



Australian Government
Department of Agriculture

Streamlining and modernising agricultural levies legislation

Early assessment regulation impact statement

OBPR ref 24492



© Commonwealth of Australia 2019

Ownership of intellectual property rights

Unless otherwise noted, copyright (and any other intellectual property rights) in this publication is owned by the Commonwealth of Australia (referred to as the Commonwealth).

Creative Commons licence

All material in this publication is licensed under a [Creative Commons Attribution 4.0 International Licence](#) except content supplied by third parties, logos and the Commonwealth Coat of Arms.

Inquiries about the licence and any use of this document should be emailed to copyright@agriculture.gov.au.



Cataloguing data

This publication (and any material sourced from it) should be attributed as: Department of Agriculture 2019, *Streamlining and modernising agricultural levies legislation: Early assessment regulation impact statement*, Canberra, October. CC BY 4.0.

ISBN 978-1-76003-240-1

This publication is available at agriculture.gov.au/ag-farm-food/levies/levies-process-reform

Department of Agriculture
GPO Box 858 Canberra ACT 2601
Telephone 1800 900 090
Web agriculture.gov.au

The Australian Government acting through the Department of Agriculture has exercised due care and skill in preparing and compiling the information and data in this publication. Notwithstanding, the Department of Agriculture, its employees and advisers disclaim all liability, including liability for negligence and for any loss, damage, injury, expense or cost incurred by any person as a result of accessing, using or relying on any of the information or data in this publication to the maximum extent permitted by law.

Summary

This early assessment regulation impact statement (RIS) examines options to address the current complex, duplicative and inconsistent agricultural levies legislation. Twenty-four levies-related legislative instruments are sunseting on 1 April 2023 and provided a timely trigger for a review of the levies legislative framework.

In 2017–18, the then Department of Agriculture and Water Resources reviewed the sunseting instruments and the levies legislative framework as a whole, to ensure it meets its objectives, both in the present operating environment and into the future. The review included consulting with around 70 stakeholders.

The review found that whilst the legislative framework serves the fundamental objectives of the levy system and is necessary to the continuation of the successful, industry-led arrangement, it no longer provides the support required for an efficient, effective system that is responsive and flexible to better meet industry needs.

This early assessment RIS considers 2 options:

- 1) remaking the sunseting legislation in its current form
- 2) transforming levies legislation.

While drafting new legislation, targeted industry consultation will be undertaken to strengthen the analysis of the regulatory costs and benefits associated with the status quo and various options to inform a final decision RIS.

Contents

Summary	iii
Background.....	1
Types of levies and charges.....	1
Levy collection stakeholders.....	2
Collection and disbursement of levies	3
Leviable commodities.....	3
Changes to levies.....	3
1 The problem	4
1.1 Complex structure of the levies legislation	5
1.2 Lack of flexibility in the legislation.....	6
1.3 Not transparent and equitable	10
1.4 Potential minor policy changes.....	11
2 Why is government action needed?	13
3 What policy options are you considering?	15
3.1 Option 1—Remake the sunseting legislation in its current form.....	15
3.2 Option 2—Reform levies legislation.....	15
4 What is the likely benefit of each option?.....	18
4.1 Impacts of option 1.....	18
4.2 Impacts of option 2.....	18
Appendix A: Types of collection agents	22
Appendix B: Levy recipient bodies	24
Statutory RDCs.....	24
Industry-owned RDCs.....	24
Other levy recipient bodies	24
Appendix C: Leviable commodities	25
Appendix D: Recent changes to levies	27
Appendix E: Sunseting levies instruments.....	29
Appendix F: Current levies and levy recipient body legislation	30
Current levies legislation.....	30
Current LRB legislation.....	30
Appendix G: Current levies and levy recipient body legislation.....	31
Appendix H: Levies matters in levy recipient body legislation—mechanisms for attaching levies to RDCs	32
Appendix I: Complexities in levies legislation—cattle transaction and export levy provisions	33

Appendix J: Matching funds	34
Commonwealth matching funds.....	34
Where is the government's commitment to matching funding expressed?.....	34
Appendix K: Proposed levies and levy recipient body legislation	36
References	37

Tables

Table 1 Leviable commodities, by category.....	25
Table 2 Levies matters in levy recipient body legislation—mechanisms for attaching levies to RDCs	32
Table 3 Complexities in levies legislation—cattle transaction and export levy provisions	33

Figures

Figure 1 Key players in the levy collection process.....	2
Figure 2 Current levies and levy recipient body legislation.....	31
Figure 3 Proposed levies and levy recipient body legislation.....	36

Background

The agricultural levy system is a partnership between government and industry to fund industry priorities. Levies and charges (levies) are collected from primary producers by government at industry's request. Industry decides whether to establish a levy, sets levy rates and exemptions, and decides whether to discontinue a levy.

The agricultural levy system draws on the government's taxation power to establish and impose levies, making the collection of levies compulsory. This ensures that all levy payers contribute equitably. Levies are duties of excise or taxes on certain goods produced or manufactured in Australia and charges are duties of custom or taxes on goods imported into or exported out of Australia.

The current system has been in place since 1989 (Productivity Commission 2011) and has grown over time as industries have chosen to establish statutory levies on more commodities.

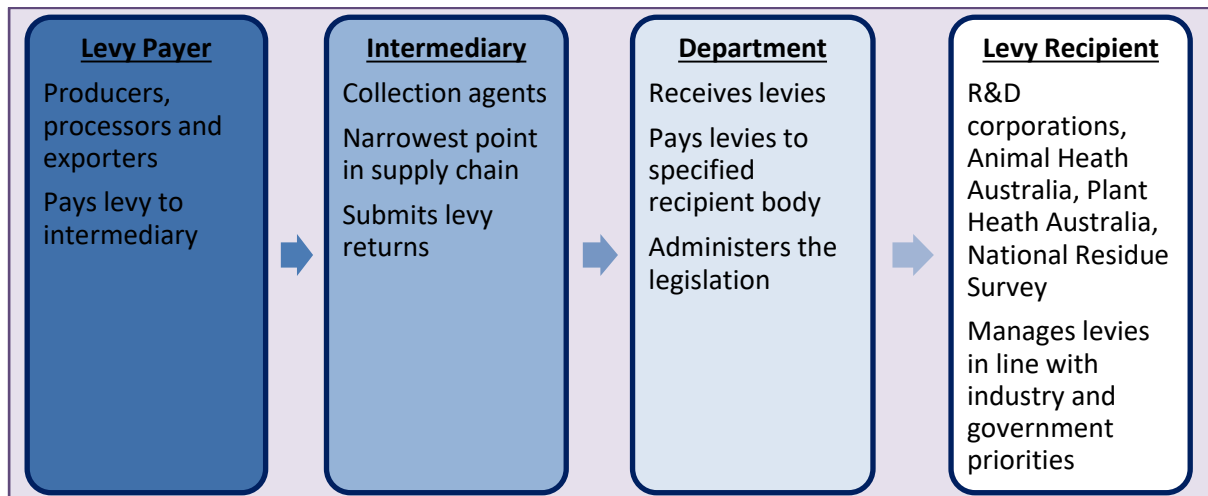
Types of levies and charges

There are 5 purposes for which levies and charges can be established: research and development (R&D), marketing, biosecurity, emergency response and residue testing. A levy or charge collected for a particular purpose must be used for that purpose.

- R&D levies—collected to invest in systematic experimentation and analysis in any field of science, technology, economics or business to increase knowledge, build on industry objectives, conduct extension activities or improve any aspect of the production, processing, storage, transport or marketing of the industry's products.
- Marketing levies—collected for industry marketing, advertising or promotion of industry products, but do not include R&D activities.
- Biosecurity levies—collected to meet industry subscriptions to Plant Health Australia (PHA) and Animal Health Australia (AHA). AHA and PHA facilitate a national approach to enhancing Australia's animal and plant health status, through government and industry partnerships for pest and disease preparedness, prevention, emergency response and management.
- Emergency response levies—collected to repay industry's share of the response costs to the Australian Government over a period of time after the response to a pest or disease incursion has been completed, generally up to 10 years. The Emergency Plant Pest Response Deed (EPPRD) and the Emergency Animal Disease Response Agreement (EADRA) outline the responsibilities and activities in the event of an incursion. Emergency response levies may also be designed to raise funds pre-emptively for use during an emergency response.
- National Residue Survey (NRS) levies—collected to fund residue monitoring activities undertaken by NRS to manage the risk of chemical residues and environmental contaminants in Australian animal and plant products. NRS levies are used by NRS to assist participating industries to demonstrate good agricultural practice and meet importing country requirements.

Levy collection stakeholders

Figure 1 Key players in the levy collection process



Source: Department of Agriculture

- Levy payers—responsible for paying a levy, either to collection agents or directly to the department (in limited cases). If a business buys, exports, produces, processes or sells Australian agriculture, fisheries or forestry products they may be required to pay a levy and/or charge.

The majority of levy payers would be small businesses (employing fewer than 20 people and/ or having an aggregated turnover (excluding GST) of less than \$10 million).

- Collection agents (called intermediaries in legislation)—responsible for collecting levies and charges, and for submitting levy returns to the department. They are identified as narrow points in the supply chain, that most, if not all, leviable commodities flow through and are generally the most cost-effective way to collect levies.

In 2017–18 there were 7,696 collection points (Department of Agriculture and Water Resources 2018). The types of businesses vary and include abattoirs, livestock agents, packing sheds, wineries and wool buyers ([Appendix A](#)).

Levy collection agents range in size from small to large businesses.

- The Department of Agriculture—collects, administers and disburses agricultural levies and charges on behalf of Australia's primary industries to specified LRBs. In 2017–18 there were 27 levies staff (administration, compliance and policy) in the department at a cost of \$4.62 million or 0.9% of the levies disbursed (Department of Agriculture and Water Resources 2018).
- Levy recipient bodies (LRBs)—responsible for managing and investing levies in line with industry priorities. Some LRBs can receive matching funding from government for eligible R&D expenditure, up to set limits. There are 18 LRBs, including 5 statutory research and development corporations (RDCs), 10 industry-owned companies, AHA and PHA, and the NRS ([Appendix B](#)).

Collection and disbursement of levies

In 2017–18, the department disbursed \$839.77 million to LRBs, comprising \$523.99 million in levies and \$315.78 million in Commonwealth matching payments for R&D. Of the total levies disbursed, \$497 million was for R&D and marketing, \$16.7 million for biosecurity and \$10.3 million for residue testing. This is an increase in total disbursements of \$48.93 million, or 6.2%, from 2016–17 (Department of Agriculture and Water Resources 2018).

In 2017–18, there were 46,180 levy returns lodged—33,830 online and 12,350 manually—with an average of \$11,347 paid in levy per return. There were 185 returns per day at an average cost of \$13 per return. There was \$3.3 million disbursed per day and 193 payments per day.

Leviable commodities

There are 113 levies collected across the agriculture, fisheries and forestry sectors such as meat, dairy, field crops, fisheries, forestry, game animals, horticulture, live animal export, livestock processing, livestock transaction, poultry, wine and other rural industries (tea tree oil and thoroughbred horses) ([Appendix C](#)).

Ninety-two per cent of agricultural industries (by value of production) have a levy in place.

Changes to levies

Proposals for new statutory levies or changes to existing levies must satisfy the 12 Levies Principles, which were introduced by government in January 1997. The principles are expressed in quite general terms, so the department publishes 'Levy Principles and Guidelines', which provides more detail to explain what is required to fulfil them (DAFF 2009).

These principles must be met in all proposals to establish or amend a statutory levy. The principal criteria to be satisfied under the Levy Principles are market failure, demonstrated industry support for a levy, net industry benefit and that the application of the levy is practical. The problem or market failure must affect all potential levy payers, making collective action (by levy payers) the most cost effective and efficient way to deal with the problem. The benefits to levy payers must exceed the cost of funding and disbursing the levy, and the collection and use of the levy funds must address the identified problem, demonstrating a net benefit to all levy payers.

An industry representative body usually puts forward the proposal to introduce and/or amend a levy. Since May 2013 the department has implemented 68 changes to agricultural levies on 31 commodities. The majority of the changes altered existing levy rates. There were 25 levies established during that time, 23 levies increased and 20 levies decreased. The types of recent changes to levies, from July 2017 to 15 January 2019, are outlined in ([Appendix D](#)).

1 The problem

The legislative framework that underpins the agricultural levies system has grown over time and no longer provides the support required for an efficient and effective system.

Agriculture, fisheries and forestry make a significant contribution to Australia's economic prosperity. In 2017–18, the gross value of agriculture, fisheries and forestry production in Australia was \$65.7 billion (ABARES 2018). The primary industries contributed 2% of Gross Domestic Product (ABARES 2018).

Around 70% of Australia's agricultural production is exported, and agricultural exports contribute just under 17% of Australia's trade in goods (ABARES 2018). The sector is also an important source of employment—in 2017–18 there were 329,000 people employed in production activities and associated support services across agriculture, forestry and fishing in Australia (ABARES 2018). The majority of this employment is in regional areas. Another 245,000 people were involved in food processing (ABARES 2018).

Twenty-four levies-related legislative instruments are sunsetting on 1 April 2023 ([Appendix E](#)). These instruments are fundamental to the operation of the levy system: they impose many levies and charges, and establish some RDCs as the LRB and industry services body.

The sunsetting process provided a timely trigger for a review of the levies legislative framework to ensure it is fit for purpose and can contribute to achieve its objectives, both in the present operating environment, and into the future.

In 2017–18, the department reviewed the sunsetting instruments and the levies legislative framework as a whole, and consulted with around 70 stakeholders on levies reform. The review found that whilst the legislative framework serves the objectives of the levy system and is necessary to the continuation of the successful, industry-led arrangement, it no longer provides the support required for an efficient and effective system. Stakeholders supported transforming the levies legislative framework into a more responsive and flexible system that better meets industry needs.

Stakeholders expressed particular support for the concepts of delegated decision making on operational matters, more flexible instruments and a consolidated legislative framework. They also recognised the review of sunsetting legislation provided an opportunity to 'tidy up' inconsistencies and unnecessary complexities.

This review was informed by various reports (ACIL Allen Consulting 2016, Senate Rural and Regional Affairs and Transport References Committee 2014 & 2015) on the operation of the levy system.

- ACIL Allen Consulting (2016) reported that a large amount of levies legislation and subordinate instruments are effective and efficient in principle but that the system is complex and difficult to manage in practice. There is shared frustration by industries and government around unnecessary costs and inflexibility embedded in the system. Stakeholders agreed levy legislation should be simplified so changes to disbursements and

levy reviews, within an agreed scope, do not require Parliamentary approval so that costs can be minimised.

- The Senate Rural and Regional Affairs and Transport References Committee (2015) reported general support for the levy system, with challenges to be addressed. The report stated that 'there is no question that the levy system and the structures that underpin it are complex, convoluted and difficult to penetrate. This complexity is evident at every stage of the process...' (Senate Standing Committee on Rural and Regional Affairs and Transport 2015).
- The Senate Rural and Regional Affairs and Transport References Committee report (2014) relating to grass-fed cattle found that the levy system and structures underpinning the red meat industry as a whole have become the most complex and bureaucratic in operation in Australian agriculture.

A summary of the key issues of the existing framework and opportunities for improvement are outlined in [section 1.1](#), [section 1.2](#) and [section 1.3](#)

1.1 Complex structure of the levies legislation

The agricultural levy system was established in its current form close to thirty years ago alongside reforms to the RDC model. Since that time, there has been an accumulation of ad hoc amendments and additions which has resulted in legislation that is complex, duplicative, intertwined and inconsistent. There are also some redundant provisions.

The current levies legislative scheme is described in detail in [Appendix F](#) and [Appendix G](#). It comprises:

- 5 Acts and 3 regulations that impose different types of levies, often on the same commodities
- 2 Acts which prescribe collection arrangements, both with supporting regulations
- 1 Act that consequentially amended another when the Goods and Services Tax was introduced in 2000
- several other subordinate instruments that address minor operational matters.

The operational details for a levy may also be prescribed across numerous Acts and instruments, and there are provisions which rely on cross-referencing to have effect. There are also inconsistent and overlapping interlinkages between the 'levies legislation' and the 'LRB legislation'. R&D and marketing levies imposed in levies legislation may be 'attached' to an RDC through 1 of 5 different mechanisms ([Appendix H](#)).

Industry representative bodies

For industry representative bodies, this complexity makes it difficult to understand obligations and communicate these to levy payers; it can act as a barrier to interact with the system, and to know which LRB receives levy funds, and for what purpose. Stakeholders often base their understanding of how the legislation operates on other sources—such as provisions in funding agreements, oft-repeated policy truisms, or currently accepted administrative practices—leading to radically different and problematic interpretations of the law.

Obligations of levy payers and collection agents

A levy payer and collection agent must understand their obligations under the legislation. The complexity of the language and having operational details, such as record keeping, spread across legislation makes it difficult and time consuming to understand.

For example, from a stakeholder perspective a cattle producer would have to refer to 9 different pieces of legislation to understand their levy obligations and where their funds are directed ([Appendix I](#)).

In 2017–18 the cost of levy-related queries—for example, generated from incorrect returns and/or payments—was \$474,927, an increase of 28.1% from 2016–17. There were 16,874 more queries resulting in an increase of \$104,161. It is estimated this will continue to increase to \$502,929 in 2018–19 due to complexity and new players.

In 2017–18, the department's compliance program selected 499 levy collection agents for record inspection—targeted across industries and risk profiles. Agents selected for inspection collectively contributed \$136.43 million of the total levy paid in 2016–17, providing 26% coverage of the annual collection.

The compliance rate was 66.2%. The rate has remained steady ranging from 65% to 69% between 2013–14 and 2017–18.

Complex legislation causes confusion for agents that collect levies and has led to incorrect interpretation, calculation and levy application. Poor levy understanding is the highest contributor to levy underpayments and overpayments. In 2017–18 there was approximately \$0.7 million in incorrect levy payments—underpaid levies totalled \$0.52 million and overpaid levies \$0.21 million. Unless identified the statistics are from the Department of Agriculture and Water Resources 2018.

1.2 Lack of flexibility in the legislation

The review considered whether levies legislation provides sufficient flexibility for industries and LRBs to manage their levy settings and investments in line with industry priorities. Stakeholders consistently argued for the need for increased flexibility, which would improve their ability to ensure that levies are optimally set. They noted that the effort required to amend levies should be proportional to the change being sought.

The review of the Intergovernmental Agreement of Biosecurity (Department of Agriculture and Water Resources 2017) identified the need for more flexibility in the approach to changing existing levy rates or the purpose of a levy. This is because industry has to follow the same process whether they are changing a levy or establishing a new levy. This can limit industry's ability to redirect funding to new priorities in a timely manner, including for addressing biosecurity threats.

Process to introduce and amend levies

The difficulty in changing levies, particularly where operational details are in primary legislation and distributed across numerous Acts, is restricting the way industries pursue levy changes. It also extends the time it takes for government to progress levy proposals. Proposals can take up to 3 years or more from idea to implementation.

For industry proposals between January 2010 and January 2018 the minimum time (for which information is available) between industry beginning consultation about levy proposals and submitting a proposal to government is 165 days. The maximum time was 2,347 days due to industry consultation lapsing over a period of years in the case of the mushroom R&D and marketing levies. Of the 49 levies following the normal process (not applicable to activating emergency response levies) the average time spent developing a proposal and consulting with levy payers is 499.5 days (16 months), but the median is 896 (2.5 years). Excluding mushrooms, the average is 428 days, or about 14 months.

Following government receipt of proposals between May 2013 and October 2018, the minimum time between the receipt of a levy proposal and it becoming law was 101 days and the maximum 1,312 days (3.6 years). The median was 284 days, or just over 9 months. The average of all industries was 428 days, due to an outlier of 1,312 days.

In the Australian Government's response to the inquiry into the industry structures and systems governing the imposition and disbursement of marketing and R&D levies in the agriculture sector, the government committed to endeavour to consider levy proposals within 12 months of receipt of a proposal (Department of Agriculture and Water Resources 2016). Since the government responded to the inquiry in May 2016, all (including biosecurity activations) except one has taken less than 12 months.

Impacts on Australia's primary industries

Australia's primary industries that choose to invest through the levies system are often better equipped to respond to the emerging trends and challenges that can arise from operating in highly competitive world markets. The current system allows primary industries to introduce and set a rate of levy to invest in activities to the benefit of their respective industry or industries. However, the lack of flexibility and agility in the system results in delays in optimising levy settings which subsequently impacts on industries.

R&D levies

An R&D levy enables investment that takes into account both industry and nationally agreed government research priorities—as the Australian Government matches eligible R&D investment. There is a broad scope of national research priorities which are identified through strategic planning processes.

R&D enables the development and uptake of new technologies and farm practices which is one of the key drivers of productivity and profitability growth. It is estimated that for every dollar that the government invests in rural R&D, farmers generate a \$12 return over 10 years (Sheng, Mullen & Zhao 2011). There are also environmental and social benefits such as a reduction in the use of chemicals, reduced soil erosion and more efficient water use.

R&D levies also fund investment in biosecurity R&D. Based on a 3 year average, from 2013 to 2016 the RDCs' collective annual investment on biosecurity R&D is estimated around \$62 million, which is 11.5% of an average total annual R&D spend of \$541 million. The investment is highly variable across the RDCs—ranges from 0.4% to 27.7% by individual RDCs (Craik, Palmer & Sheldrake 2017).

R&D has been critical to Australia's primary industries and the RDCs play an important role in agriculture. The Australian rice industry recently undertook a review of its levies to ensure that

there will be sufficient R&D funds to continue work regarding varietal development and water use efficiency, thereby ensuring that the rice industry remains competitive. It is proposed to increase the Australian rice industry's R&D levy rate from \$3 per tonne to \$6 per tonne to provide the industry with access to an additional \$1.6 million per year. This proposal is yet to be agreed to by government.

Biosecurity levies

A biosecurity levy enables an industry to prepare for significant, current and impending biosecurity challenges. Australia's biosecurity status underpins production and exports, and has broader human health, social amenity and environmental benefits.

AHA and PHA were formed to protect animal and plant health status. Although Australia is fortunate to experience a relatively good health status, it is critical to enhance plant and animal health arrangements to address the increasing risk of the entry, spread and establishment of exotic pests, diseases and weeds. This risk is partly driven by a rapidly increasing number of imports and passenger movements, and Australia importing from a wider range of countries.

AHA and PHA have government and industry members. The majority of agricultural industries are members and the annual subscription is calculated on a formula using Gross Value of Production (GVP) of the industry or jurisdiction using a 3-year rolling average.

Investment is based on annual and strategic planning processes. The types of activities funded include emergency preparedness, education and awareness, monitoring and surveillance, domestic quarantine, pest management, pre-emptive breeding and biosecurity plans. As risks change the industry wants to be able to adapt.

Emergency response

An emergency response levy enables industries to be able to contribute to the cost sharing of eradication responses to exotic pest and disease incursions. From 2013–14 to 2017–18 the government underwrote around \$25.7 million for industry to contribute to emergency responses. This includes 2 'deed-like' responses—not under an emergency response deed, but following similar arrangements. As part of industry's contribution to the response they receive benefits from having a national response and coordinated effort, and affected producers may receive assistance such as owner reimbursement costs.

An emergency response levy is usually introduced and set to nil, and then a levy rate is introduced once there is an exotic incursion agreed to be managed in accordance with an emergency response deed.

For example, in 2017 the industry peak body Australian Ginger Industry Association requested implementation of an emergency plant pest response (EPPR) levy set to nil. In the same year, the Australian Macadamia Society (AMS) activated the EPPR levy from nil to 0.2 cents per kilogram. The funds were used to repay the Australian Government for costs paid on behalf of the AMS for the response plan to eradicate varroa mite from Queensland. The levy rate was calculated to ensure the industry's liabilities were paid back within 2 years.

Also in 2017, the peak industry body for the Australian potato and vegetable industry, AUSVEG, requested the EPPR levy be activated on unprocessed potatoes and vegetables. This was to repay the Australian Government for costs paid on behalf of AUSVEG for the emergency response plan to manage the tomato potato psyllid incursion in Western Australia. The levy rate

was set at 10 cents per tonne on unprocessed potatoes and 0.01% of the amount paid for vegetables at the first point of sale.

Marketing investment

The marketing levy and subsequent investment is important for an industry to be able to promote products and develop markets.

For example, Meat & Livestock Australia identify that 'building and sustaining domestic demand is a core focus and they focus on the consumer—the primary source of demand'. The activities focus on areas of demand generation, where it is unfeasible for individual enterprises to take the initiative, through lack of commercial incentive or insufficient resources. Marketing is important for the industry as Australia exports red meat and livestock to more than 100 countries, representing over 60% of industry's production, making it critical to protect and expand access to overseas markets.

The Australian Melon Association has expressed an interest to introduce a marketing levy. This could be due to the industry's recent listeria problem in 2018. Although the problem only related to one grower, the cost to the whole industry was around \$20 million. A marketing levy could have raised funds to communicate with the public when it was safe to consume rockmelons and reduce the impact on the industry. The association, with only one paid staff member, has tried 3 times over 10 years to introduce a levy. It failed to get majority industry support the first 2 times. The third time, the process (to introduce a R&D, biosecurity and EPPR levy) took over 18 months and cost about \$20,000 plus staff costs.

Residue testing

The residue survey levy enables an industry to secure and maintain ongoing access to domestic and export markets. Australia is well positioned to continue capturing market opportunities to expand the value of agrifood exports presented by growing global demand for food and fibre, particularly for higher valued commodities.

In agricultural trade importing countries set the rules. As new markets are opened, testing for chemical residue and environmental contaminants may be required, and in existing markets there could be new requirements. There is also an increasing demand for assurance from consumers and industry may wish to undertake testing to meet these needs. Industry needs to be able to rapidly respond to changing requirements and take advantage of new market opportunities.

In 2017 the Australian Honey Bee Industry Council increased their levy setting to support national residue survey testing for chemical residue and environmental contaminants, which is a requirement for access to export markets. Specifically, all honey exported to the European Union must be monitored for residues in accordance with European Commission directives. Without the increase to the national residue survey excise and customs levies rate, the industry predicted their national residue survey reserves would be expended by 2019–20.

Maximum levy rates

The review considered the prescriptions of maximum levy rates that the legislation currently imposes on some levies. The Productivity Commission (PC) noted in its report on rural R&D (2011) that maximum levy rates serve little purpose and restrain an industry's ability to increase its levy investment.

Following the PC's recommendation, most of the maximum product specific levy rates for R&D and marketing levies were repealed. However, due to the complexity of the legislation, some maximum levy rates for R&D and marketing levies were overlooked, for example dairy produce in the *Primary Industries (Excise) Levies Act 1999*. Maximum levy rates for biosecurity and NRS levies also remain as they were not in the PC's review scope.

1.3 Not transparent and equitable

The review examined whether the legislation ensures a scheme that promotes transparency for, and equity between, the industries and individuals that it regulates. This is to ensure one industry is no more advantaged than another on the basis of how the legislation may be drafted.

Limits on matching funding

The government provides matching funds to the RDCs for R&D according to the lesser of 3 limits: 50% of eligible expenditure; the amount of R&D levy (or charge) collected or disbursed; and 0.5% of an industry's GVP, averaged over 3 years ([Appendix I](#)). Different arrangements apply to the Fisheries RDC and are not proposed to be changed.

The review found that the legislative arrangements for determining and applying the limits on matching funds are not consistently or efficiently prescribed.

In determining the GVP, for some industries the minister (for others the secretary) is required to determine the annual GVP of an industry using a prescribed formula (GVP formula), while for others there is no prescribed formula. Not having a prescribed GVP formula creates extra regulatory burden as these are required to be determined and the process is currently inconsistent.

Industry representative bodies

The review also examined the provisions relating to industry representative bodies throughout levies and LRB legislation and considered whether they contribute to an agile, transparent and contemporary levy system.

There are presently 70 industry representative bodies named against 3 broad roles in levies and LRB legislation—representative bodies, for statutory RDCs; prescribed industry bodies, for the red meat RDCs; and levy consultation bodies, for particular levies or charges.

These roles are inconsistently expressed in the legislation and the names of the bodies that hold the roles are dispersed across numerous Acts, regulations and declarations. For example, there are at least 12 different terms used to describe the levy consultation body role—such as 'designated body' and 'eligible industry body'—and 5 variations on the role itself.

Further, the bodies named do not always reflect the reality of current representation in an industry, or incorporate changes to names and branding, due to the difficulty in amending legislation for this purpose alone. In some cases the bodies identified no longer exist—for example, the Triticale Association, which is named in primary legislation as a levy consultation body for the coarse grains levy.

The inconsistency and complexity of the varying arrangements make it difficult for government, levy payers and the industry bodies themselves to understand the nature of their roles in the legislation and the differences between the roles that various bodies may hold. During

consultation, some stakeholders noted the presumption of longevity implied by naming industry bodies in legislation and a number suggested naming industry bodies elsewhere than the legislation.

Declaration of PHA industry members

The *Plant Health Australia (Plant Industries) Funding Act 2002* refers to one particular levy consultation body role in a way that obstructs the Act's efficient and effective operation. PHA levy disbursement hinges on PHA industry members being declared as 'designated bodies' for their levy under the *Primary Industries (Excise) Levies Act 1999* or the *Primary Industries (Customs) Charges Act 1999* and their regulations. If a PHA industry member is not declared as a designated body, the Commonwealth cannot disburse that industry's PHA levies to PHA.

For all other LRBs, authority to disburse levies is not contingent on the declaration of industry representative bodies. The arrangement is not necessary to attach the levies to PHA or to identify PHA industry members, as these matters are dealt with separately by the PHA Funding Act.

1.4 Potential minor policy changes

As part of bilateral consultation with industry bodies and LRBs, the department will seek to consult on minor policy proposals that, if supported, will be included in the next stage of the RIS.

Modernisation of regulatory powers for levy collection

The department is responsible for ensuring that Australia's levy system is modern, efficient and complied with by industry.

Australian Government policy is that all new legislation that requires monitoring or compliance powers must use the *Regulatory Powers (Standard Provisions) Act 2014* (RPA), unless there are significant reasons not to do so. The department is considering adopting the RPA to promote more efficient, effective regulation for both government and industry.

The RPA provides a single suite of monitoring and investigation powers across government, as well as civil penalties, infringement notices, enforceable undertakings and injunctions.

Ultimately, this is a more flexible, proportionate system as it would provide the department with a wider range of enforcement tools so that the response department's response to an offence can be proportional the seriousness, where for example, a less serious offence may be better handled through an educative approach.

GVP 3-year rolling average

The GVP formula is a 3-year rolling average of GVP, including the current financial year. The inclusion of the current year means that the limit on the matching funds an RDC may be eligible for is not known until close to the end of the financial year in which the RDC makes the expenditure. Some RDCs report that this creates uncertainty that affects their ability to invest levy funds. To manage these arrangements and avoid overpayment, the department has also developed internal systems that have an administrative cost.

To provide greater certainty for RDCs and the department in relation to the GVP formula, the department will consult on changing it to the average of the past 3 financial years.

Total levies limit on matching funding

The review also identified some redundancy in levies-related limits on matching funding. The amount of matching funding most RDCs are eligible for is limited by the amount of R&D levies collected or disbursed, depending on the legislation. This is referred to as the total levies limit. In theory, the total levies limit acts to restrict an RDC's ability to receive matching funding for expenditure of funds other than levies—for example, voluntary contributions. However, for all but one RDC, the total levies limit is not currently triggered in practice, as the 0.5% of GVP cap is routinely the lesser and therefore operative limit on matching funds. In addition, matching funding is provided based on an RDC's expenditure; it does not distinguish between funding sources.

Despite the fact that the total levies limit effectively does not apply, complex legislative arrangements have been developed as a means of providing for additional amounts to be matched over and above the limit. For example, the Forestry Marketing and Research and Development Services Regulations 2008 add specific dollar amounts of voluntary contributions to the definition of forestry levies in the *Forestry Marketing and Research and Development Services Act 2007* so they can be eligible to receive matching funds.

Further, the total levies limit does not align with the long-standing policy intent of the RDC model—to achieve R&D investment of 1% of agricultural GVP ([Appendix J](#)).

In consultation with stakeholders, the department will consider removing the total levies limit.

2 Why government action is needed

The Australian Constitution is the primary vehicle for the agricultural sector to seek legislation for the imposition of levies and customs charges. This is facilitated by the Australian Parliament on advice from the responsible minister.

A legislative solution is used particularly in the case where voluntary contributions are not the best option. This enables levies to be imposed equitably, can address free-rider concerns and ensures a system that is transparent, cost-effective and flexible enough to meet industry requirements.

The benefits from voluntary contribution are non-excludable. This establishes a free-rider effect and creates a disincentive for investment in R&D, marketing, biosecurity and residue testing. This is recognised by industry. For example, a statutory levy for R&D and marketing was established in the mushroom industry in 2002 to address the 'free-rider effect' and associated suboptimal investment of voluntary levies. Also in the tea tree industry prior to the introduction of a statutory levy the industry conducted R&D programs from voluntary producer contributions. These programs were highly effective, contributing to a doubling of plant yield, efficacy research, market access and increased efficiency in harvesting, distillation and storage. However, the decision to establish a statutory levy ensured that all tea tree oil producers invest equally in R&D. A statutory levy also provided the industry with greater certainty about the amount of revenue to be collected for R&D and would enable forward-year planning to deliver priority R&D for the benefit of the whole industry.

The Australian Government supports agricultural R&D levies as a means of increasing the profitability, sustainability and competitiveness of Australia's rural industries. For this reason, the government supports a legislative framework which allows agricultural industries to request that levies be imposed on producers, processors and exporters, and disbursed to RDCs. This framework also allows for the government to provide matching payments to RDCs on eligible research, development and extension expenditure in recognition that profitable, competitive and sustainable farm businesses will benefit the industry and whole Australian economy. This co-investment model has important strengths, including helping to ensure that public money is not spent on research of little practical value, and facilitating greater and faster uptake of research outputs.

LRBs maintain a range of different mechanisms through which they are accountable to levy payers. These include annual reports, regular external reviews, votes on levies and board membership, audit processes and communication programs. The specifics of these arrangements vary by commodity sector, depending on the specific characteristics of that sector. There is no single accountability framework that would be appropriate for all commodities, however the *Levy Principles and Guidelines* provides a set of rigorous processes to ensure that levy payers have adequate opportunities to determine the levies that are applicable to their specific sector. Beyond meeting the *Levy Principles and Guidelines* the manner in which an industry works together on the need for a levy or change to an existing one is a matter for each industry.

The costs to administer the collection and distribution of levies are recovered by the department from LRBs, as outlined in the LRB legislation. The cost is allocated to commodities proportionately based on the effort required to administer a particular levy. The department invoices the LRB for the costs of collection, disbursement, administration, compliance and reporting.

3 Policy options being considered

Two options have been considered:

- Option 1—Remake the sunseting legislation in its current form and repeal any spent and/or redundant instruments and provisions.
- Option 2—Reform the agricultural levies legislation to be modern and streamlined ([Appendix K](#)).

A non-regulatory option has not been explored as it does not meet the fundamental requirement that industry can request a legislative option for the imposition of levies. A non-regulatory option also does not support the government's commitment to improving the efficiency and effectiveness of the RDC model, as outlined in the *Rural Research and Development Policy Statement* developed in response to the Productivity Commission's (2011) inquiry into Rural RDCs and the *Agricultural Competitiveness White Paper* (2015).

A non-regulatory option would be contradictory to government's longstanding commitment to RDCs as outlined in the Primary Industries and Energy Research and Development Bill 1989, which was to establish a funding model for primary industries research and development. Removing the Australian Government's role in the administration of the levy system poses an unacceptable risk to agricultural industries and would adversely impact on Australia's economy.

An option to 'do nothing' and allow the legislation to sunset has also not been explored. If the legislation was to lapse the operational detail required for the imposition and collection of levies and charges would not apply to all levied agricultural industries. This also poses an unacceptable risk to agricultural industries and does not meet the government's commitment to promoting clearer, less complex laws and improving the efficiency and effectiveness of the RDC model.

3.1 Option 1—Remake the sunseting legislation in its current form

This option would maintain the regulatory framework for levies to be collected and disbursed. Option 1 would not involve any additional Australian Government intervention other than to remake the existing sunseting legislation and to repeal spent and/or redundant instruments and provisions, which are due to sunset in April 2023. As such, no change to the regulatory burden on businesses, community organisations or individuals is anticipated.

Under this option it is likely that the existing legislative framework would continue to develop in an ad hoc and inefficient manner (by amendment, addition of new legislation and/or repeal of existing legislation) over time in response to industry requirements. It may also evolve to implement government policy objectives, or to meet the department's operational requirements.

3.2 Option 2—Reform levies legislation

Option 2 would seek to improve the regulatory framework consistent with the review's findings, and to provide the foundation for a modern, streamlined, flexible and efficient levy regulatory system. In undertaking these improvements, the Australian Government will ensure that industries continue to have confidence in the department's administration of the levy system.

Under this option the 7 levies imposition and collection Acts would be consolidated into fewer Acts. In addition, the levies legislation would prescribe only levy matters and LRB legislation would prescribe only matters required for the operation of those specific organisations. This could involve establishing a disbursement Act and moving the provisions that attach levies to an LRB from LRB legislation to levies legislation. Implementing a stand-alone disbursement Act may create a single point of reference for provisions that attach levies to the relevant LRB, reducing the legislative framework for disbursement, which currently involves 14 Acts.

All the operational levy details in subordinate legislation could be brought together either in regulations and/or a minister's rule authorised by imposition, collection and disbursement Acts. The regulations and/or rule could contain all the details that, over the life of a levy, could reasonably be expected to change.

Some more routine rule-making powers (for example, changes to the frequency in which returns must be lodged) could be delegated to the secretary of the department, which would further expedite the time required for a change to be enacted.

In relation to government matching funding for R&D, the prescriptions relating to the limits used to determine an RDC's eligibility for matching funds could be improved by prescribing the formula that must be used to determine an industry's GVP in the operational details; and the maximum levies limits could be removed.

With regard to industry representative bodies—the names of representative bodies, prescribed industry bodies and other levy consultation bodies could be moved to the regulations or RDC rule; and the requirement for relevant PHA Industry members to be declared as 'designated bodies' in the *Plant Health Australia (Plant Industries) Funding Act 2002* could be removed.

Spent and/or redundant instruments and provisions in levies legislation would be repealed, such as:

- *Primary Industries (Excise) Levies (GST Consequential Amendments) Act 2000*, which is spent.
- Schedule 2 of the *Dairy Produce Act 1986*, which implemented a Dairy Industry Adjustment Program that concluded in 2009.
- Horticulture Marketing and Research and Development Services Regulations 2001, which—among other spent provisions—prescribes tobacco leaf as a horticultural product.
- Primary Industries (Excise) Levies (Forest Growers) Designated Bodies Declaration 2007 that names bodies whose recommendations must be considered by the minister before making a regulation relating to logs produced in Australia. Two of the bodies named no longer exist.
- *National Cattle Disease Eradication Account Act 1991* (NCDEA Act) and the National Cattle Disease Eradication Account (NCDEA). The NCDEA Act identifies 7 levies imposed on the cattle and buffalo industries that fund the National Cattle Disease Eradication Account (NCDEA), which was established to fund the industry contribution to eradicating Brucellosis and Tuberculosis. Expenditure using the NCDEA can only be for legislated purposes and can only be debited with ministerial approval. The eradication programs have ended and the 7 levies imposed on the cattle and buffalo industries have been non-operative (set to zero) since 2007. The account balance is currently \$15,000. The cattle industry has established

statutory levies to fund Animal Health Australia memberships and emergency responses through the Emergency Animal Disease Response Agreement (EADRA). The buffalo industry does not have animal health or biosecurity levies in place, nor is the industry's peak body, the Australian Buffalo Industry Council, a signatory to the EADRA.

- Non-operative levy rates, excluding emergency response levies set to a nil rate to allow later activation.

4 The likely benefits of each policy option

4.1 Impacts of option 1

Option 1 would continue to provide a regulatory framework for the levies system to enable collection and disbursement of levies for R&D, marketing, biosecurity, emergency response to exotic pests and diseases and residue testing.

This option does not address the need identified in the review for a more streamlined legislative system that is flexible enough for industries to optimise their levy settings and promote a clear understanding of obligations. It also does not modernise and streamline the legislation in line with modern practices and principles, nor does it promote the Clearer Laws Principles (that laws should be no more complex than is necessary to give effect to policy, laws should be understood by the people they affect) or support a framework adaptable to changing government priorities.

Legislation changes would still be required over time as levies are introduced and changed, which would make the system more complex, opaque and less responsive to stakeholder needs.

The drafting of the legislation in its current form would still be a significant undertaking and would not represent value for money in terms of the outcomes. Given the number of instruments to be remade, the consultation process would still be extensive and would include:

- LRBs
- Representative bodies under section 7 of the *Primary Industries Research and Development Act 1989*
- Prescribed industry bodies under the *Australian Meat and Live-stock Industry Act 1997*
- Bodies named in the primary industries legislation
 - *Primary Industries (Customs) Charges Act 1999*
 - Primary Industries (Customs) Charges Regulations 2000
 - *Primary Industries (Excise) Levies Act 1999*
 - Primary Industries (Excise) Levies Regulations 1999
 - *National Residue Survey (Customs) Levy Act 1998*
 - *National Residue Survey (Excise) Levy Act 1998*
 - *Primary Industries Levies and Charges Collection Act 1991*
 - Primary Industries Levies and Charges Collection Regulations 1991
- Members of the Emergency Plant Pest Response Deed (EPPRD) and Emergency Animal Disease Response Agreement (EADRA).

4.2 Impacts of option 2

Under this option, new legislation will be drafted which will provide an efficient, transparent framework within which levies can be administered by the Australian Government.

This option will maintain industries' confidence that government can administer an industry-imposed levy system that meets their needs of today and into the future. Levy investment through the LRBs is critical to maintain and increase agriculture, fisheries and forestry productivity and competitiveness and deliver broader public benefits such as environmental and social outcomes.

Adopting option 2 will provide a system that is flexible and easy to interact with. It will allow industries to be more agile in changing their levy settings, and will be more effective in ensuring priorities for industries are invested in, to increase productivity and competitiveness. Option 1 will not achieve these outcomes.

The agriculture sector is advocating to achieve a \$100 billion target by 2030. This will require either very good luck or faster improvements in productivity than have been achieved in the past 2 decades. The majority of productivity improvements come from investment in R&D. Over this period, productivity growth will also need to offset some negative changes that are likely to occur, such as slower growth in prices for livestock products, impacts from climate change, greater competition for resources, and more assertive customers.

In addition, increased movement of people, goods and vessels around the world correspondingly increases the probability of biosecurity threats hitting Australia. A widespread view within Australia's biosecurity system is that in today's world it's not a case of if a new threat will get here, it's a case of when it will arrive (CSIRO 2018). Australian industries cannot be complacent and the management of biosecurity will require a step change towards smarter and more efficient strategies that are ahead of, or in line with, the pace of change around the world (CSIRO 2014).

Agriculture industries are facing a vastly different global operating environment and the emergence of new challenges and technologies compared to 3 decades ago. In place of the past focus on establishing new levies, industries are now mainly seeking to ensure their existing levy settings maximise the benefits of their investments. This should allow them to respond to challenges or opportunities as they arise. There is a need for levies to be able to adapt to future needs of industry and government over the long term.

This option also meets the government's commitment of promoting clearer and less complex laws.

Affected parties

This option would affect all levy payers, collection agents, industry representative bodies and LRBs.

Benefits

Levy payers

The way the levy system operates, levy payers rarely pay the levy direct to the department, rather to collection agents nominated by the industry to minimise transaction costs.

The greatest benefit for levy payers are the outputs from their investment. For example, adopting new technologies, implementing a biosecurity plan, being able to have a national response to an exotic pest incursion, and meeting market access requirements with a residue testing program recognised by the importing country. Having a flexible system to adjust levy

settings to meet industry priorities is an imperative to increase productivity and remain competitive.

Other benefits for levy payers include:

- being able to easily identify the purpose for which the levy has been collected. The levy payer can then liaise with the industry representative body or LRB to express their views about whether that purpose is a priority
- being able to know where their levy funds are being disbursed—the relevant LRB. The levy payer can then engage with the LRB's planning processes to influence priorities for investment; engage with activities to assist the adoption of products including for example new technology and extension activities; or read their annual reports to form views on whether the funding is spent in an efficient, effective and appropriate way
- assist the LRB to invest in line with levy payer priorities (and government priorities where there is matching funding for eligible R&D). With increased engagement the LRB will canvass more views and better understand levy payers' needs and the challenges they face
- being better informed to assist compliance with obligations to pay the right amount of levy—it will be easier for levy payers to understand what a levy has been imposed on and when it is not imposed, any additional circumstances imposed on the levy, the rate for each levy, a definition of a levy year, details on completing, lodging and documenting returns and the penalties for late payment.

Industry representative bodies

Industry representative bodies will be able to:

- reduce the time and cost to understand and explain the levy system to levy payers and collection agents, including when they are running a process to implement and/or change a levy
- reduce the time and cost to understand and explain the obligations of levy payers and collection agents during forums, when answering inquiries and when running a process to implement and/or change a levy
- reduce the time and cost to complete proposals to introduce and/or amend a levy
- respond to challenges and opportunities in the industry in a timely manner.

The amount of recent changes to, and the introduction of new levies, highlight how necessary an efficient and responsive levies system is to industry ([Appendix D](#)). During consultations with industry bodies it was apparent that about two-thirds were actively considering a change to their levies.

Collection agents

Having less complex, streamlined legislation and consolidating operational details in one location will assist collection agents to understand their legislated obligations. These relate to record keeping, when the levy has to be paid, the rate for each levy, the definition of a levy year, and knowing the penalties for late payment. This may also reduce the need for legal advice.

This is expected to result in a reduction of minor non-compliances. It is also expected to result in quicker and easier compliance inspections as authorised officers can easily compare the

legislative requirements with the activities of the business, such as records and the type of information to be kept and when the levy was to be paid to government. This may result in a reduction of compliance activities and therefore a reduction in the cost recovered from levy payers to undertake these activities by the department. Alternatively the effort may be redirected to other non-compliance activities, such as new levy agents that haven't been paying their levy, to ensure there is equity in the system. In 2017–18 the department identified 35 new levy agents.

A quicker and easier process is unlikely to negatively impact on collection agents as they are intermediaries that essentially exist for another purpose within the agriculture system (for example, a processor) and depend on a sustainable and competitive industry to exist.

Levy recipient bodies (LRBs)

LRBs are responsible for managing and investing levies in line with levy payer priorities, and government's priorities where the investment is for R&D. Benefits for the LRBs are that it will be easier for them to explain to levy payers how the levy system works, and to understand their obligations, as the operational provisions for levies will be in one location. General administration of LRBs should also be more efficient and effective, as all the levy matters will be in levy legislation and the LRB legislation will be contained to matters required for the operation of their organisations, such as funding, transfer of assets and employee conditions.

Regulatory burden

Consultation process

There will be a 3-stage consultation process:

- Stage 1—The department will undertake bilateral consultation with representative bodies, LRBs and a subset of collection agents to gather data on the costs and benefits, and examples associated with the status quo and option 2 to update the RIS. This will occur on draft Bills and other instruments to demonstrate the change from the status quo.
- Stage 2—The department will hold a forum with representative bodies, LRB and a subset of collection agents to discuss the final Bill and the outcome from consulting on any potential minor policy amendments.
- Stage 3—Public consultation on the Bill and a draft RIS.

Appendix A: Types of collection agents

- abattoirs (many different types)
- annual livestock agents
- chicken egg sellers
- chicken grower/sellers
- cotton processors
- dairy distributors/retailers
- dairy processors
- dairy producer processors
- exporters
- feedlots
- fodder exporters
- game processors
- goat fibre traders/sellers
- grain consumers
- grain co-ops
- grain merchants
- grain processors
- grain seed cleaner/traders
- grain traders
- hatcheries
- honey dealers
- honey producers
- horticultural co-ops
- horticultural growers (also buy in)
- horticultural growers (own produce only)
- horticultural growers/market operators
- horticultural market agents
- horticultural packing sheds
- horticultural processors
- horticultural retailers

- livestock exporters of cattle/goats/sheep/speciality
- macadamia processors
- meat wholesalers/retailers
- mushroom spawn producers
- nursery product suppliers
- prawn farmers
- queen bee producers
- sawmills
- scales operators
- stock agents
- sub agents
- turf producers
- wine - contract made
- wine - export only
- winery - contract only
- winery - own plus contract
- winery - own product only
- wool brokers
- wool buyers
- wool exporters
- wool processors

Appendix B: Levy recipient bodies

Statutory RDCs

- Cotton Research and Development Corporation
- Fisheries Research and Development Corporation
- Grains Research and Development Corporation
- Rural Industries Research and Development Corporation (AgriFutures Australia)
- Wine Australia

Industry-owned RDCs

- Australian Eggs Ltd
- Australian Livestock Export Corporation Ltd (LiveCorp)
- Australian Meat Processor Corporation
- Australian Pork Ltd
- Australian Wool Innovation Ltd
- Dairy Australia Ltd
- Forest and Wood Products Australia
- Horticulture Innovation Australia Ltd
- Meat and Livestock Australia
- Sugar Research Australia Ltd

Other levy recipient bodies

- Animal Health Australia
- National Residue Survey
- Plant Health Australia

Appendix C: Leviable commodities

Table 1 Leviable commodities, by category

Category	Commodity
Animal products	dairy (milk delivered to a manufacturer)
	goat fibre
	honey
	wool
Field crops	coarse grains
	cotton and seed cotton
	fodder
	grain legumes
	oilseeds
	pasture seeds
	rice
	sugar cane
	wheat
Fisheries	farmed prawns
	forest growers—logs
	forest industries products
Game animals	game animals (goats and pigs)
	deer slaughter
	horse slaughter
	macropod slaughter
	ratite slaughter
Horticulture	almonds
	apples
	avocados
	bananas
	cherries
	chestnuts
	citrus
	custard apples
	dried fruits and dried vine fruits
	ginger
	lychees
	macadamia nuts
	mangoes
	melons
	mushrooms
nursery products	

Category	Commodity
	olives
	onions
	papaya
	passionfruit
	pears
	persimmons
	pineapples
	potatoes
	rubus
	stone fruit
	strawberries
	sweet potatoes
	table grapes
	turf
	vegetables
Live animal export	buffalo export
	cattle and livestock (goat, lamb and sheep)—export
Livestock processing	beef production
	buffalo slaughter
	livestock (goat, lamb and sheep) slaughter
	pig slaughter
Livestock transaction	cattle and livestock (goat, lamb and sheep) delivered for export by a producer
	cattle and livestock (goat, sheep and lamb) transactions
Other rural industries	tea tree oil
	thoroughbred horses
Poultry	eggs (promotion)
	laying chickens
	meat chickens
Wine	fresh grapes, dried grapes and grape juice (grape research levy)
	wine grapes (wine grapes levy)
	wine export

Source: Department of Agriculture and Water Resources

Appendix D: Recent changes to levies

Seventeen commodities changed their levy settings:

- Ginger—a nil rated EPPR component to meet their financial obligations under the EPPR Deed. The overall levy rate did not change. The change commenced 1 October 2018.
- Potatoes (unprocessed)—increased the EPPR levy component from nil to 10 cents per tonne. The overall levy rate for processed potatoes did not change. The funds raised through the EPPR levy were used to pay industry's share of costs to the tomato potato psyllid biosecurity response and a 12 month transition to management program. The change commenced 1 October 2018.
- Vegetables—increased the EPPR levy component from nil to 0.01% of the amount paid at the first point of sale. The funds raised were used to pay industry's share of costs to the tomato potato psyllid biosecurity response and a 12 month transition to management program. The change commenced 1 October 2018.
- Beef production and slaughter levies
 - Cattle (overall rate 0.6 cents per kilogram)
 - Sheep (overall rate 15 cents per head)
 - Lambs (overall rate 0.6 cents per head)
 - Goats (overall rate 10 cents per head)R&D and marketing levies were adjusted without changing the overall rate to increase marketing funds available to the LRB. Between 1 January 2017 and 30 June 2018 the whole overall levy for these commodities went to marketing. On 1 July 2018 the mix reverted to roughly 40% marketing and 60% R&D.
- Honey—altered the composition of the levy without changing overall rate of 4.6 cents per kilogram. Involved decrease to EPPR component and corresponding increase to the NRS to invest in programs that enable the industry to continue exporting to the European Union. These changes commenced 1 July 2018.
- Mushrooms—reduced marketing component from \$3.24 per kilogram of mushroom spawn sold to \$2.92 per kilogram. The change commenced 1 July 2018.
- Macadamia—activated EPPR to 0.2 cents per kilogram to repay costs in response to an outbreak of varroa mite in Queensland. The change commenced 1 April 2018.
- Almond—activated EPPR to 0.1 cent per kilogram for in-shell almonds and 0.13 cents per kilogram for shelled almonds to repay the industry's share in response to an outbreak of varroa mite in Queensland. The change commenced 1 October 2017.
- Apples and pears—activated the EPPR component of the apples and pears levy and change to 0.05 cents per kilogram for all domestic and export apples and pears to repay the industry's share in response to an outbreak of varroa mite in Queensland and exotic fruit fly in Torres Strait. The change commenced 1 October 2017.
- Thoroughbred horse—R&D levy \$10 per thoroughbred horse, commenced on 1 July 2017.

- Laying chickens—deactivated EADR levy component which was 1.4 cents per chick. The liability for the response to the 2012 avian influenza outbreaks was fully repaid, negating the need for the EADR levy to continue at a positive rate. The change commenced 1 July 2017.
- Tea tree oil—levy and export charge of 0.25 cents per kilogram, commenced on 1 March 2017
- Melons—R&D levy, PHA and EPPR levies, commenced on 1 January 2017.

Appendix E: Sunsetting levies instruments

- *Australian Meat and Live-stock Industry Act 1997*—Declaration of Approved Donor (30/06/1998)
- *Australian Meat and Live-stock Industry Act 1997*—Declaration of Approved Donor (07/07/1998)
- *Australian Meat and Live-stock Industry Act 1997*—Declaration of Approved Donor (21/08/1998)
- *Australian Meat and Live-stock Industry Act 1997*—Declaration of Industry Marketing Body (30/06/1998)
- *Australian Meat and Live-stock Industry Act 1997*—Declaration of Research Body (30/06/1998)
- Australian Meat and Live-stock Industry (Live-stock Export Marketing Body and Live-stock Export Research Body) Declaration 2004
- Australian Meat and Live-stock Industry (Meat Processor Marketing and Research Bodies) Declaration 2007
- Australian Meat and Live-stock Industry Regulations 1998
- Cotton Research and Development Corporation Regulations 1990
- Dairy Produce Regulations 1986
- Fisheries Research and Development Corporation Regulations 1991
- Forestry Marketing and Research and Development Services Regulations 2008
- Grains Research and Development Corporation Regulations 1990
- Horticulture Marketing and Research and Development Services Regulations 2001
- Primary Industries (Customs) Charges Regulations 2000
- Primary Industries (Excise) Levies (Forest Growers) Designated Bodies Declaration 2007
- Primary Industries (Excise) Levies (Pasture Seeds) Declaration 2012
- Primary Industries (Excise) Levies Regulations 1999
- Primary Industries Levies and Charges Collection Regulations 1991
- Primary Industries Levies and Charges (National Residue Survey Levies) Regulations 1998
- Rural Industries Research and Development Corporation Regulations 2000
- Wool Services Privatisation (Miscellaneous Provisions) Regulations 2000
- Wool Services Privatisation (Research Body) Declaration 2008
- Wool Services Privatisation (Wool Levy Poll) Regulations 2003

Appendix F: Current levies and levy recipient body legislation

The legislation underpinning the levy system consists of 8 Acts and 9 other instruments that authorise the imposition and collection of levies.

Current levies legislation

Imposition

The *Primary Industries (Excise) Levies Act 1999* (Levies Act), the *Primary Industries (Customs) Charges Act 1999*, the *National Residue Survey (Excise) Levy Act 1998*, the *National Residue Survey (Customs) Levy Act 1998* and the *Horse Disease Response Levy Act 1999* authorise the imposition of levies on primary producers; impose some levies; make provisions for the operative rates, liabilities and exemptions for some industries; and provide for the regulations to also impose levies, prescribe operative rates, liabilities and exemptions. The *Primary Industries (Excise) Levies (GST Consequential Amendments) Act 2000* amended the Levies Act when the Goods and Services Tax was introduced in 2000.

The Primary Industries (Excise) Levies Regulations 1999 and the Primary Industries (Customs) Charges Regulations 2000 enable the operative rate and other levy details to be updated without having to amend the Imposition Acts. Other instruments under the Imposition Acts declare industry bodies for specific purposes/industries and amend the operative rates of some levies.

Collection

The *Primary Industries Levies and Charges Collection Act 1991* and the *Horse Disease Response Collection Act 2011* make provisions for the collection of primary industry levies. The Primary Industries Levies and Charges Collection Regulations 1991 and the Primary Industries Levies and Charges (National Residue Survey Levies) Regulations 1998 set out the basic reporting and levy collection arrangements for levies on primary products.

Current LRB legislation

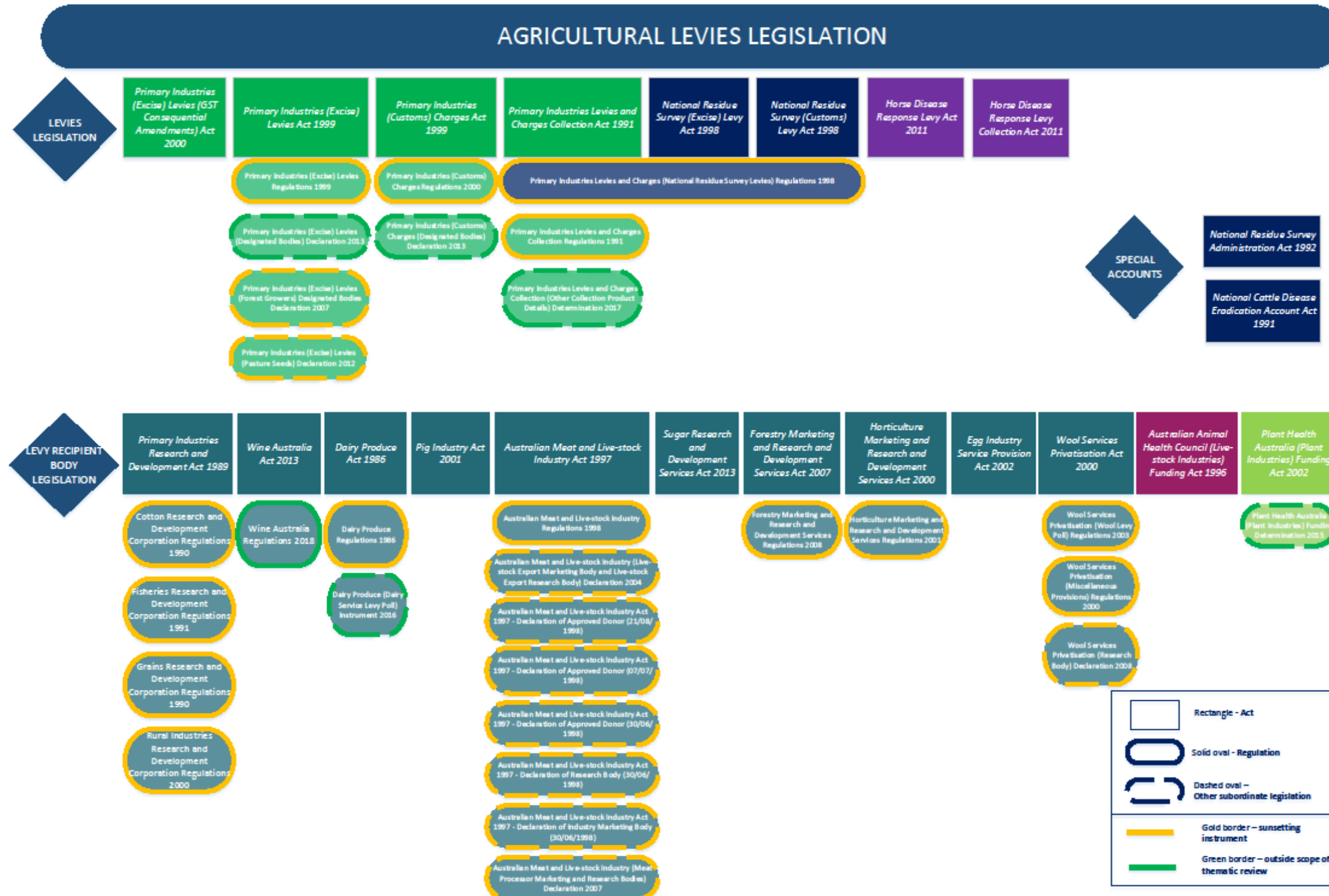
Twelve LRB Acts authorise payment of levy funds to the bodies that have been established or declared to be eligible to receive those funds. The Acts also make provisions that enable the government's matching funding for eligible R&D.

LRB regulations make various prescriptions including: establishing an RDC; directly and indirectly attaching levies to the relevant body; prescribing formulas or activities that are relevant or necessary for the body to receive Commonwealth matching funds; prescribing record keeping, return and levy payment requirements; and prescribing activities and arrangements necessary for the conduct of industry polls.

There are numerous other legislative instruments that sit under the LRB Acts that are not in the scope of this review. The function of these instruments vary from exporting requirements to payroll tax liabilities.

Appendix G: Current levies and levy recipient body legislation

Figure 2 Current levies and levy recipient body legislation



Appendix H: Levies matters in levy recipient body legislation—mechanisms for attaching levies to RDCs

Table 2 Levies matters in levy recipient body legislation—mechanisms for attaching levies to RDCs

RDC	Attachment mechanism
Rural Industries RDC, Fisheries RDC, Cotton RDC, Grains RDC	An RDC Act provides for regulations to attach a levy to an RDC.
Wine Australia	An RDC Act authorises payments to be made by the Commonwealth to an RDC equal to the amounts received by the Commonwealth as particular types of levy.
Meat and Livestock Australia, Australian Livestock Export Corporation, Australian Meat Processor Corporation	An RDC Act permits levies to be paid to a relevant body (such as an industry research body) and a separate declaration is made under the Act, declaring the RDC as the relevant body.
Australian Pork Limited, Australian Wool Innovation Limited, Dairy Australia Limited, Forest and Wood Products Australia, Sugar Research Australia Limited, Australian Eggs Limited	An RDC Act allows the Minister, on behalf of the Commonwealth, to enter into a contract with an entity permitting payments to be made by the Commonwealth to that entity and where the relevant contract contains provision for those payments to be made to the RDC.
Horticulture Innovation Australia Limited	An RDC Act permits payments to be made by the Commonwealth to a relevant body in accordance with a deed of agreement and where a separate declaration is made under the Act declaring that the RDC is the relevant body and the relevant deed of agreement contains provision for such payments to be made to the RDC.

Source: Department of Agriculture and Water Resources

Appendix I: Complexities in levies legislation—cattle transaction and export levy provisions

A cattle producer would have to look at the 45 sections in 9 pieces of legislation to understand their levy obligations (**Error! Not a valid bookmark self-reference.**).

Table 3 Complexities in levies legislation—cattle transaction and export levy provisions

Legislation	Content	Sections
Levies Act	What the levy is imposed on, who is liable to pay the levy, when levy is not imposed, and levy rates ^a (marketing, R&D, National Cattle Disease Eradication Account and Animal Health Australia). Contains two operative levy rates: marketing and R&D on bobby calves.	2, 5, 6(1)(a–d), 6(2)(a–d), 6(3)(a–d), 7
Levies Regulations	Levy rates that supersede the Act, additional circumstances in which levy is not imposed, imposition of emergency response levy, additional circumstances imposed on the levy—e.g. stepped timing.	2, 3(1–3), 4(1–3), 5
Charges Act	What the levy is imposed on, who is liable to pay the levy, when levy is not imposed, and levy rates ^b (marketing, R&D, National Cattle Disease Eradication Account and Animal Health Australia).	1, 2, 3(1)(a–d), 3(2)(a–d), 7
Charges Regulations	Levy rates that supersede the Act, additional circumstances in which levy is not imposed, imposition of emergency response levy, additional circumstances imposed on the levy—e.g. stepped timing.	2(1–3), 3
NRS Levy Act	What the levy is imposed on, who is liable to pay the levy, and the levy rate ^c	2, 3(1)(a–b), 3(1)(c–d), 4
NRS Customs Act	What the levy is imposed on, who is liable to pay the levy, and the levy rate ^d	2, 3(1), 3(2), 4
NRS Regulations	Levy rates that supersede the Act, additional circumstances in which levy is not imposed, when levy is due for payment, additional circumstances imposed on the levy—e.g. stepped timing.	27, 28, 28A(1), 28A(2), 29
Collection Act	When levy is due for payment, penalties for late payment, how levy payer information may be used.	6, 15, 27, 27A, 27B
Collection Regulations	The definition of a levy year, details on completing, lodging and documenting returns.	3, 4, 10–12 Schedule 6–3, 5, 6–9 Schedule 7–3, 4, 6–10, 11–19A

a Contains 2 operative levy rates: marketing and R&D on bobby calves. **b** Contains 3 operative charge rates: Animal Health Australia on cattle other than bobby calves, and marketing and R&D on bobby calves. **c** Contains one operative levy rate: NRS on bobby calves. **d** Contains one operative charge rate: NRS on bobby calves.

Source: Department of Agriculture and Water Resources

Appendix J: Matching funds

Commonwealth matching funds

The Australian Government provides matching funds for R&D according to 3 limits:

- 50% of eligible expenditure
- the amount of R&D levy (or charge) collected or disbursed, excluding collection costs and any penalties collected (depending on the legislation)
- 0.5% of the industry's GVP, averaged over 3 years. For some RDCs the GVP is determined for levied industries only; for others it refers to the GVP of the whole industry for which the RDC is established—for example, for HIAL the GVP cap is 0.5% of all horticulture GVP.

Different arrangements apply for fisheries.

The government's commitment to matching funding

Legislation

The 10 Acts that establish the RDCs allow the government to match eligible R&D expenditure within particular limits. Eight subordinate instruments provide additional details about the arrangements for matching funds.

Policy

Two key policy documents express the government's commitment to matching payments. These policy statements reflect the commitment to provide matching funds in its modern form. Prior to 1989, other arrangements governed matching funds.

- 1) [Rural Research and Development Policy Statement](#)—responds to a 2011 Productivity Commission review of the RDC model. The 2012 policy statement does not agree to a Productivity Commission recommendation that the government halve the amount of matching funds it provides for rural R&D, defending the commitment and its application. The statement confirms 'matching contributions are a key pillar of the [RDC] model'.
- 2) [Research, innovation & competitiveness: policies for reshaping Australia's Primary Industries and Energy portfolio research and development](#)—commits to matching payments. The 1989 policy paper describes systemic underinvestment in rural R&D and offers a co-investment model as a solution. The paper proposes a target of 1% of an industry's GVP as an appropriate level of investment, with government contributions matching industry contributions dollar for dollar. This is the genesis of the current 0.5% GVP limit on matching funds.

The 2015 Agricultural Competitiveness White Paper reiterates the government's commitment to matching funds, acknowledging the long-standing nature of the policy and the significant benefits it has delivered to Australian agriculture.

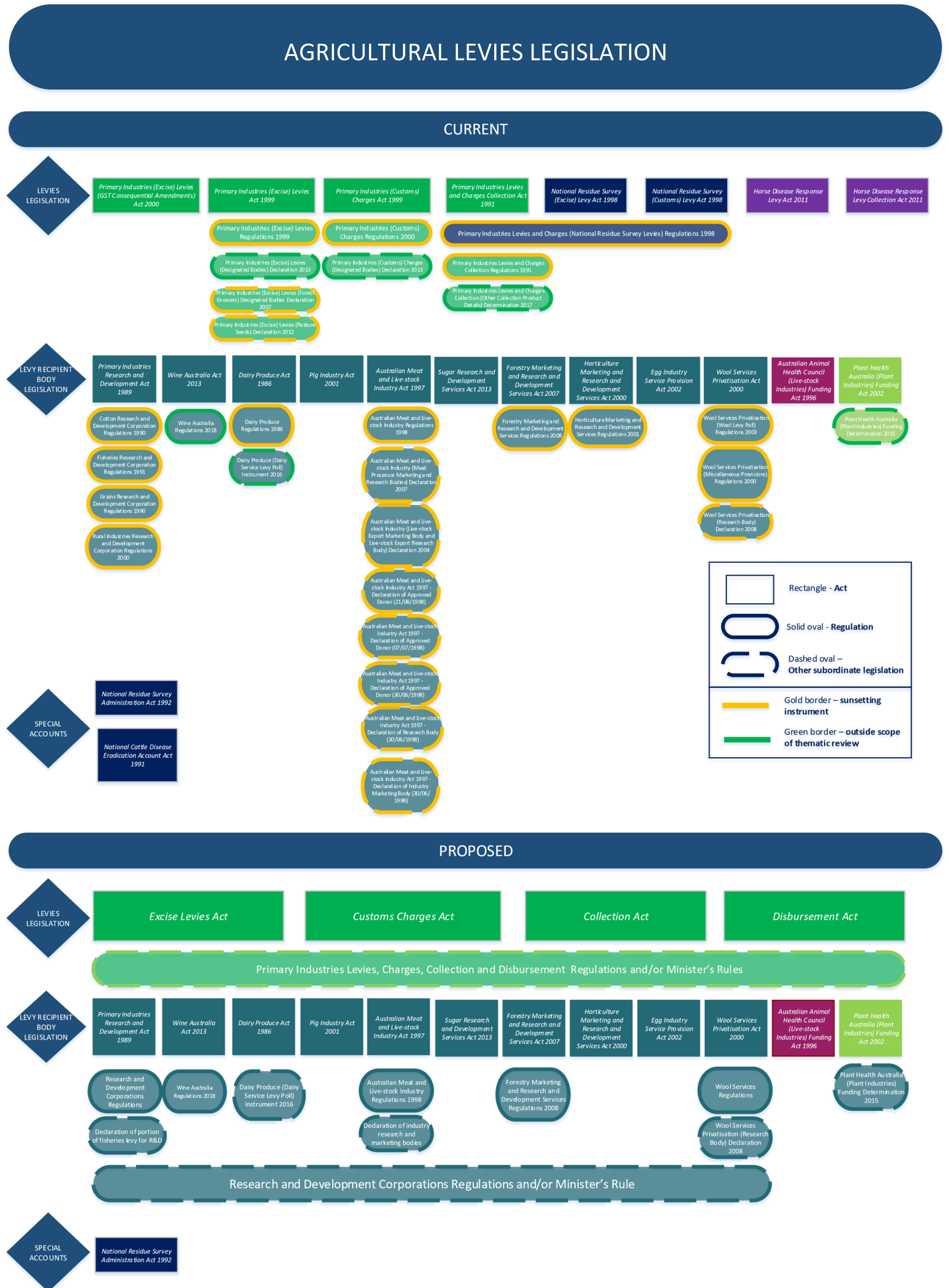
Funding agreements

Most RDC funding agreements also refer to the government commitment to matching funds, in the context of describing when and how they will be paid. The exceptions are LiveCorp and AMPC, which are not eligible to receive matching funds, and Forest and Wood Products

Australia. The provisions are broadly consistent across funding agreements. They set out that the Commonwealth will provide matching funds within a specified timeframe after receiving a valid tax invoice or claim for payment and satisfactory evidence that the RDC has already spent the claimed amount on R&D. Each funding agreement may define both the timeframe and satisfactory evidence differently. For example, satisfactory evidence in MLA's funding agreement is a certificate signed by the chief executive officer and the chief financial officer; while in CRDC's funding agreement, it is a certificate signed by an executive director or the chief financial officer. In general, the funding agreements do not oblige the Commonwealth to provide matching funds to an RDC, as some Acts and agreements explicitly state. Provisions in the *Primary Industries Research and Development Act 1989* (PIRD) and the funding agreements for the RDCs it establishes: Cotton Research and Development Corporation (CRDC), Forestry Research and Development Corporation (FRDC), Grains Research and Development Corporation (GRDC) and Rural Industries Research and Development Corporation (RIRDC) suggest that the Commonwealth is obliged to provide matching funds.

Appendix K: Proposed levies and levy recipient body legislation

Figure 3 Proposed levies and levy recipient body legislation



References

- ACIL Allen Consulting 2016, [Agricultural Levies System](#), Consulting report to the Department of Agriculture and Water Resources, Department of Agriculture and Water Resources, Canberra.
- Commonwealth of Australia 2015, [Agricultural Competitiveness White Paper](#), Commonwealth of Australia, Canberra.
- Craik, W, Palmer, D & Sheldrake, R 2017, [Priorities for Australia's biosecurity system: An independent review of the capacity of the national biosecurity system and its underpinning Intergovernmental Agreement](#), Department of Agriculture and Water Resources, Canberra.
- CSIRO 2018, [Australia's Biosecurity Future—preparing for future biological challenges](#), CSIRO, Canberra, accessed 1 February 2019.
- Simpson, M & Srinivasan, V 2014, [Australia's Biosecurity Future—Preparing for future biological challenges](#), CSIRO, Canberra 2014.
- DAFF 2009, [Levy Principles and Guidelines](#), Department of Agriculture, Fisheries and Forestry, Canberra.
- DAFF 2012, [Rural Research and Development Policy Statement](#), Department of Agriculture, Fisheries and Forestry, Canberra.
- Department of Agriculture and Water Resources 2016, [Australian Government response to the Senate Rural and Regional Affairs and Transport References Committee's report: Industry structures and systems governing the imposition and disbursement of marketing and research and development \(R&D\) levies in the agriculture sector](#), Department of Agriculture and Water Resources, Canberra.
- Department of Agriculture and Water Resources 2018, [Report to levies stakeholders](#), Department of Agriculture and Water Resources, Canberra.
- Productivity Commission 2011, [Rural Research and Development Corporations](#), Productivity Commission Inquiry Report No 52, Productivity Commission, Canberra.
- Rural R&D Corporations 2010, [Impact of investment in research and development by the Rural Research and Development Corporations](#), Council of Rural Research and Development Corporations Chairs, Canberra.
- Senate 2009, [Standing orders and other orders of the Senate](#), Commonwealth of Australia, Canberra.
- Senate Rural and Regional Affairs and Transport References Committee 2015, [Industry structures and systems governing the imposition and disbursement of marketing and research and development \(R&D\) levies in the agriculture sector](#), Commonwealth of Australia, Canberra.
- Senate Rural and Regional Affairs and Transport References Committee 2014, [Industry structures and systems governing levies on grass-fed cattle](#), Commonwealth of Australia, Canberra.

Sheng, Y, Mullen, JD & Zhao, S 2011, [A turning point in agricultural productivity: consideration of the causes](#), Australian Bureau of Agricultural and Resource Economics and Sciences, Canberra.