harvested from triticale. The Grains Council of Australia ceased operation in 2010, and is replaced by Grains Producers Australia.

**Item 17**  
(Paragraph 6(1)(b) of Schedule 4 – Coarse grains)

This item removes the maximum levy rates for the R&D levies in respect of grain harvested from oats, cereal rye, barley or triticale. The operative levy rates for these levies, as set in Schedule 4 of the *Primary Industries (Excise) Levies Regulations 1999*, remain unchanged.

**Item 18**  
(Subclause 6(2) of Schedule 4 – Coarse grains)

This item removes the maximum levy rates for the R&D levies in respect of leviable coarse grain (other than oats, cereal rye, barley or triticale). The operative levy rates for these levies, as set in Schedule 4 of the *Primary Industries (Excise) Levies Regulations 1999*, remain unchanged.

**Item 19**  
(Clause 8 of Schedule 4 – Coarse grains)

Clause 8 of Schedule 4 is renumbered.

**Item 20**  
(At the end of clause 8 of Schedule 4 – Coarse grains)

This item inserts additional subclauses to require the Minister, in the absence of a declared growers’ organisation, to take into account recommendations from the R&D Corporation on the rate of the R&D levies on coarse grain. Before the R&D Corporation makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate. At the present time, the Grains Research and Development Corporation is the R&D Corporation.

Subclause 4 prevents the regulations from prescribing a levy rate for the R&D levies that is higher than the rate recommended by a growers’ organisation, or in the absence of a growers’ organisation, the R&D Corporation.

**Item 21**  
(Clause 3 of Schedule 5 – Cotton)

This item removes the maximum levy rate for the R&D levy on cotton. The operative levy rate, as set in Schedule 5 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

**Item 22**  
(Clause 5 of Schedule 5 – Cotton)

Clause 5 of Schedule 5 is renumbered.
Item 23  (At the end of clause 5 of Schedule 5 – Cotton)

This item inserts additional subclauses to require the Minister, in the absence of a growers’ organisation, to take into account recommendations from the R&D Corporation on the rate of the R&D levy on cotton. Before the R&D Corporation makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate. At the present time, the Cotton Research and Development Corporation is the R&D Corporation.

Subclause 4 prevents the regulations from prescribing a levy rate for the R&D levy that is higher than the rate recommended by a growers’ organisation, or in the absence of a growers’ organisation, the R&D Corporation.

Item 24  (Clause 11 of Schedule 6 (table item 3) – Diary produce)

This item amends the table that sets the milk fat levy rates to remove the maximum levy rate for the dairy service levy. The dairy service levy is attached to Dairy Australia and provides amounts for marketing and R&D. The operative levy rate, as set in Schedule 6 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 25  (Clause 12 of Schedule 6 (table item 3) – Dairy produce)

This item amends the table that sets the protein levy rates to remove the maximum levy rate for the dairy service levy. The dairy service levy is attached to Dairy Australia and provides amounts for marketing and R&D. The operative levy rate, as set in Schedule 6 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 26  (Before subclause 14(2) of Schedule 6 – Dairy produce)

This item inserts additional subclauses to require the Minister to take into account recommendations from the industry services body on the rates of the dairy service levy. According to Section 9 of the Dairy Produce Act 1986, the industry services body must conduct a poll of levy payers before making a recommendation to the Minister on the dairy service levy rate. At the present time, Dairy Australia Limited is the industry services body.

Subclause 3 prevents the regulations from prescribing a levy rate for the dairy service levy that is higher than the rate recommended by the industry services body under subsection 9(1) of the Dairy Produce Act 1986.

Item 27  (Subclause 3(4) of Schedule 7 (paragraph (a) of the definition of prescribed amount) – Deer slaughter)

This item removes the maximum levy rate for the R&D levy on deer slaughter. The operative levy rate, as set in Schedule 7 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 28  (Clause 5 of Schedule 7 – Deer slaughter)

Clause 5 of Schedule 7 is renumbered.
Item 29  (At the end of clause 5 of Schedule 7 – Deer slaughter)

This item inserts additional subclauses to require the Minister, in the absence of a representative industry organisation, to take into account recommendations from the Rural Industries Research and Development Corporation on the rate of the R&D levy on deer slaughter. Before the Rural Industries Research and Development Corporation makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate.

Subclause 4 prevents the regulations from prescribing a levy rate for the R&D levy that is higher than the rate recommended by a representative industry organisation, or in the absence of a representative industry organisation, the Rural Industries Research and Development Corporation.

Item 30  (Subclause 4(1) of Schedule 8 – Deer velvet)

Clause 4 of Schedule 8 is renumbered.

Item 31  (Subclause 4(2) of Schedule 8 – Deer velvet)

This item removes the maximum levy rate for the R&D levy on the sale of deer velvet. The operative levy rate, as set in Schedule 8 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

Item 32  (Subclause 5(5) of Schedule 8 – Deer velvet)

This item removes the maximum levy rate for the R&D levy on deer velvet used in producing other goods. The operative levy rates for these levies, as set in Schedule 8 of the *Primary Industries (Excise) Levies Regulations 1999*, remain unchanged.

Item 33  (Clause 7 of Schedule 8 – Deer velvet)

Clause 7 of Schedule 8 is renumbered.

Item 34  (Clause 7 of Schedule 8 – Deer velvet)

This item replaces the reference to “subclause 4(1)” with “clause 4” to reflect the renumbering of that clause.

Item 35  (At the end of clause 7 of Schedule 8 – Deer velvet)

This item inserts additional subclauses to require the Minister, in the absence of a representative industry organisation, to take into account recommendations from the Rural Industries Research and Development Corporation on the rate of the R&D levies on deer velvet. Before the Rural Industries Research and Development Corporation makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate.

Subclause 4 prevents the regulations from prescribing a levy rate for the R&D levies that is higher than the rate recommended by a representative industry organisation, or in the absence of a representative industry organisation, the Rural Industries Research and Development Corporation.
Item 36  (Clause 1 of Schedule 9 (definition of R&D authority) – Dried fruits)
This item removes the reference to R&D Councils and R&D Funds from the definition of R&D authority. R&D Councils and R&D Funds no longer exist, so this part of the definition is no longer required.

Item 37  (Clause 1 of Schedule 9 (definition of R&D Corporation) – Dried fruits)
This item removes the words “and Energy” from the definition of R&D Corporation. This reflects the expected change in title of the Primary Industries and Energy Research and Development Act 1989. This item is consequential on the passage of the Rural Research and Development Legislation Amendment Bill 2013.

Item 38  (Clause 1 of Schedule 9 (definition of R&D Council) – Dried fruits)
This item repeals the definition of R&D Council. R&D Councils no longer exist, so this definition is no longer required.

Item 39  (Clause 1 of Schedule 9 (definition of R&D Fund) – Dried fruits)
This item repeals the definition of R&D Fund. R&D Funds no longer exist, so this definition is no longer required.

Item 40  (Subclause 4(2) of Schedule 9 – Dried fruits)
This item removes the maximum levy rates for the R&D levies on dried fruit. The operative levy rates, as set in Schedule 9 of the Primary Industries (Excise) Levies Regulations 1999, remain unchanged.

Item 41  (Cause 6 of Schedule 9 – Dried fruits)
This item amends the clause to require the Minister to take into account recommendations from a declared industry representative body on the rate of the R&D levies on dried fruit. The Minister may declare an industry representative body in the Gazette for this purpose. In the absence of an industry representative body, the Minister must take into account recommendations from the R&D authority on the rate of the R&D levies on dried fruit. Before the R&D authority makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate.

Subclause 5 prevents the regulations from prescribing a levy rate for the R&D levies that is higher than the rate recommended by an industry representative body, or in the absence of an industry representative body, the R&D authority.

Item 42  (Subclause 3(5) of Schedule 10 – Forest industries products)
This item removes the maximum levy rate for the R&D levies on logs. The operative levy rates, as set in Schedule 10 of the Primary Industries (Excise) Levies Regulations 1999, remain unchanged.
Item 43  (Clause 5 of Schedule 10 – Forest industries products)

Clause 5 of Schedule 10 is renumbered.

Item 44  (At the end of clause 5 of Schedule 10 – Forest industries products)

This item inserts additional subclauses to require the Minister, in the absence of an industry body, to take into account recommendations from the industry services body on the rate of the R&D levies on logs. Before the industry services body makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate. At the present time, Forest and Wood Products Australia is the industry services body.

Subclause 4 prevents the regulations from prescribing a levy rate for the R&D levies that is higher than the rate recommended by an industry body, or in the absence of an industry body, the industry services body.

Item 45  (Paragraph 3(b) of Schedule 11 – Goat fibre)

This item removes the maximum levy rate for the R&D levy on goat fibre. The operative levy rate, as set in the Act, remains unchanged.

Item 46  (Clause 5 of Schedule 11 – Goat fibre)

Clause 5 of Schedule 11 is renumbered.

Item 47  (At the end of clause 5 of Schedule 11 – Goat fibre)

This item inserts additional subclauses to require the Minister to take into account recommendations from a declared industry representative body on the rate of the R&D levy on goat fibre. The Minister may declare an industry representative body in the Gazette for this purpose. In the absence of an industry representative body, the Minister must take into account recommendations from the Rural Industries Research and Development Corporation on the rate of the levy. Before the Rural Industries Research and Development Corporation authority makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate.

Subclause 4 prevents the regulations from prescribing a levy rate that is higher than the rate recommended by an industry representative body, or in the absence of an industry representative body, the Rural Industries Research and Development Corporation.

Item 48  (Clause 1 of Schedule 12 (definition of growers’ association) – Grain legumes)

This item replaces “the Grains Council of Australia” with “Grains Producers Australia” as the listed growers’ organisation. The Grains Council of Australia ceased operation in 2010, and is replaced by Grains Producers Australia.

Item 49  (Subclause 6(1) of Schedule 12 – Grain legumes)

Clause 6 of Schedule 12 is renumbered.
Item 50  (Subclause 6(2) of Schedule 12 – Grain legumes)

This item removes the maximum levy rate for the R&D levy on grain legumes. The operative levy rate, as set in Schedule 12 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 51  (Clause 8 of Schedule 12 – Grain legumes)

Clause 8 of Schedule 12 is renumbered.

Item 52  (At the end of clause 8 of Schedule 12 – Grain legumes)

This item inserts additional subclauses to require the Minister, in the absence of a declared growers’ organisation, to take into account recommendations from the R&D Corporation on the rate of the R&D levies on grain legumes. Before the R&D Corporation makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate. At the present time, the Grains Research and Development Corporation is the R&D Corporation.

Subclause 4 prevents the regulations from prescribing a levy rate for the R&D levies that is higher than the rate recommended by a growers’ organisation, or in the absence of a growers’ organisation, the R&D Corporation.

Item 53  (Clause 1 of Schedule 13 (definition of representative organisation) – Grapes)

The definition of “representative organisation” is amended to remove the part of the definition that relates to R&D Councils and R&D Funds. R&D Councils and R&D Funds no longer exist, so this part of the definition is no longer required.

Item 54  (Subclause 5(2) of Schedule 13 (definition of standard amount) – Grapes)

This item removes the maximum levy rate for the R&D levy on fresh grapes. The operative levy rate, as set in Schedule 13 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 55  (Clause 7 of Schedule 13 – Grapes)

Clause 7 of Schedule 13 is renumbered.

Item 56  (At the end of clause 7 of Schedule 13 – Grapes)

This item inserts additional subclauses to require the Minister, in the absence of a representative organisation, to take into account recommendations from the R&D Corporation on the rate of the R&D levy on fresh grapes. Before the R&D Corporation makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate. At the present time, the Grape and Wine Research and Development Corporation is the R&D Corporation.
Subclause 4 prevents the regulations from prescribing a levy rate for the R&D levy that is higher than the rate recommended by a representative organisation, or in the absence of a representative organisation, the R&D Corporation.

**Item 57**  (Clause 1 of Schedule 14 (definition of R&D authority) – Honey)

This item removes the reference to R&D Councils and R&D Funds from the definition of R&D authority. R&D Councils and R&D Funds no longer exist, so this part of the definition is no longer required.

**Item 58**  (Clause 1 of Schedule 14 (definition of R&D Corporation) – Honey)

This item removes the words “and Energy” from the definition of R&D Corporation. This reflects the expected change in title of the *Primary Industries and Energy Research and Development Act 1989*. This item is consequential on the passage of the Rural Research and Development Legislation Amendment Bill 2013.

**Item 59**  (Clause 1 of Schedule 14 (definition of R&D Council) – Honey)

This item repeals the definition of R&D Council. R&D Councils no longer exist, so this definition is no longer required.

**Item 60**  (Clause 1 of Schedule 14 (definition of R&D Fund) – Honey)

This item repeals the definition of R&D Fund. R&D Funds no longer exist, so this definition is no longer required.

**Item 61**  (Paragraph 4(1)(a) of Schedule 14 – Honey)

This item removes the maximum levy rate for the marketing levy on honey. There is currently no operative levy prescribed in Schedule 14 of the *Primary Industries (Excise) Levies Regulations 1999*.

**Item 62**  (Paragraph 4(1)(b) of Schedule 14 – Honey)

This item removes the maximum levy rate for the R&D levy on honey. The operative levy rate, as set in Schedule 14 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

**Item 63**  (Paragraph 4(2)(a) of Schedule 14 – Honey)

This item removes the maximum levy rate for the marketing levy on the use of honey in the production of other goods. There is currently no operative levy prescribed in Schedule 14 of the *Primary Industries (Excise) Levies Regulations 1999*.

**Item 64**  (Paragraph 4(2)(b) of Schedule 14 – Honey)

This item removes the maximum levy rate for the R&D levy on the use of honey for the production of other goods. The operative levy rate, as set in Schedule 14 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.
Item 65  (Subclause 6(4) of Schedule 14 – Honey)

This item amends the subclause to clarify that, for all levies covered by the schedule, the Minister must take into account recommendations from the R&D authority or the producers’ organisation on the levy rates.

Item 66  (At the end of clause 6 of Schedule 14 – Honey)

This item inserts additional subclauses to prevent the regulations from prescribing a levy rate that is higher than the rate recommended by a producers’ organisation or the R&D authority. In the situation where a producers’ organisation and the R&D authority recommend different rates, the rate set in the regulations must not be more than the highest of the rates recommended. At the present time, the R&D authority is the Rural Industries Research and Development Corporation.

Item 67  (Subclause 3(1) of Schedule 15 – Horticultural products)

Clause 3 of Schedule 15 is renumbered.

Item 68  (Subclause 3(1) of Schedule 15 – Horticultural products)

This item removes a reference to a subclause that no longer exists.

Item 69  (Subclauses 3(2) and (3) of Schedule 15 – Horticultural products)

This item removes the maximum levy rate for the levy on horticultural products. This levy has components for R&D, marketing, and other purposes, although the regulations do not currently set any levy for “other purposes”. The operative levy rates for each horticultural product, as set in Schedule 15 of the Primary Industries (Excise) Levies Regulations 1999, remain unchanged.

Item 70  (At the end of clause 6 of Schedule 15 – Horticultural products)

This item inserts an additional subclause to prevent the regulations from prescribing a levy rate that is higher than the rate recommended by the industry services body (for the R&D and marketing components of the levy) or an industry body (for the “other purposes” component of the levy). At the present time, the industry services body is Horticulture Australia Limited.

Item 71  (Paragraph 4(a) of Schedule 16 – Laying chickens)

This item removes the maximum levy rate for the R&D levy on laying chickens. The operative levy rate, as set in Schedule 14 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Clause 6 of Schedule 16 already has a provision that the prescribed amount of levy must not be greater than the amount recommended by the relevant industry body, so no further changes are needed to this Schedule.
Item 72  
(Paragraph 3(1)(a) of Schedule 17 – Live-stock slaughter)

This item removes the maximum levy rate for the marketing levy on the slaughter of sheep. The operative levy rate, as set in Schedule 17 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

Item 73  
(Paragraph 3(1)(b) of Schedule 17 – Live-stock slaughter)

This item removes the maximum levy rate for the R&D levy on the slaughter of sheep. The operative levy rate, as set in Schedule 17 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

Item 74  
(Paragraph 3(2)(a) of Schedule 17 – Live-stock slaughter)

This item removes the maximum levy rate for the marketing levy on the slaughter of lambs. The operative levy rate, as set in Schedule 17 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

Item 75  
(Paragraph 3(2)(b) of Schedule 17 – Live-stock slaughter)

This item removes the maximum levy rate for the R&D levy on the slaughter of lambs. The operative levy rate, as set in Schedule 17 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

Item 76  
(Paragraph 3(3)(a) of Schedule 17 – Live-stock slaughter)

This item removes the maximum levy rate for the marketing levy on the slaughter of goats. The operative levy rate, as set in Schedule 17 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

Item 77  
(Paragraph 3(3)(b) of Schedule 17 – Live-stock slaughter)

This item removes the maximum levy rate for the R&D levy on the slaughter of goats. The operative levy rate, as set in Schedule 17 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

Item 78  
(At the end of clause 5 of Schedule 17 – Live-stock slaughter)

This item inserts additional subclauses to require the Minister, in the absence of a declared industry body, to take into account recommendations from the meat processor marketing body and the meat processor research body on the rate of the marketing and R&D levies (respectively) on the slaughter of sheep, lambs and goats. Before these bodies make a recommendation to the Minister, they must consult with levy payers on the proposed levy rate. At the present time, the Australian Meat Processor Corporation is both the meat processor marketing and research body.

Subclause 5 prevents the regulations from prescribing a levy rate for the marketing and R&D levies that is higher than the rate recommended by a declared body, or in the absence of a declared body, the meat processor marketing body or the meat processor research body.
Item 79  (Paragraph 4(1)(a) of Schedule 18 – Live-stock transactions)

This item removes the maximum levy rate for the marketing levy on sheep. The operative levy rate, as set in Schedule 18 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 80  (Paragraph 4(1)(b) of Schedule 18 – Live-stock transactions)

This item removes the maximum levy rate for the R&D levy on sheep. The operative levy rate, as set in Schedule 18 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 81  (Paragraph 4(3)(a) of Schedule 18 – Live-stock transactions)

This item removes the maximum levy rate for the marketing levy on lambs. The operative levy rate, as set in Schedule 18 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 82  (Paragraph 4(3)(b) of Schedule 18 – Live-stock transactions)

This item removes the maximum levy rate for the R&D levy on lambs. The operative levy rate, as set in Schedule 18 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 83  (Paragraph 4(4)(a) of Schedule 18 – Live-stock transactions)

This item removes the maximum levy rate for the marketing levy on goats. The operative levy rate, as set in Schedule 18 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 84  (Paragraph 4(4)(b) of Schedule 18 – Live-stock transactions)

This item removes the maximum levy rate for the R&D levy on goats. The operative levy rate, as set in Schedule 18 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 85  (At the end of clause 6 of Schedule 18 – Live-stock transactions)

This item inserts additional subclauses to require the Minister, in the absence of a declared industry body, to take into account recommendations from the industry marketing body and the industry research body on the rate of the marketing and R&D levies (respectively) on sheep, lambs and goats. Before these bodies make a recommendation to the Minister, they must consult with levy payers on the proposed levy rate. At the present time, Meat and Livestock Australia is both the industry marketing and research body.

Subclause 5 prevents the regulations from prescribing a levy rate for the marketing and R&D levies that is higher than the rate recommended by a declared body, or in the absence of a declared body, the industry marketing body or the industry research body.
Item 86  (Clause 1 of Schedule 19 (definition of R&D authority) – Meat chickens)

This item removes the reference to R&D Councils and R&D Funds from the definition of R&D authority. R&D Councils and R&D Funds no longer exist, so this part of the definition is no longer required.

Item 87  (Clause 1 of Schedule 19 (definition of R&D Corporation) – Meat chickens)

This item removes the words “and Energy” from the definition of R&D Corporation. This reflects the expected change in title of the *Primary Industries and Energy Research and Development Act 1989*. This item is consequential on the passage of the Rural Research and Development Legislation Amendment Bill 2013.

Item 88  (Clause 1 of Schedule 19 (definition of R&D Council) – Meat chickens)

This item repeals the definition of R&D Council. R&D Councils no longer exist, so this definition is no longer required.

Item 89  (Clause 1 of Schedule 19 (definition of R&D Fund) – Meat chickens)

This item repeals the definition of R&D Fund. R&D Funds no longer exist, so this definition is no longer required.

Item 90  (Paragraph 3(a) of Schedule 19 – Meat chickens)

This item removes the maximum levy rate for the R&D levy on meat chickens. The operative levy rate, as set in Schedule 19 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

Clause 5 of Schedule 19 already has provisions that the prescribed amount of levy must not be greater than the amount recommended by the relevant industry body, so no further changes are needed to this Schedule.

Item 91  (Clause 1 of Schedule 20 (definition of growers’ organisation) – Oilseeds)

This item replaces “the Grains Council of Australia” with “Grains Producers Australia” as the listed growers’ organisation. The Grains Council of Australia ceased operation in 2010, and is replaced by Grains Producers Australia.

Item 92  (Paragraph 7(b) of Schedule 20 – Oilseeds)

This item removes the maximum levy rate for the R&D levy on oilseeds. The operative levy rate, as set in Schedule 20 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

Item 93  (Clause 9 of Schedule 20 – Oilseeds)

Clause 9 of Schedule 20 is renumbered.
Item 94  (At the end of clause 9 of Schedule 20 – Oilseeds)

This item inserts additional subclauses to require the Minister, in the absence of a declared growers’ organisation, to take into account recommendations from the R&D Corporation on the rate of the R&D levy on oilseeds. Before the R&D Corporation makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate. At the present time, the Grains Research and Development Corporation is the R&D Corporation.

Subclause 4 prevents the regulations from prescribing a levy rate for the R&D levy that is higher than the rate recommended by a growers’ organisation, or in the absence of a growers’ organisation, the R&D Corporation.

Item 95  (Clause 1 of Schedule 21 (definition of growers’ organisation) – Pasture seeds)

This item replaces “the Grains Council of Australia” with “Grains Producers Australia” as the listed growers’ organisation. The Grains Council of Australia ceased operation in 2010, and is replaced by Grains Producers Australia.

Item 96  (Subclause 5(2) of Schedule 21 – Pasture seeds)

This item refers to the table that sets out specified species that are defined as leviable seeds. The amendment clarifies the requirement for the Minister to amend the table through a legislative instrument. This requirement is consistent with other Schedules of the Act which specify the products to be levied either in the Act or in the regulations.

Item 97  (After subclause 5(3) of Schedule 21 – Pasture seeds)

This item inserts additional subclauses to require the Minister, in the absence of a growers’ organisation, to take into account recommendations from the Rural Industries Research and Development Corporation on the rate of the R&D levy on oilseeds. Before the Rural Industries Research and Development Corporation makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate.

Item 98  (Subclause 5(4) of Schedule 21 – Pasture seeds)

This item removes the maximum levy rate for the R&D levy on pasture seeds, and instead specifies that the levy rates must not exceed a rate recommended by the growers’ organisation.

Item 99  (Subclause 5(5) of Schedule 21 – Pasture seeds)

The subclause to be repealed states that the variations to levy rates must be specified in a disallowable legislative instrument. This is now stated in subclause 5(2).

Item 100  (Paragraph 3(a) of Schedule 22 – Pig slaughter)

This item removes the maximum levy rate for the R&D levy on the slaughter of pigs. The operative levy rate, as set in Schedule 22 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.
Item 101  (Paragraph 3(b) of Schedule 22 – Pig slaughter)

This item removes the maximum levy rate for the marketing levy on the slaughter of pigs. The operative levy rate, as set in Schedule 22 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

Item 102  (After subclause 5(1) of Schedule 22 – Pig slaughter)

This item inserts a subclause 5(1A) to require the industry services body to consult with levy payers on a proposed levy rate for the R&D and marketing levies on the slaughter of pigs, before making a recommendation to the Minister.

Item 103  (Clause 1 of Schedule 23 – Rice)

This item changes the first paragraph in the definition of “rice industry body”. The definition now includes any State marketing authority, rather than just the Rice Marketing Board for New South Wales.

Item 104  (Subclause 3(2) of Schedule 23 – Rice)

This item removes the maximum levy rate for the R&D levy on rice. The operative levy rate, as set in Schedule 23 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.

Item 105  (Subclauses 3(5) and (6) of Schedule 23 – Rice)

This item inserts additional subclauses to require an industry body, when making a recommendation to the Minister on the levy rate, to consult with all other prescribed industry bodies. If the recommendation relates to a variety of rice that is grown in a particular State, the State marketing authority (if there is one) must endorse the recommendation. The regulations must not set a levy rate unless it is recommended by an industry body.

Item 106  (Clause 6 of Schedule 23 – Rice)

Clause 6 of Schedule 23 is renumbered.

Item 107  (At the end of clause 6 of Schedule 23 – Rice)

This item inserts a subclause to prevent the regulations from prescribing a levy rate for the R&D levy that is higher than the rate recommended by an industry body.

Item 108  (Clause 4 of Schedule 24 – Sugar cane)

This item removes the maximum levy rate for the R&D levy on sugar cane. The operative levy rate, as set in Schedule 24 of the *Primary Industries (Excise) Levies Regulations 1999*, remains unchanged.
Item 109  (Clause 6 of Schedule 24 – Sugar cane)

Clause 6 of Schedule 24 is renumbered.

Item 110  (At the end of clause 6 of Schedule 24 – Sugar cane)

This item inserts additional subclauses to require the Minister, in the absence of a sugar industry organisation, to take into account recommendations from the R&D Corporation on the rate of the R&D levy on sugar cane. Before the R&D Corporation makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate. At the present time, the Sugar Research and Development Corporation is the R&D Corporation.

Subclause 4 prevents the regulations from prescribing a levy rate for the R&D levy that is higher than the rate recommended by a sugar industry organisation, or in the absence of a sugar industry organisation, the R&D Corporation.

Item 111  (Clause 1 of Schedule 25 (definition of growers’ organisation) – Wheat)

This item replaces “the Grains Council of Australia” with “Grains Producers Australia” as the listed growers’ organisation. The Grains Council of Australia ceased operation in 2010, and is replaced by Grains Producers Australia.

Item 112  (Paragraph 5(b) of Schedule 25 – Wheat)

This item removes the maximum levy rate for the R&D levy on wheat. The operative levy rate, as set in Schedule 25 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 113  (Clause 7 of Schedule 25 – Wheat)

Clause 7 of Schedule 25 is renumbered.

Item 114  (At the end of clause 7 of Schedule 25 – Wheat)

This item inserts additional subclauses to require the Minister, in the absence of a declared growers’ organisation, to take into account recommendations from the R&D Corporation on the rate of the R&D levy on wheat. Before the R&D Corporation makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate. At the present time, the Grains Research and Development Corporation is the R&D Corporation.

Subclause 4 prevents the regulations from prescribing a levy rate for the R&D levy that is higher than the rate recommended by a growers’ organisation, or in the absence of a growers’ organisation, the R&D Corporation.
Item 115  (Subclause 7(2) of Schedule 26 (definition of research amount) – Wine grapes)

This item removes the maximum levy rate for the research component of the levy on wine grapes. The operative levy rate, as set in Schedule 26 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 116  (Subclauses 7(3) and (4) of Schedule 26)

This item removes the maximum levy rate for the levy on wine grapes. The operative levy rate, as set in Schedule 26 of the Primary Industries (Excise) Levies Regulations 1999, remains unchanged.

Item 117  (After subclause 9(2) of Schedule 26 – Wine grapes)

This item inserts a subclause to allow the Minister to declare an industry body by notice in the Gazette for the purposes of making recommendations on the levy rate.

Item 118  (Paragraph 9(3)(a) of Schedule 26 – Wine grapes)

This item inserts a reference to a body declared by the Minister, to clarify that the Minister must take into consideration recommendations made by a declared body on the levy rate.

Item 119  (After subclause 9(3) of Schedule 26 – Wine grapes)

This item inserts a subclause to prevent the regulations from prescribing a levy rate that is higher than the rate recommended by a declared body.

Item 120  (Subclause 9(5) of Schedule 26 – Wine grapes)

This item clarifies that the levy rate referred to in the subsection is for the research component of the levy.

Item 121  (At the end of clause 9 of Schedule 26 – Wine grapes)

This item inserts additional subclauses to require the Minister to take into account recommendations from a declared industry body on the rate of the R&D levy. The Minister may declare an industry body by notice in the Gazette for this purpose. In the absence of a declared winemakers’ organisation or other declared industry organisation, the Minister must take into account recommendations from the R&D Corporation on the rate of the R&D levy on wine grapes. Before the R&D Corporation makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate. At the present time, the Grape and Wine Research and Development Corporation is the R&D Corporation.

Subclause 10 prevents the regulations from prescribing a levy rate for the R&D levy that is higher than the rate recommended by a declared organisation, or in the absence of a declared organisation, the R&D Corporation.
Item 122  (At the end of clause 9 of Schedule 27 – Regulations may impose primary industries levies)

This item specifies that the maximum levy rates for levies on animal products that are set in the regulations, according to Schedule 27, do not apply to R&D or marketing levies.

Item 123  (At the end of clause 10 of Schedule 27 – Regulations may impose primary industries levies)

This item specifies that the maximum levy rates for levies on plant products that are set in the regulations, according to Schedule 27, do not apply to R&D or marketing levies.

Item 124  (At the end of clause 14 of Schedule 27 – Regulations may impose primary industries levies)

This item prevents the regulations from prescribing a levy rate for an R&D or marketing levy on a product that is higher than the rate recommended by the designated body or bodies for that product.

Schedule 2—Contingent amendments

Part 1—Amendments

Primary Industries (Excise) Levies Act 1999

Item 1  (Clause 6 of Schedule 24 – Sugar cane)

Clause 6 of Schedule 24 is renumbered.

Item 2

This item inserts additional subclauses to require the Minister, in the absence of sugar industry organisation, to take into account recommendations from the industry services body on the rate of the R&D levy on sugar cane. Before the industry services body makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate.

Subclause 4 prevents the regulations from prescribing a levy rate for the R&D levy that is higher than the rate recommended by a sugar industry organisation, or in the absence of a sugar industry organisation, the industry services body.

The items in Part 1 of this Schedule will only commence if Schedule 1 to the Sugar Research and Development Services (Consequential Amendments—Excise) Act commences first. The Sugar Research and Development Services (Consequential Amendments—Excise) Act, along with the Sugar Research and Development Services Act 2013, provides for the Sugar Research and Development Corporation to be wound-up, and for a new industry-owned RDC, Sugar Research Australia, to be established. The amendments in this item allow for Sugar Research Australia, if declared as the industry services body, to make recommendations to the Minister on the R&D levy rate following consultation with levy payers.
Part 2—Amendments

Primary Industries (Excise) Levies Act 1999

Item 3  (Clause 4 of Schedule 24 – Sugar cane)

This item changes the levy rate on sugar cane from 15 cents per tonne to 70 cents per tonne. This new levy rate has been requested by the sugar industry as part of the merger between the Sugar Research and Development Corporation and BSES Limited. The amendment brings the levy rate into alignment with Schedule 1 to the Sugar Research and Development Services (Consequential Amendments—Excise) Act 2013.

The items in this Part of Schedule 2 will commence immediately after Schedule 1 to the Sugar Research and Development Services (Consequential Amendments—Excise) Act commences, but only if that Schedule commences after the start of the day this Bill receives the Royal Assent.

Item 4  (Clause 6 of Schedule 24 – Sugar cane)

Clause 6 of Schedule 24 is renumbered.

Item 5  (At the end of clause 6 of Schedule 24 – Sugar cane)

This item inserts additional subclauses to require the Minister, in the absence of sugar industry organisation, to take into account recommendations from the industry services body on the rate of the R&D levy on sugar cane. Before the industry services body makes a recommendation to the Minister, it must consult with levy payers on the proposed levy rate.

Subclause 4 prevents the regulations from prescribing a levy rate for the R&D levy that is higher than the rate recommended by a sugar industry organisation, or in the absence of a sugar industry organisation, the industry services body.

Sugar Research and Development Services (Consequential Amendments—Excise) Act 2013

Item 6  (Item 7 of Schedule 1)

This item repeals item 7 in the Sugar Research and Development Services (Consequential Amendments—Excise) Act 2013, which removes the maximum levy rate on sugar cane. The maximum levy rate is removed by item 108 in Schedule 1 of this Act.