

# ***Modernising the agricultural levies legislation***

## **Imposition and collection survey**

1) **The objective of the draft levies legislation is to streamline and modernise the legislation to better support the levy system. Compared to the current legislation, do you find the Imposition and Collection Bills easier to read, to find information and to understand your obligations and responsibilities?**

- Improved structure (50 pieces of legislation to 5 Bills). Still complex legislation but simplification and streamlining are improvement.
- Livestock production, wool and goat products are not included in the rules and regulations for consultation. It is difficult to make comment on industry specific obligations and understand the interactions between these commodities and the new legislation without these details.
- Understand the outline from examples provided with other commodities, but the opportunity to view specific details for commodities not included in the legislation is needed.

## **Imposition Bills**

2) **Do you think your primary industry is covered by the definition of ‘produce of a primary industry’? If not, what is your primary industry?**

- Definition includes products resulting from agriculture or the cultivation of land and the maintenance of animals (believe includes livestock production)
- Clearer and easier to find than previous Acts. Previous Acts (*Primary Industries (Excise) Levies Act 1999* definitions from *Primary Industries Levies and Charges Collection Act 1991*) also have specific industry definitions for commodities (i.e., livestock), still seems to be covered under new definitions.
- However, maintenance of animals may apply to other industries outside this scope as it is a broad definition.

3) **Part 3 of the Excise Levies Bill and Part 3 of the Customs Charges Bill would enable biosecurity levies on goods used or consumed in the treatment or maintenance of animals and crops. This would enable the Horse Disease Response Levy and could enable other similar biosecurity levies. Do you think this type of levy could be useful in the future for your industry?**

- This levy may be useful for the industry in the correct circumstances, however more detail need on how or when this levy would be imposed, collected and used.
- Proposed levy could be introduced to be imposed on other types of animal feeds or animal treatments to support a biosecurity response. Further definitions of a biosecurity response needed – already activation of levies for livestock producers in the event of an Emergency Animal Disease Outbreak. Would the same level of biosecurity response be required to activate this levy, and would there be industry

consultation and limits on levy levels based on industry recommendations as with other levies?

- 4) **Many existing levies and charges have arrangements for industry representative bodies (IRBs) to be consulted on changes to levies and charges. This reflects the fact that agricultural levies and charges are established in response to a request from industry. Part 7 of the Excise Levies Bill, Part 6 of the Customs Charges Bill and Part 5 of the Services Levies Bills would streamline the existing complex and confusing provisions into a single clear role for IRBs to be consulted on changes to levies and the setting of levy and charge rates. Relevant IRBs would be named in a single declaration under each Bill.**

**Did you find it easier to understand the role of an IRB in the draft legislation compared to the current legislation?**

- Of major importance in the current draft legislation is the definition of Industry Representative Bodies (IRB's) which is imperative for government and industry to ensure is correct.
- While the role of Industry Representative Bodies (IRBs) is drafted more consistently than previous legislation, the current draft role of IRBs has not been accurately defined and is incomplete.
- To more accurately define the role of IRBs the following words:

*'Expenditure on industry strategy, policy, governance'*

- needs to be included in Section 7(3) of the Primary Industries (Excise) Levies Bill as an activity for which the Minister can approve a levy being imposed.
- Currently the draft bill describes the function of IRB's as for RD&E, marketing, national residue survey and biosecurity. While, it can also be imposed for 'any other activity prescribed by the regulations in relation to one or more primary industries and for the benefit of one or more primary industries', however there is very little expressed in the imposition Bills that would give effect to this.
- Industry strategy, policy, governance and biosecurity are core/ongoing functions of Industry Representative Bodies (IRB's). These are statutory functions when dealing with RDC's and Bio-security organisations such as Animal Health Australia (AHA)/Plant Health Australia (PHA). These functions are requirements of IRB's under agreements such as the RDC Statutory Funding Agreements and the AHA Emergency Animal Disease Response Agreement. It is of significance that such functions are not and by no means Agri-political functions as defined for example under Statutory Funding Agreements.
- The draft Primary Industries Levies and Charges Disbursement Bill will need to include a description after Section 10 of what this activity entails as with other activities.
- Inserting these clauses provides an accurate definition of Industry Representative Body (IRB) functions.

## The Collection Bill

- 5) **The Collection Bill retains many of the offences that are in the current legislation. The offences include things like failure to submit a return, or failure to maintain and keep records. Do you understand that people who commit an offence may be subject to a penalty? If not, what further information would assist you to understand the offences and penalties in the draft Bill?**
- Yes, understand offences in place and offences remain the same but there is introduction of penalties and infringements under new legislation and these changes need to be communicated clearly to levy payers and collectors
  - Collection Rules don't have information specific to livestock, wool and goat products – needed to understand rules applicable to members, including requirements to make and keep records and the opportunity to comment on the rules specific to these commodities is still needed.
  - DIV 3 Sect 10 deductions by collectors not well worded – improvement needed
  - Division 4 (5) and (6) – seems odd that the Commonwealth must consult with Industry Body before entering into an agreement, but that in (6) failure to comply with this requirement does not affect the agreement invalid – please explain.
  - Definitions inclusion of APS needed
- 6) **The Collection Bill has statutory notes, such as worked examples, to assist readers to understand the Bill. Do you find the statutory notes helpful to assist understanding how the Bill works?**
- Complex legislation across multiple bills and regulations – any inclusion of explanations is helpful
- 7) **The Collection Bill draws on the *Regulatory Powers (Standard Provisions) Act 2014 (RPA Act)*. The Bill will introduce civil penalties and infringement notice provisions based on the RPA Act, providing compliance options that are consistent with other regulatory schemes. These modern compliance and enforcement tools are designed to allow the department to manage compliance in a more timely and proportionate way. Do you think the new compliance powers will improve compliance within the levies system?**
- Unsure – Possible penalties would need to be clearly communicated to help improve understanding and compliance. Education for levy payers and collectors to help ensure they are aware of the changes and inclusion of penalties and infringement notices for non-compliance to help improvements in compliance levels.
- 8) **The Collection Bill contains clearer, more comprehensive provisions about how and when the department can use or disclose levy information, including levy payer or collection agent information. The Collection Bill also contains penalties for misuse of information. Do you understand how the department would use and disclose your information? If not, what**

**further information would assist you to understand how the department might use and disclose your information?**

- Complex legislation and the inclusion of clear information is important.
- Information needs to be provided to producers when information is being disclosed and how their information can be used and is protected, including penalties for misuse.

**9) The Collection Bill information sharing provisions have been modernised, while still largely reflecting existing arrangements. To ensure the modernised provisions work properly, we are interested in better understanding the purposes for which stakeholder organisations such as industry representative bodies and levy recipient bodies currently use levy payer and collection agent information. If you or the organisation you represent currently accesses levy payer or collection agent information or have accessed levy payer or collection agent information in the past, please describe the purpose for which the information was disclosed to you or your organisation. Do not include any levy payer or collection agent information in your response.**

- Not applicable?

**10) The Collection Bill contains updated provisions to improve agricultural policy and research. In particular, the Collection Bill enables the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) to use levy payer and collection agent information to more accurately forecast agricultural and economic matters for your industry. The Bill also enables improved access for the Australian Bureau of Statistics (ABS) and other Commonwealth employees for specific agricultural research projects. These organisations would not be able to disclose personal information, including information that would be likely to enable the identification of a person. Are you comfortable with levy information being used for agricultural policy and research purposes? If not, why are you not comfortable or not sure about ABS, ABARES and other Commonwealth employees using levy payer and collection agent information to forecast agricultural and economic matters for your industry or for agricultural research and policy development?**

- Support. Provided information is handled within confidently and personal privacy and protection legislation and only by appropriate people for the uses outlined (ABARES stats) and individual information and identifications are not used.
- Saves time and interference with producers through other surveying methods

**11) The Australian Bureau of Statistics (ABS) produces datasets that Australian researchers can seek approval to access in a secure environment. Use of this data environment is designed to support complex research and policy development while protecting the privacy of the data. The ABS has protections in place to ensure access and use of this data environment is managed to maintain the confidentiality of individuals and businesses. Are you comfortable with the ABS integrating levy payer and collection agent information into datasets that could be used by non-government employees such as academics or researchers from public policy institutions for agricultural research purposes? If not, why are you not comfortable or not sure about the ABS integrating levy payer and collection agent information into datasets that could be used by non-government employees such as academics or researchers from public policy institutions for agricultural research purposes?**

- Provided information is handled within confidently legislation and only by appropriate people for the uses outlined (ABARES stats) and individual information and identifications are not used, support if used to pursue research that is relevant to producers and industry.

### **Other questions**

**12) Did the educational material that accompanies the Bills help you understand the approach and changes being proposed? If not, what additional information would be useful for you to understand these Bills? What aspects are you not sure about?**

- Complex legislation involving multiple Acts, regulations and proposed Bills and rules and factsheets summarising the changes to the legislation and what is remaining the same were useful.

**13) Do you have any other feedback on the Bills?**

- Streamlining and condensing the legislation is important to allow increased flexibility to adjust levy amounts and help ensure industry can respond to changing funding needs and adjust levies as needed, without complex legislation requirements that slow down the ability for industry to make necessary levy changes.
- Important to allow the continuation of poll levies such as Wool Poll as unchanged as possible.
- Livestock and wool levies are not included in this legislation consultation, so difficult to make comment on the specifics. Need to see the specifics for these commodities.
- Addition of ability to impose levies on 'agricultural services'. Unsure what this includes in relation to livestock and wool industries and how/when this would be imposed and further consultation on this is needed.

## **Disbursement survey – question list**

### **Questions for other respondents**

- 1) The Disbursement Bill and Rules provide for the payment of different levies and matching funding to levy recipient bodies and the NRS Special Account. Do you feel confident you will be able to understand how these apply?
- 2) Does the structure and content of the Bill and Rules raise any concerns for you?
- 3) Do you feel confident you will be able to understand the provisions relating to matching funding for RDCs?
- 4) Do the provisions related to matching funding raise any concerns for you?
- 5) Do you feel confident you will be able to understand the spending requirements for levies and matching funding?
- 6) Do the spending requirements for levies and matching funding raise any concerns for you?
- 7) Do you feel confident you will be able to understand key definitions, such as the definition of 'R&D activities', 'marketing activities' and definitions of levied industries, in the Bill and Rules?
- 8) Do any of the definitions raise any concerns for you?

### **Other questions for everyone**

- Did the educational material that accompanies the Disbursement Bill and Disbursement Rules help you understand the new provisions? If not, what additional information would be useful for you to understand these Bills? What aspects are you not sure about?
- Do you have any other feedback on the draft Disbursement Bill or Rules?

## Commodity survey – question list

- 1) **The objective of the draft levies legislation is to streamline and modernise the legislation. Do you find it easier to find information in the regulations and rules, and to understand your obligations and responsibilities?**
  - Streamlining makes it easier to find and understand legislation. Inclusion of tables with commodity rates in the regulations easier to understand applicable levies
  - Applicable legislation to livestock is not included in this consultation – need to see final regulations applicable to livestock and wool.
  
- 2) **Levy or charge is imposed on commodities that are processed, delivered, sold or exported. The imposition point for each levy or charge has been drafted to include all the information needed to understand when levy or charge is imposed. Is it clear when levy or charge would be imposed on your commodity?**
  - Livestock and wool not included in this consultation. Unable to comment.
  
- 3) **Some commodities have exemptions from levy or charge. For example, many horticultural products have an exemption for retail sales below a certain threshold. Did you find the exemptions for your commodity easy to locate and understand?**
  - Livestock and wool not included in this consultation. Unable to comment.
  
- 4) **The excise levies and customs charges regulations use tables to set out the rates and purposes for each levy or charge. Did you find it easy to understand the amount and purpose of each rate component for your levy or charge? If not, what other information would assist you to understand the rate of levy/charge?**
  - Livestock and wool not included in this consultation.
  - Table structure for other commodities is clear and understandable, but need to see specific outlay for livestock and wool levies
  
- 5) **The regulations consistently call the person who must pay the levy or charge, the ‘levy payer’ or the ‘charge payer’. The person who is the levy payer or charge payer is clearly defined for each levy or charge, often replacing the general term ‘producer’ Did you find it easy to understand who must pay the levy or charge?**
  - Change to levy payer/charge payer clear for other commodities under the legislation, however, need to see the definitions in place for livestock and wool products
  
- 6) **The Collection Rules are structured to provide information for:**

- the levy or charge payer
- the collection agent
- people claiming an exemption from levy or charge.

**Do you find this structure easy to navigate**

- Structure clear for other commodities, however, need to see livestock and wool to comment.

**7) The Collection Rules use tables with a question-and-answer format setting out the obligations for giving returns, record-keeping and who the collection agent is for each levy and charge. Did you find it easy to understand what the obligations were and who they applied to?**

- As above (no livestock or wool included)

**8) The current legislation prescribes specific documents that must be kept as records for each levy or charge. Under the draft legislation, the Collection Rules describe the outcome that must be possible from the records you would have to make and keep. For example, the records 'must enable the levy payer to substantiate the amount of levy payable and paid by the levy payer' in relation to the commodity. This approach is designed to allow you to use any records created while doing your regular business, as long as those records contain the required information. Will this high-level approach to keeping records be easier to understand and comply with?**

- As above (no livestock or wool included)

**9) The regulations and rules include explanatory notes to assist the reader. For example, on page 20 of the Collection Rules, clause ^BU1(1) sets out the obligations of buffalo export charge payers to pay the charge monthly. Did you find the accompanying explanatory note helpful? If not, what additional communication material do you need to understand this obligation better?**

- Yes, any inclusion of extra information to help explain is helpful.
- As above (no livestock or wool included)

**10) Do you have any other feedback on the regulations and rules for the 21 levies and charges?**

None.