



Australian Government

Department of Agriculture, Fisheries and Forestry



LEVIES REVENUE SERVICE

Levy Principles and Guidelines

Policy for the management of new and amended levies within Australia

April 2007

DEPARTMENT OF AGRICULTURE, FISHERIES AND FORESTRY

For more information contact:

Levies Revenue Service

Australian Government Department of Agriculture, Fisheries and Forestry

Locked Bag 4488

Kingston ACT 2604

Phone: 1800 020 619

Fax: 02 6272 5695

Email: levies.management@daff.gov.au

Website: www.daff.gov.au/levies

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Australia's farm businesses are world leaders in terms of production efficiency, sustainable product quality, innovation and ability to supply and respond to market demands.

Achieving this result for individuals and the entire industry is a joint effort that requires careful management. This is recognised by the Australian Government and industry.

The effective use of primary industry levies and charges can greatly assist producers. By pooling their physical, financial and research resources, industries can work together to find better farming methods and demand for their products.

Many of Australia's traditional primary industries rely on the levy system and the support it provides for research and development (R&D), marketing and promotion, residue testing and plant and animal health programmes.

The system has enabled those industries to hold their own in highly competitive world markets. Industry co-operation and resource sharing is helping smaller and emerging industries to establish their own markets.

The Government's role, through the Department of Agriculture, Fisheries and Forestry, is to liaise with industries that want a levy system and to implement an effective collection system for them at minimum cost.

HOW ARE LEVIES USED?

Levies and charges are used to fund activities such as R&D, marketing and promotion, residue testing and plant and animal health programmes.

HOW ARE LEVIES INITIATED?

Usually, an industry body identifies the need for a levy or charge so it can respond to a problem or opportunity that will benefit its industry. If this requires collective industry funding, the organisation puts a levy proposal to its members for discussion and should also consult the Department on the proposal.

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The Australian Government developed the Levy Principles and Guidelines to help industry bodies prepare a sound case for a levy or charge to be considered by industry members. The Principles and Guidelines also require the industry body to inform all potential and existing payers of the proposal, and to give those prospective levy payers and other interested parties an opportunity to express their views.

The Levy Guidelines complement the Principles. They help industries to assess their members' level of support for a levy proposal.

1.1 IMPLEMENTING LEVIES

The industry organisation submits a proposal to amend or establish a levy to those organisations that receive, or will receive, levy monies. The relevant organisation forwards the proposal to the Minister or the Parliamentary Secretary, who assesses the proposal against the Levy Principles and Guidelines. Some proposed amendments cannot proceed without the approval of the Prime Minister and the Treasurer.

If the proposal is approved, the Government drafts the legislation to implement the levy. It can be a lengthy process.

1.2 COLLECTION AND ADMINISTRATION OF LEVIES

The Levies Revenue Service (LRS) is part of the Australian Government Department of Agriculture, Fisheries and Forestry (DAFF). The LRS is responsible for the collection of levies and for their disbursement to the relevant organisations, i.e. statutory research and development corporations, industry-owned marketing and research and development corporations, Animal Health Australia, Plant Health Australia and the National Residue Survey. The LRS is also responsible for the distribution of the Australian Government's contributions to match levies collected for research and development.

The LRS administers, collects and disburses levies on behalf of industries on a cost-recovery basis. At present, the LRS collects around 60 different levies and charges from more than 9000 levy payers.

1.3 ACCOUNTABILITY

Organisations receiving levy money are accountable to levy payers and the Australian Government. They are required to hold annual general meetings and statutory bodies must table their annual reports in Parliament, complete with audited financial statements.

2. GENERAL PRINCIPLES APPLYING TO PROPOSALS FOR NEW AND AMENDED PRIMARY INDUSTRY LEVIES AND CHARGES

The Government introduced 12 Levy Principles in January 1997. These Principles must be met when an industry or group of levy payers proposes a new levy or an amendment to an existing statutory levy.

The 12 Principles are outlined as follows:

1. The proposed levy must relate to a function for which there is a **market failure**.

2. A request for a levy must be supported by industry bodies representing, wherever possible, all existing and/or potential levy payers, the relevant levy beneficiaries and other interested parties.

The initiator shall demonstrate that all reasonable attempts have been made to inform all relevant parties of the proposal and that they have had the opportunity to comment on the proposed levy.

A levy may be initiated by the Government, in the public interest, in consultation with the industries involved.

3. The initiator of a levy proposal shall provide an assessment of the extent, the nature and source of any opposition to the levy, and shall provide an analysis of the opposing argument and reasons why the levy should be imposed despite the argument raised against the levy.

4. The initiator is responsible to provide, as follows:

- an estimate of the amount of levy to be raised to fulfil its proposed function
- a clear plan of how the levy will be utilised, including an assessment of how the plan will benefit the levy payers in an equitable manner
- demonstrated acceptance of the plan by levy payers in a manner consistent with Levy Principle 2.

5. The initiator must be able to demonstrate that there is agreement by a majority on the levy imposition/collection mechanism or that, despite objections, the proposed mechanism is equitable under the circumstances.



6. The levy imposition must be equitable between levy payers.

7. The imposition of the levy must be related to the inputs, outputs or units of value of production of the industry or some other equitable arrangements linked to the function causing the market failure.

8. The levy collection system must be efficient and practical. It must impose the lowest possible 'red tape' impact on business and must satisfy transparency and accountability requirements.

9. Unless new structures are proposed, the organisation/s that will manage expenditure of levy monies must be consulted prior to introduction of the levy.

10. The body managing expenditure of levy monies must be accountable to levy payers and to the Commonwealth.

11. After a specified time period, levies must be reviewed against these Principles in the manner determined by the Government and the industry when the levy was first imposed.

Amendments to existing levies

12. The proposed change must be supported by industry bodies or by levy payers or by the Government in the public interest. The initiator of the change must establish the case for change and where an increase is involved, must estimate the additional amount which would be raised. The initiator must indicate how the increase would be spent and must demonstrate the benefit of this expenditure for levy players.

3.1 INTRODUCTION

Before submitting the proposal to Government, the industry organisation is required to consult all sectors of their industry and as many potential levy payers as possible, and must gain support for a new levy or charge.

The Levy Guidelines specify voting procedures and stipulate that the proposed collection system is efficient and keeps 'red tape' to a minimum.

In proposing a new levy or charge to the Government, an industry organisation must:

- show how it will benefit payers and the industry in general
- estimate the amount that it will raise
- provide a clear plan for use of the money
- recommend how the levy or charge is to be calculated—for example, by product weight or value, or individual head of stock.

An industry organisation must contact all actual or potential payers and gain their support for any amendment, other than one that is simply administrative, to an existing levy.

If a **levy increase** is proposed, the industry must estimate the extra amount that will be raised and tell levy payers and other interested parties how it will be spent to their benefit.

Changes must also be discussed with the organisation that will manage the levy expenditure, unless there is a proposal to form a new organisation for this purpose.

The Government can also impose, in the public interest, a new levy or charge on an industry and review it after a specified time.

The Government can initiate an amendment to the collection mechanism of any levy if it ceases to be efficient and practical.

3.2 PRINCIPLE GUIDELINES CHECKLIST

- A) The initiator of a new levy must be able to demonstrate it has met the first 11 Levy Principles.
- The principal criteria to be satisfied are:
 - market failure net industry benefit (that is, industry benefits must exceed the costs of raising and funding the levy), and
 - that the application of the levy is practical
 - The collection of the levy needs to be practical.
- B) For a new levy, or an amendment to an existing levy that will substantially change the level of the levy, direction of the activity that the levy funds or any other significant change that will directly affect levy payers, the initiator must take effective steps to inform all actual or potential levy payers of the proposal.
- C) Before a vote is taken at industry meetings or through a postal vote, the levy payers must be informed of the proposed levy's purpose and intended industry benefit through widespread promotion and consultation.
- The consultation process may include, but is not limited to, industry forums/meetings, newsletters, advertising in the rural press (including industry journals and national papers) and use of electronic media and the internet. It should be tailored to meet the regional and demographic distribution of industry members.
 - The consultation period should last between three and six months.
 - Industry wide consultation is the responsibility of the industry body or levy initiator.
 - The Government must be satisfied that the levy proposal has been distributed for consideration by all potential levy payers and that they have had the opportunity to express their views. Industry bodies will be required to provide evidence of widespread consultation in their levy proposal.
- For further guidance on the recommended voting and ballot criteria, refer to Section 5: Supplementary Guidelines.*
- D) There will be some flexibility on how levy payers can vote to support or reject a new levy or a substantial change to a levy.
- For industries that have a statutory, corporate or industry organisational structure that prescribes voting rules and processes in its supporting regulations or constitution, the Government will accept majority support shown for the proposal using those prescribed voting rules, providing Guideline C has been met.

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- E) Where no formalised industry voting arrangements exist, it is the Government's intention that the initiator should conduct a vote of the relevant actual or potential levy payers to demonstrate that a majority in the industry support the proposal. Other beneficiaries and interested parties should also be consulted and their support demonstrated.
 - F) Exceptional circumstances exist where proponents can demonstrate that voting in this way would be prohibitively expensive.

Where an initiator of a new levy or a change to an existing levy has clearly been able to satisfy Guideline A, but has been unable to conduct a vote under Guideline E, because it has not been cost-effective to do so, then they will need to demonstrate majority support by providing evidence that a thorough industry-wide consultation process has been followed and that industry is widely supportive of the proposal.

- G) For a levy proposal to be considered by Government, industry must show that there is **majority** support from actual and/or potential levy payers.
 - At present the Government interprets 'demonstrated industry support' as support from those who choose to participate in a ballot and/or consultation process.
 - A majority is defined as follows:
 - 50% plus one of the voting allocations of those producers who choose to vote in a levy ballot
 - 50% plus one of producers who choose to vote in a one vote per producer ballot
 - 50% plus one of production of producers who vote in a production based ballot
 - 50% plus one of those who vote for all other types of voting.
- H) All levy proposals must provide a clear case proving net industry benefit and market failure.
- I) Formal objections will be accepted within **six weeks** of the date of formal lodgement of the proposal, along with its supporting documentation, with the Minister or Parliamentary Secretary.
 - The objection should clearly outline the reasons why the levy is opposed and should include an analysis of the pro-levy argument. Most importantly, it should include documentary evidence that actual and/or potential levy payers oppose the implementation of the levy.
 - Objections having little basis in fact or which are considered irrelevant, frivolous or vexatious will not proceed.

3.5 LEVIES REVENUE SERVICE CONTACT DETAILS

Contact the Levies Revenue Service for advice on levy proposals

Phone: 1800 020 619

Fax: 02 6272 5695

Email: levies.management@daff.gov.au

Write to: Manager—Legislation and Policy
 Levies Revenue Service
 Locked Bag 4488
 KINGSTON ACT 2604

For more information about the Levies Revenue Service visit www.daff.gov.au/levies



4.1 ASSESSMENT OF A PROPOSED LEVY PROPOSAL

In accordance with Levy Principles 3 and 4, the initiator of a levy proposal should consider:

- whether the **industry benefits** are likely to exceed the levy costs—including collection and other administrative costs
- whether there is **market failure**
- whether the levy approach will facilitate operation of the programme and provide the lowest cost means of finance in the particular case.

4.2 BENEFITS

4.2.1 Industry and public benefits

A levy is more likely to be considered if programme benefits will accrue as a result of group actions. However, industry benefits from any levy will always be the sum of benefits to all individuals in the industry.

If an individual or a group of individuals could profitably organise and finance a proposed programme, then there is no case for government to impose a statutory levy.

In other cases, it may be difficult to define the industry or to equitably distribute the industry benefits.

'**Public benefits**' are significant benefits to individuals who are not part of the levied industry.

4.2.2 External benefits

The two most obvious examples of research or policies that create benefits external to the industry are those that advantage domestic consumers of farm products and those that improve environmental amenities valued by individuals not associated with the industry.

4.3 MARKET FAILURE

Governments assist with industry-wide levy funding of research, promotion and other industry programmes because:

- the nature and dispersal of programme benefits are such that a private investor would not profit from supplying them. For example, some research produces results that help industry participants, but the financial benefits cannot be accessed by private investors.

- levies represent a source of funds with low enforcement and collection costs, largely because industry participants recognise the benefits of co-operative behaviour.

A primary role for government is the setting and enforcement of property rights and related institutions that will enable the efficient operation of commodity and resource markets. Where markets fail to provide socially desirable levels of 'good', or do so but not cost effectively, there may be a case for other forms of government action.

The justification for government intervention in industry research is that the results are a '**public good**'. Public goods have the following key characteristics:

- First, the use of a public good by one person generally does not affect the ability of others to use it. This is described as being **nonrival**.

Nonrivalry means that one person's benefit does not reduce the benefit available to others, hence encouraging 'free riding' by individuals who realise that they can benefit from production of the good as long as somebody else is paying for the good.

- Second, it is not possible to prevent others from using it. This is described as a 'lack of appropriability', or **nonexcludability**.

Nonexcludability means that there is no effective way of excluding individuals from the good, once it comes into existence (thereby creating the 'free rider' problem). Lack of appropriability discourages individuals from producing a good, no matter how much others value it.

4.4 EXAMPLES OF MARKET FAILURE

If the problem was simply that research results or benefits could not be reserved for the use of those who had paid for the research, i.e. they were not appropriable, a policy solution of providing or strengthening property rights would be appropriate.

Such a policy would enable private researchers to restrict the use of the research results and recoup the cost of their research in the same way they would recoup the costs of any other investment.

However with research results being nonrival, the social benefits from research are increased if the results are made available to all, recovering only the cost of their dissemination. Because dissemination costs would usually be small compared to the cost of the research, researchers and investors would be unable to recoup the costs of the research.

Aspects of weed or pest control provide a good example of lack of appropriability of the benefits of individual efforts. One farmer's pest and weed control will benefit neighbouring farmers. But in a free market, those neighbours will pay nothing for the

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benefit. Conversely, any farmer maintaining a poor standard of weed and pest control will increase the cost of control to neighbouring farmers.

Some aspects of weed and pest control may have added problems of nonrivalry. Consider a farmer who uses a pest control regime designed to minimise pesticide resistance in insects. Any resultant lowering of the probability of resistance will be available to all farmers.

Incentives for individuals to become involved in generic food safety and product promotion campaigns are also likely to be limited by lack of appropriability and nonrivalry of benefits. If an individual's campaign achieves changes in consumer perceptions then all producers or promoters of that product will benefit from his efforts.

Not all research results or benefits from promotion are public goods. For example, private investors in research can appropriate some of the benefits by keeping the results secret and/or taking advantage of their research in the short term. Promotion of product brands allows a producer to retain much of the benefit of product design, quality control and advertising.

If public good characteristics dominate the proposal being assessed, then an industry-funded effort would be worthwhile.

4.5 INCREASE TO EXISTING LEVY

The Government assesses all proposals to increase a levy against the same principles applicable to a **new levy**.

A levy increase has a direct financial impact on producers—it represents an investment by producers in work that is carried out on their behalf for the benefit of their industry.

4.6 CONSULTATION WITH GOVERNMENT

When an industry body decides that it has identified a need for a new levy for their industry and/or a change to an existing levy, it should consult with Government to obtain initial advice on the proposal.

The industry body should discuss its levy proposal with the LRS and the relevant policy area prior to commencing a broad consultation process with related industry members. Early consultation may also include a meeting with the Minister and/or Parliamentary Secretary.

The Department encourages industry bodies to maintain contact with the LRS and the relevant policy area during the levy proposal process. This contact should be ongoing

from the initial stages of industry planning, through the industry consultation process to the final submission of the levy proposal.

Ongoing consultation helps achieve levy proposals that clearly address the Levy Principles and Guidelines and minimises the likelihood of problems prior to or following lodgement with the Government.

LRS officers are leaders in their field of expertise. Industries gain greatly from seeking the LRS' advice during the course of levy proposal submissions.

4.7 VOTING CRITERIA

In accordance with Levy Principle 5, where an industry elects to conduct a ballot for a new levy and/or levy amendment, there are two types of voting allocation that are available, as follows:

- one vote per producer (business entity) or
- an allocation of votes based on the amount of levy paid (or payable).

The second option more closely reflects the level of production by a business and may use a flat rate or a sliding scale for allocation of votes.

Historically, most industries that have conducted a ballot to show acceptance for a new levy have opted to use the 'one vote per producer' option. The production-based model is generally not recommended for new levies because it can be difficult to reliably identify levels of production and producers are sometimes reluctant to reveal their production details.

To ensure that a ballot is representative of all potential or actual levy payers, the Government will consider:

- if all producers have the opportunity to participate in the ballot
- if a levy proposal has sufficient support from a reasonable proportion of the industry's production.

Sufficient support would be achieved by ensuring there is a strong, participative consultation process.

The industry body will decide on the type of voting most appropriate to its industry.

The proposed voting method will require the endorsement of the Minister or Parliamentary Secretary.

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Where a levy ballot is stated to be confidential, it is crucial that all voting particulars remain confidential. Any identified breach will be directly reported to the Minister or Parliamentary Secretary.

4.8 VOTING REGISTER

The industry body is responsible for the establishment of a register using existing producer lists and actively sought self-nominations. This will ensure the delivery of a comprehensive list while providing equal opportunity for all producers to be included on the list.

The body will administer and use this voting register for the proposed levy ballot.

Along with its levy submission, the industry body will submit a statutory declaration verifying the accuracy of the voting register as a list of all potential and existing levy payers who registered to vote in a levy ballot.

In assessing a proposal, the Government will consider whether the consultation process gave all potential and existing levy payers the opportunity to nominate for inclusion on the voting register.

4.9 WHO CONDUCTS THE BALLOT?

The initiating industry body will engage the Australian Electoral Commission (AEC) or a State Electoral Commission (SEC) to conduct the ballot. Endorsement by the Minister or Parliamentary Secretary is required if a private company specialising in ballots is to be used.

Where the use of the AEC, an SEC, or a private company is not cost effective, an approved voting arrangement using an independent returning officer may be used. The proposed structure for conducting the vote will require endorsement by the Minister or Parliamentary Secretary.

4.10 BALLOT CRITERIA

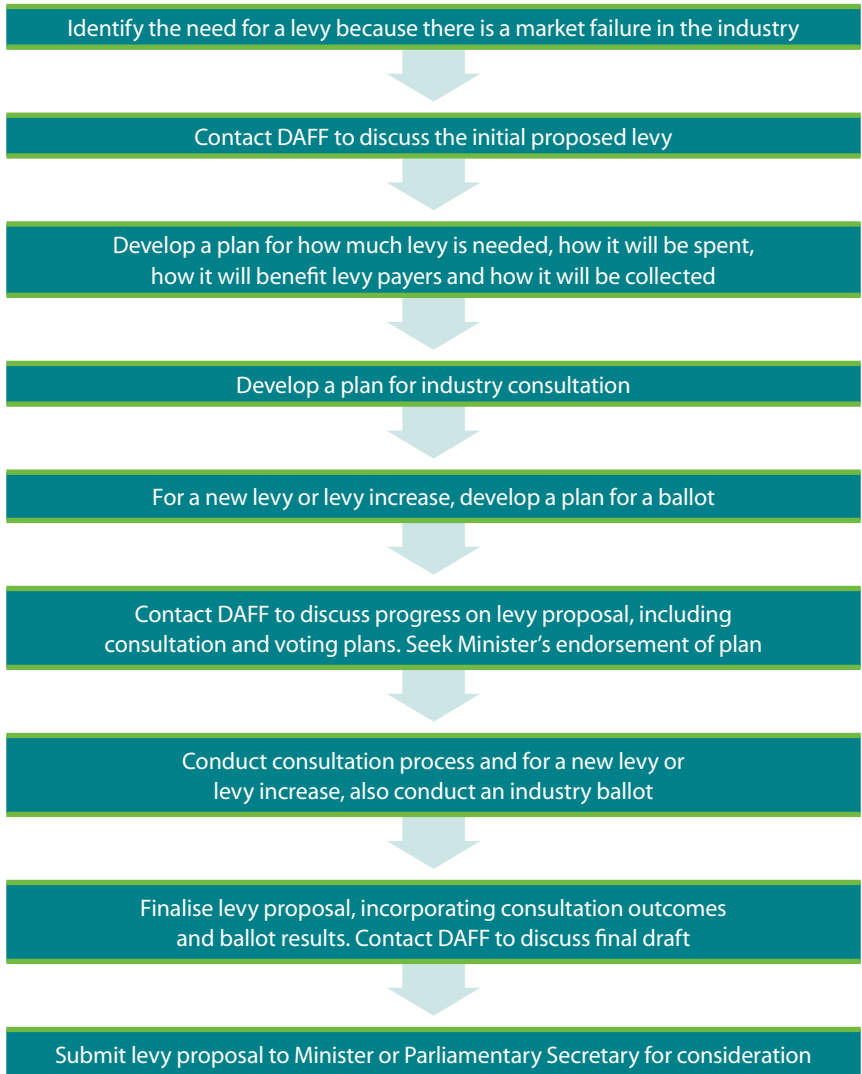
The ballot paper should clearly summarise the case being put to voters. It should provide information on the possible outcomes of the vote and should specifically address the underlying factors for and against the levy proposal.

The industry's submission to the Government should detail the outcomes of the ballot.

Evidence proving majority support (as defined in Guideline G) should be shown, otherwise the levy proposal should not be approved by the Government.

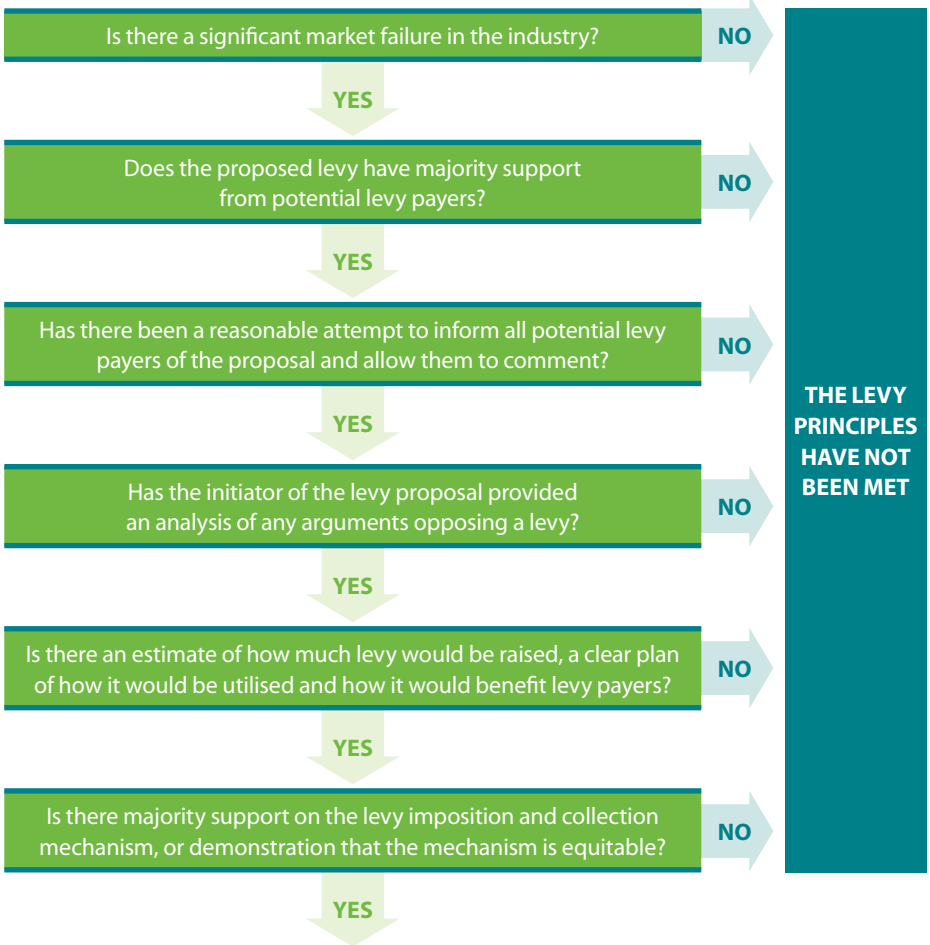
5.1 LEVY PROPOSAL

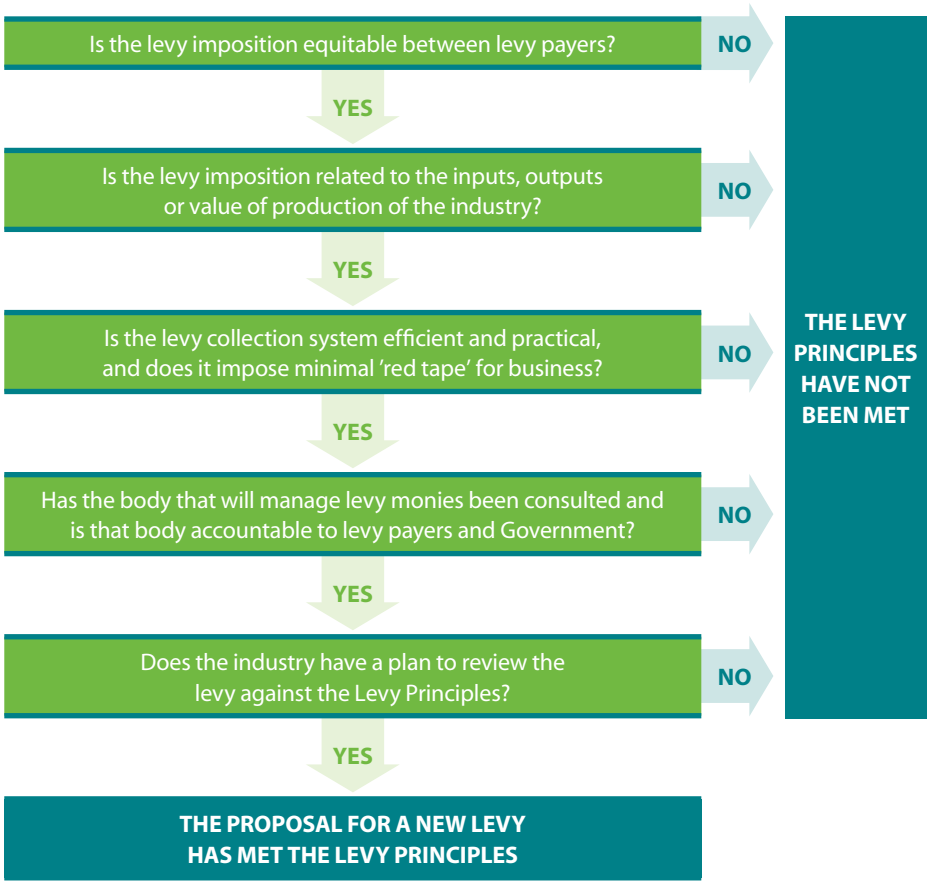
The following flowchart summarises the processes required for industries to submit a levy proposal to the Government for approval.





5.2 CASE FOR LEVY PROPOSAL CHECKLIST





Department—the Department of Agriculture Fisheries and Forestry.

Government—portfolio Ministers, Parliamentary Secretary, other Australian Ministers and other areas of the Department.

Industry body—representative body made up of relevant members within the associated industry.

Levy beneficiaries—producers, industry organisations, marketing and promotion bodies, research bodies, other levy recipient bodies and industry in general.

Levy or charge—a fixed sum charged ('levied') by a government on a product.

Levy payer—a person who has paid, or is liable to pay, a levy or charge.

Minister—the Minister for Agriculture, Fisheries and Forestry or the Minister for Fisheries, Forestry and Conservation.

Other interested parties—levy payer agents, intermediaries and their representative organisations.

Outcomes—outcomes are the results, impacts or consequences of actions by the Commonwealth on the Australian community. Planned outcomes are the results or impacts that the Government wishes to achieve. Actual outcomes are the results or impacts actually achieved.

Outputs—outputs are the goods and services produced by the agencies on behalf of government for external organisations or individuals.

Parliamentary Secretary—the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry.

Producer—generally the grower or breeder of the product when the production processes begins.

Relevant organisations—recipients of levy monies from the Government. They use the funds to administer programs, such as marketing and/or research and development, in order to benefit the industry.



APPENDIX 1: SUMMARY PROFORMA FOR THE DETERMINATION OF STATUTORY PRIMARY INDUSTRY LEVIES

(TO BE PREPARED BY INDUSTRY AND ASSESSED BY THE DEPARTMENT BEFORE SUBMISSION TO GOVERNMENT FOR LEVY APPROVAL*)

| | |
|---|---|
| <p>1. Name of levy (commodity)</p> | |
| <p>2. New levy or amendment to an existing levy</p> | <p>New levy <input type="checkbox"/> Existing levy <input type="checkbox"/></p> |
| <p>3. Purpose of levy</p> | |
| <p>4. Provide details of the market failure that the imposition of the levy will overcome, as follows:</p> <ul style="list-style-type: none"> • why the benefits cannot be captured by individual firms acting alone, and • why collective action is the best solution. | |
| <p>5. Size of industry and/or public benefit</p> <p>Describe the industry benefit and/or public benefit that will flow from the proposed levy—quantify the benefits if possible.</p> <p>What are the costs of imposing the proposed levy on industry and will the benefit to industry outweigh the cost?</p> | |
| <p>6. Relative efficiency of a levy</p> <p>Why is a compulsory levy the most cost-effective way to collect industry funds?</p> <p>Would a voluntary levy achieve the same result?</p> | |
| <p>7. Industry consultation process</p> <p>Describe the industry consultation process, including the actions undertaken to inform all potential and/or actual levy payers and the opportunity to comment on the proposed levy.</p> <p>If a ballot was conducted, outline the voting process and the results.</p> | |

* All source documentation is to be attached to the proforma.

IMPOSITION LEGISLATION

Primary Industries (Customs) Charges Act 1999

Primary Industries (Excise) Levies Act 1999

Dairy Adjustment Levy (Customs) Act 2000

Dairy Adjustment Levy (Excise) Act 2000

Dairy Adjustment Levy (General) Act 2000

National Residue Survey (Customs) Levy Act 1998

National Residue Survey (Excise) Levy Act 1998



COLLECTION LEGISLATION

Primary Industries Levies and Charges Collection Act 1991

Dairy Produce Act 1986

DISBURSEMENT LEGISLATION

Agricultural and Veterinary Chemicals (Administration) Act 1992

Australian Animal Health Council (Livestock Industries) Funding Act 1996

Australian Meat and Livestock Industry Act 1997

Australian Wine and Brandy Corporation Act 1980

Dairy Produce Act 1986

Egg Industry Service Provision Act 2002

Fisheries Administration Act 1991

Horticultural Marketing and Research and Development Services Act 2000

National Cattle Disease Eradication Account Act 1991

National Residue Survey Administration Act 1992

Pig Industry Act 2001

Plant Health Australia (Plant Industries) Funding Act 2002

Primary Industries and Energy Research and Development Act 1989

Wheat Marketing Act 1989

Wool Services Privatisation Act 2000

