Ministry for Primary Industries
Manatū Ahu Matua

Proposed New Zealand Horticulture Export Authority Fees and Levies Regulations

Regulator Impact Assessment

Prepared by the Ministry for Primary Industries

ISBN No: 978-1-77665-650-9 (online)

August 2017

New Zealand Government

Growing and Protecting New Zealand

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Publications Logistics Officer
Ministry for Primary Industries
PO Box 2526
WELLINGTON 6140

Email: brand@mpi.govt.nz
Telephone: 0800 00 83 33
Facsimile: 04-894 0300

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1 Agency disclosure statement

1. This Regulatory Impact Statement has been prepared by the Ministry for Primary Industries (**MPI**).

2. It provides an analysis of options for exporter licensing fees (**fees**) and recognised product group levies (levies) to cover for the costs of services provided by the New Zealand Horticulture Export Authority (the **HEA**).

3. The options are largely based on the HEA's current funding model, with the HEA recovering approximately 60 percent of its costs from the recognised product groups and 40 percent from exporters. The HEA does not hold detailed cost breakdown data for each of its services, as historically it has not been required to operate under a full cost recovery model for each of its services. It is for this reason that MPI is proposing that the new fees and levies regulations be reviewed within four years of the regulations coming into force. This will give time for the HEA to collect detailed cost breakdown data for each of its services, to enable the making of HEA's fees and levies regulations in full compliance with the cost recovery principles.

4. The proposed options assume that some industries, particularly the bigger ones, will choose to implement the new multi-tier licensing provisions (which is optional) in the New Zealand Horticulture Export Authority Act 1987 (the Act). It is also assumed that there will be no change in the number of product groups actively operating under the Act, and most of the industries will experience gradual growth in export revenue over the coming years.

5. It is proposed that the new fees and levies regulations come into force from the start of the HEA's next financial year commencing on 1 October 2017. A number of product groups are considering implementing the new market segmentation and multi-tier licensing provisions passed by Parliament in December 2016. Any delays beyond 1 October 2017 will delay the implementation of the market segmentation and multi-tier licensing provisions to October 2018, and the HEA will have to continue using its reserves to fund its operating deficits, which is not sustainable. The Authority needs to maintain some reserves to meet unforeseen costs like undertaking prosecutions for offences under the Act.

Jarred Mair
Director Sector Policy
June 2017

2 Executive Summary

6. This Regulatory Impact Statement analyses options listed in table 1 below for the following **two proposals**:
   a. updating the regulated **exporter licensing fees** paid under the New Zealand Horticulture Export Authority (Fee) Regulations 2002 (the Fee Regulations) by participating exporters to the New Zealand Horticulture Export Authority (the HEA) for licensing related services; and
   b. replacing the current contractual fees paid by participating industries to the HEA for a range of general services it delivers, with regulated levies (**product group levies**) to improve transparency, equity and security of funding[1].

<table>
<tr><th colspan="2">Table 1: Summary of proposals and options for HEA's funding</th></tr>
<tr><th>Exporter licensing fees</th><th>Product Group levies</th></tr>
<tr><td>Option 1: Five fee categories, including for licence exemptions.</td><td>Option 1: One levy rate (0.12% of export revenue) for all industries, with a minimum and a maximum levy amount.</td></tr>
<tr><td>Option 2: Five fee categories, like option 1, but with discounts for exporter experience.</td><td rowspan="2">Option 2 (Preferred): Three levy rates (0.12%, 0.09% and 0.06% of export revenue), for different levels of exports (to reflect declining costs from economies of scale), with a minimum and a maximum levy amount.</td></tr>
<tr><td>Option 3 (Preferred): Five fee categories, like option 1, but with discounts for exporter experience, and only one fee for licence exemption.</td></tr>
</table>

7. Section 62 of the Act provides for regulation making powers to prescribe fees the Authority may charge to exporters, and section 62A provides for regulation making powers to enable the Authority to impose levies on its product groups.

8. Cabinet agreed on 18 April 2017 to release a discussion document for targeted consultation with affected stakeholders on options for amending the Fee Regulations. This paper consulted on two distinct proposals. The first proposal related to options for updating the exporter licencing fees. The second proposal related to options for converting the existing fees paid by product groups through contractual arrangements into a regulated levy. MPI received a total of 11 submissions on the discussion document, most submitting in support of MPI's preferred options.

9. The Cabinet paper proposes the following for inclusion in fees and levies regulations, to come into effect from 1 October 2017:
   a. **Exporter licensing fees**: to prescribe a set of fees, on a sliding scale to provide for up to five tiers of licence, with reduction in licence application fee available for experienced exporters, and a flat fee for all applications for a licence and export marketing strategy exemptions.
   b. **Product group levies**: to prescribe a levy, with three different marginal levy rates to be applied on the basis of a rolling average of export earnings over two previous years, with a minimum annual levy amount of $500 (plus GST) and a maximum amount of $65,000 (plus GST) per product group. It is proposed the product group levies be phased-in over the first two years, to enable the product groups to financially adjust to the new rates in those two years.

[1] The HEA is fully funded by its service users.

10. It is also proposed that the new fees and levies regulations be reviewed within four[2] years of coming into effect, to ensure the regulations remain fit for purpose and sufficient data is collected to help identify and eliminate any cross-subsidisation between the HEA's functions and between the different industries.

11. It is estimated that the proposed fees and levy rates will modestly increase the Authority's income, generating a surplus of about $15,000 in the first year and $25,000 from the second year, a balanced budget in the third year. The Authority's annual revenue will rise from $350,000 to about $420,000 a year. This would reverse the annual deficits the Authority has been running since 2009.

12. The impact on the participating industries from the proposed fees and levies will be minimal, for the following reasons:
    a. The Authority's annual revenue from exporter licensing fees will rise by 25 percent (the Authority is budgeting on raising the fees from the 2002 levels but not the maximums proposed in table 2 below over the next few years) while the total export revenue for exports under the Act has doubled from $150 million in 2003 to close to $297 million in 2015 (estimate for 2017 is $343 million); and
    b. The proposed product group levy will increase the total levy collected by the Authority by nine percent in the first year, and a further seven percent in the second year, compared with current product group fees formula, and averaging across the nine product groups.

[2] MPI's Cost Recovery Policy suggests a default position of three yearly reviews. The proposal to review within four years of coming into effect would give three years for data collection, and takes into account that some product groups will be considering whether to adopt the new multi-tier licensing provision and that will have cost implications for the HEA.

3 Status quo and problem definition

13. The Act promotes the effective export marketing of horticultural products. It does this by providing horticultural product groups (representing all growers and exporters of a particular product) with a regulatory structure within which they can coordinate their export marketing, and market and sector development, and meet the market access standards expected by the consumers and regulators in those markets.

14. The HEA is empowered to consider and approve the recognised product group's marketing strategy, to license exporters, to monitor exports for compliance with the relevant marketing strategy, and to refer cases for prosecution where an offence3 has been committed. These activities are constituent parts of the HEA's export licensing framework, they are all equally important and not optional activities.

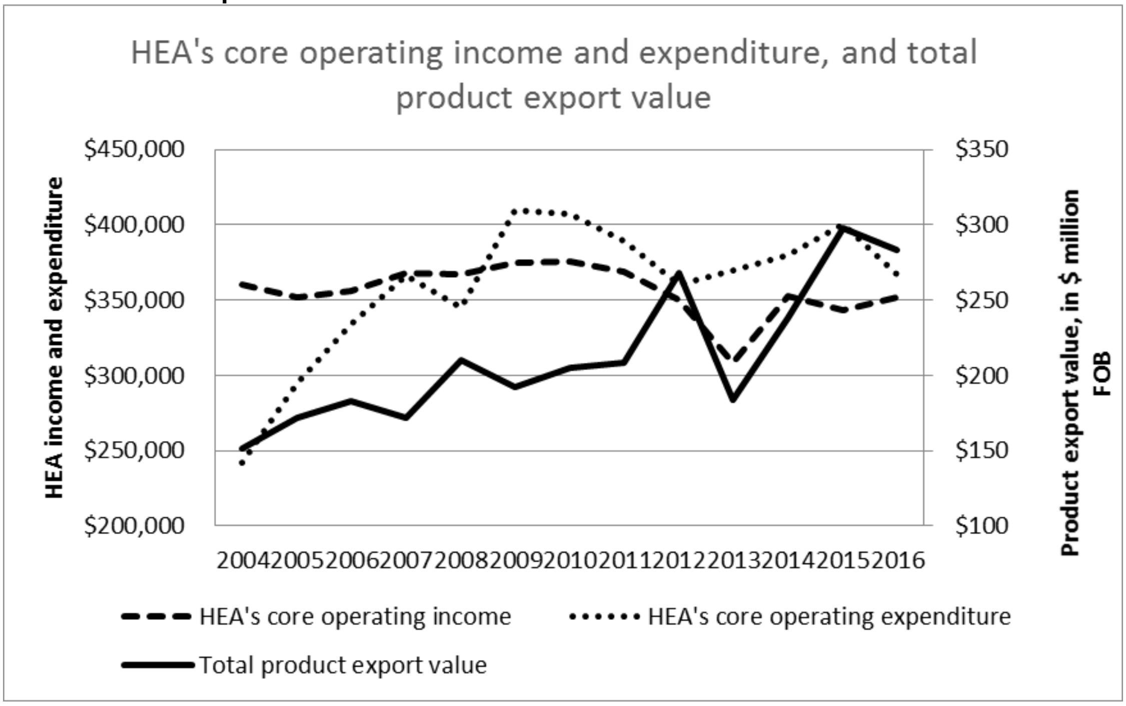
15. The HEA funds the services it is statutorily required to deliver through charging the users of these services. The HEA's operating income is composed of:
    a. fees it charges exporters under the New Zealand Horticulture Export Authority (Fees) Regulations 2002 (the Fees Regulations); and
    b. fees it charges recognised product groups through contractual arrangements.

16. The above funding model needs updating for the following reasons:
    a. **The HEA has new functions** – at the HEA industries' request, Parliament amended the Act in 2016 to enable recognised product groups to target grade standards to specific markets, reduce compliance costs to secondary markets, and to create up to five tiers of licences with varying access to specific markets. The fees in the current Fees Regulations do not envisage market segmentation and different tiers of licence, whereas the new section 62 of the Act now provides for regulation making powers to impose export licensing fees for different tiers of export licence.
    b. **Income is not covering the HEA's expenditure** – the current exporter licensing fees in the Fees Regulations were set 15 years ago. The HEA's expenditure has exceeded its revenue since 2009. That shortfall is being financed from the HEA's dwindling reserves. This is not sustainable. The HEA delayed seeking updated fees regulations so that the new regulations could also provide for the new multi-tier licensing (mentioned above) and the new product group levy (mentioned below) that was passed by Parliament in December 2016.
    c. **The Act provides new funding tools** – the 2016 amendments to the Act provides in section 62A for the HEA to collect levies from recognised product groups, enabling the HEA to replace its contractual fees with a product group levy. Given the statutory nature of the HEA and the services it delivers to the recognised product groups, it is more appropriate that the charges it makes on recognised product groups be set out in regulations rather than through private contracts. This would give greater transparency to the product groups and more certainty to the HEA.

[3] Likely offences could be exporting without a licence or a licensed exporter not exporting in accordance with the requirements of the export marketing strategy for a product.

17. The HEA’s core operating income[4] has largely been static since 2005. It had a core operating income of $351,000 in 2004 and in 2016.

Graph 1: HEA income/expenditure



18. The HEA’s income from licence fees has eroded over time as the number of exporters has consolidated, while the costs of operating this service have increased.

19. Total recognised product group export earnings have doubled from $150 million in 2003 to $297 million in 2015. With the extraordinary growth in both the value and volume of exports, the HEA has to commit more resources to monitoring exports. The HEA’s core operational income has not kept up with growing demand for its services or with increases in input costs.

[4] Core operating income includes product group fees and exporter licence fees. It excludes other sources of income such as interest payments (which are immaterial) and one-off/special payments that the government occasionally provides for specified projects.

4 Objectives

20. MPI's overarching objective is to ensure that exporters and the recognised product groups fully fund the HEA's statutory functions on the basis that they are the beneficiaries and users of those activities. This is in accordance with MPI cost recovery principles. The HEA has a range of statutory functions, and it is required to fund these functions or services by charging the beneficiaries or users of these services, i.e. the licensed exporters and the growers through their recognised product groups.

21. MPI identified the following cost recovery principles, from its cost recovery framework, as criteria to assess the fees and levies options for the HEA:

    a. **Adequacy –** Funding for the HEA must be adequate and certain to enable it to undertake its full range of regulatory functions effectively, and to the standard expected of a regulator overseeing a multi-million dollar industry.

    b. **Equity –** Funds are sourced to the extent practicable from direct beneficiaries of the outputs produced from HEA functions, while acknowledging that other beneficiaries benefit from the outcomes of HEA functions.

    c. **Efficiency** – Costs are generally allocated and recovered to ensure maximum benefits are delivered at minimum cost, encouraging efficient resource use.

    d. **Justifiability** – Funds collected only to meet the actual and reasonable costs for the provision or exercise of the relevant functions.

    e. **Transparency** – Costs are identified and allocated as closely as practicable in relation to tangible service provision.

    f. **Practical Effectiveness** – The funding model must be workable, easy to understand, and minimise compliance costs on the HEA.

5 Options and impact analysis

22. In April 2017, MPI released a discussion document with options for two distinct proposals:

    a. Updating exporters licensing fees and providing for the new multi-tier licensing provision; and

    b. Establishing a recognised product group levy, to replace the current contracts between the HEA and the product groups.

23. The HEA is a statutory entity with regulatory functions. It needs certainty and adequacy of funding to deliver its functions, and it is transparent to all payers, and therefore a voluntary option is not appropriate. In recognition of this, Parliament has provided regulation making powers in the Act for the HEA to collect fees from licensed exporters and levies from recognised product groups. Therefore non-regulatory options have not been considered for funding the HEA's services.

5.1 OPTIONS FOR EXPORTER LICENCE FEES

24. The MPI discussion paper sought submissions on three options for exporter licensing fees:

    a. Option 1: a comprehensive set of maximum fees, on a sliding scale, to be charged for services depending on an exporter's tier of licence, for up to five tiers of markets;

    b. Option 2: built on option 1 but allowing for some reduction in application fees for experienced exporters, to reflect the Authority's lower costs to process such applications; and

    c. Option 3 (**MPI's preferred option**): incorporated both options 1 and 2, and provided for a flat fee for all applications for licence and export marketing strategy exemptions, regardless of the tier of market.

5.1.1 Status quo is not an option

25. The status quo is no longer an option for HEA's funding. The current Fees Regulations do not provide for multi-tier marketing, and the fees set in 2002 no longer meet the HEA's current funding needs.

5.1.2 Option 1: Five fee categories, no discount for exporter experience

26. As set out in table 2 below, the proposed regulations will have five fee categories to enable the implementation of the new multi-tier marketing provision[5]. Where a product group has opted to have more than one tier of licence in the export marketing strategy, the HEA will determine the relevant category of fee to apply to the proposed tiers. Category A will always apply to the highest tier of licence, and this will include exports to all markets. If there is more than one tier, Categories B, C, D, or E (as determined by the HEA, based on specified criteria) will apply to those tiers. The fees in the table below are

[5] At the request of the industry, the Act was amended in December 2016 to introduce multi-tier export licensing. This was to enable the product groups to implement market segmentation to develop different export marketing strategies for different groups of markets. As result of this change, product groups can now focus on developing high-value markets with targeted grade standards, and remove overly burdensome requirements and reduce licence fees to secondary markets. The product groups can now choose to have up to five tiers of licence for five market segments. To implement this, the regulations need to provide for up to five categories of fees to match the five tiers of licence.

maximum fees for each category. The HEA may set a lower fees for each category (across all products), based on what is required to meet the costs of the service.

Table 2: Maximum fees for five market tiers

New licence application fees	Fee Category	% of Category A	Maximum fee
	Category A	100	$4,000 (max)
	Category B	75	$3,000 (max)
	Category C	50	$2,000 (max)
	Category D	25	$1,000 (max)
	Category E	15	$600 (max)
Licence renewal fees or 2nd and subsequent licence fees	Category A	100	$800 (max)
	Category B	75	$600 (max)
	Category C	50	$400 (max)
	Category D	25	$200 (max)
	Category E	15	$120 (max)
Annual monitoring and compliance fees	Category A	100	$2,400 (max)
	Category B	75	$1,800 (max)
	Category C	50	$1,200 (max)
	Category D	25	$600 (max)
	Category E	15	$360 (max)
Fees for exemptions, from licence and from export marketing strategy requirements	Category A	100	$400 (max)
	Category B	75	$300 (max)
	Category C	50	$200 (max)
	Category D	25	$100 (max)
	Category E	15	$60 (max)

27. The two key considerations in determining the maximum fees in table 2 above were:
    a. the rates will deliver approximately 40 percent of the HEA's revenue each year, as has been the exporter licensing share of the HEA's funding in recent years; and
    b. the lower fees for lower category markets reflect the lower anticipated costs for the HEA as those markets will most likely have fewer or lower grade standards for the HEA to determine and monitor. The holder of a lower tier licence will only be able to access the markets listed in that tier and this would be reflected in the fee category.

28. When assessing which fee category should apply to a market tier for a product, the HEA will take into consideration how the value of the proposed tier(s) compares to the top tier with respect to:
    a. the value that a market region/tier provides for exporters of a particular product. Even though the product groups for two or more products may have assigned the same tier to that market region, the value may differ among the products; and
    b. the complexity of the market access requirements contained in the product group's export marketing strategy.

29. Table 3 below provides MPI's assessment of option 1 against the assessment criteria.

Table 3: Analysis of option 1 (five fee categories, no discount for experience)

Criteria	Score (0-5)	Analysis
Adequacy	5	The HEA can adjust the rates within the maximum to fully cover its costs, and provide the HEA certainty of funding.
Equity	3	The HEA is unable to vary the fees for experienced versus inexperienced exporters when its costs will vary.
Efficiency	5	Fee collection method and the process for setting the different fees, within the maximum, are all well set out and efficient.
Justifiability	2	Little justification for why exemption fees has to vary considerably between different market tiers when the HEA's costs to assess and issue exemptions are unlikely to vary between different market tiers.
Transparency	3	Fee maximums are set in Regulations, and these apply to all licence holders to a market at the same rate. The HEA will have to assess a product group's EMS before exporters are able to know the fee rates.
Practical effectiveness	2	Five levels of exemption fees make this option unnecessarily complicated.
Total score	20 / 30	

5.1.3 Option 2: Five fee categories, with discounts for exporter experience

30. This option builds on option 1 above, by keeping the five fee categories in table 2, and adding that the HEA be able to provide the following fee reductions for the categories of persons specified below, with respect to licence application fees:

  a. the fee for a category of person who has previously exported the specific product under the Act's licensing framework within the last 3 years will be set at 15 percent less than a new exporter;

  b. the fee for a category of person who has exported a horticultural product that is outside the Act's licensing framework within the last 12 months will be set at 10 percent less than a new exporter; and

  c. the fee for a category of person who has exported a non-horticultural primary sector product, e.g. wine, within the last 12 months will be set at 5 percent less than a new exporter.

Table 4: Analysis of option 2 (Five tiers with discounts for experience)

Criteria	Score (0-5)*	Analysis
Adequacy	5	The HEA can adjust the rates within the maximum to fully cover its costs, and provide the HEA certainty of funding.
Equity	5	The HEA can vary the fees for exporter experience as its costs will vary.
Efficiency	5	Fee collection method and the process for setting the different fees, within the maximum, are all well set out and efficient.
Justifiability	2	Little justification for why exemption fees has to vary considerably between different market tiers when the HEA's costs to assess and issue exemptions are unlikely to vary between different market tiers.
Transparency	3	Fee maximums are set in Regulations, and these apply to all licence holders to a market at the same rate. The HEA will have to assess a product group's EMS before exporters are able to know the fee rates.
Practical effectiveness	2	Five levels of exemption fees make this option unnecessarily complicated.
Total score	22 / 30	

5.1.4 Option 3: Five fee categories by markets, with discounts for exporter experience, and only one exemption fees (MPI's preferred option)

31. This option will have all the features of option 2 above, with one modification that there will be only one exemption fee, with a maximum of $400.

Table 5: Analysis of option 3 (Five fee categories by markets, with discounts for exporter experience, and only one exemption fees)

Criteria	Score (0-5)*	Analysis
Adequacy	5	The HEA can adjust the rates within the maximum to fully cover its costs, and provide the HEA certainty of funding.
Equity	5	The HEA can vary the fees for exporter experience as its costs will vary.
Efficiency	5	Fee collection method and the process for setting the different fees, within the maximum, are all well set out and efficient.
Justifiability	5	One exemption fee provides a more accurate reflection for the HEA's costs to assess and issue exemptions as they are unlikely to vary between different market tiers.
Transparency	3	Fee maximums are set in Regulations, and these apply to all licence holders to a market at the same rate. The HEA will have to assess a product group's EMS before exporters are able to know the fee rates.
Practical effectiveness	5	One exemption fee for all market tiers simplifies the fee proposal.
Total score	28 / 30	

5.2 OPTIONS FOR RECOGNISED PRODUCT GROUP LEVIES

32. The MPI discussion paper sought submissions on two options for recognised product group levies:

    a. Option 1: one universal levy rate (0.12 percent of annual export earnings), with a maximum levy amount of $65,000 (plus GST) per product group; and

    b. Option 2 (**MPI's preferred option**): a variant of option 1 with three different levy rates (0.12 percent of annual export earnings for the first $20 million of export earnings, 0.10 percent for the next $20 million, and 0.06 percent for export earnings over $40 million), plus a minimum annual levy amount of $500 (plus GST), and addition to the $65,000 maximum levy amount.

5.2.1 Status quo is not an option

33. Currently, the HEA charges product groups a fee though contractual arrangements for the services it delivers. Contractual arrangements are used because the current Fees Regulations do not provide any regulatory mechanism for charging the product groups. As the Fees Regulations are being reviewed, it is timely to consider whether it is more appropriate for the product groups to be charged through a regulatory mechanism or through contractual arrangements.

34. Generally, where a service user has no choice but to use the service, and the service provider has no choice but to provide the service, it is most appropriate that the service be charged through a regulated fee or levy, rather than contractual arrangements. This protects both parties to the transaction as neither is free to exercise market choice in relation to the service. The HEA and product groups are in such a relationship. As such, MPI is proposing that product group charges are set out in regulations.

35. Now that the Act has an empowering provision for the HEA to impose levies on the recognised product groups by regulations, this mechanism must be used in order to cost recover from product groups. The HEA will not to be able to continue to collect fees through contracts.

5.2.2 Fee or a levy?

36. The HEA currently determines the charges it imposes on product groups through a formula that is based on a two-year rolling average of export earnings for the relevant product, and a fixed fee component. This formula is a levy because it is a reoccurring annual charge levied on the same payers, to fund a set of services, whereas a fee is usually a one-off charge for a specific service.

37. The levy method of determining charges for product groups is suited to the nature of the HEA. Much of the HEA's costs are fixed, and incurred in providing services to the same payer year after year.

5.2.3 Option 1 (One universal levy rate): prescribe a levy rate of 0.12 percent of export earnings of each product from previous two years with a maximum amount of $65,000 a year.

38. The key consideration in determining a levy rate of 0.12 percent of export earnings of each product over previous two years was that the rate will deliver approximately 60 percent of the HEA's required revenue each year, as has been the recognised product groups' share of the HEA's funding in recent years. A set maximum levy of $65,000 (plus GST) a year reflects the benefits of economies of scale of the larger industries.

Table 6: Analysis of option 1 (One universal levy rate)

Criteria	Score (0-5)*	Analysis
Adequacy	5	The HEA can set the levy at a rate that will give it adequate funding, and give the HEA certainty of funding.
Equity	1	One universal levy rate across all the recognised product groups does not take into account that the HEA does incur some marginal costs per product group, regardless of size. Under this approach, in some years, a very small recognised product group may not have any exports and therefore would not be paying a levy. Yet they will continue to impose some administrative costs on the HEA, which will have to be cross-subsidised by other recognised product groups.
Efficiency	5	Levy rate setting and the levy collection mechanism are fairly efficient.
Justifiability	5	The HEA is a small organisation with low overheads and not carrying or attempting to build large reserves. Its board composition (with grower and exporter representation) will provide sufficient oversight of levy rates.
Transparency	5	The levy setting process will be very transparent as they will be set in the regulations and the recognised product groups will be subject to the same rate.
Practical effectiveness	5	The levy calculation formula is relatively uncomplicated.
Total score	26 / 30	

5.2.4 Option 2 (MPI's preferred option): Prescribe three levy rates in the regulations for different levels of export earnings for a product group.

39. This levy option will have two key components:

    c. The HEA will calculate a levy for each recognised product group on the basis of average export earnings over previous two years for that product, using the levy rates in table 7 below.

    d. There will be caps at both end of the levy spectrum. The regulations will specify:

    - a minimum amount of levy of $500 (plus GST) a year for recognised product groups; and

    - a maximum amount of levy of $65,000 (plus GST) a year for recognised product groups.

40. A set minimum levy of $500 a year reflects that regardless of how small an industry is there will always be some administrative costs for the HEA. These would include regular communications to all product groups, administering the HEA's database of all the industries, and some monitoring of exports of those smaller industries. A set maximum levy of $65,000 a year reflects the benefits of economies of scale of the larger industries.

41. In setting both the above minimum and maximum levy amounts, and the rates in table 7 below, consideration was given to the HEA obtaining about 60 percent of its revenue from the recognised product groups, reflecting the recent history of the HEA's funding.

Table 7: Levy rates for option 2

Export earnings for a product	Levy rates (percent of export earnings) (GST exclusive)
First $20million	0.12 percent
Next $20million (i.e. $20-40 million)	0.09 percent
Over $40million	0.06 percent

42. For example, an industry with $55 million of annual export earnings will pay a levy of $53,000 (plus GST) a year (i.e. $24,000 for the first $20m + $20,000 for the second $20m + $9,000 for the remaining $15m).

43. Reducing levy rates for larger industries takes into consideration the HEA's declining costs from economies of scale of the various industries.

Table 8: Analysis of option 2 (MPI's preferred option)

Criteria	Score (0-5)*	Analysis
Adequacy	5	The HEA can set the levy at a rate that will give it adequate funding, and give the HEA certainty of funding.
Equity	5	Three different rates will enable the HEA to set rates to take into account marginal product group costs. The minimum amount of levy will remove any potential for larger recognised product groups to cross-subsidise very small product groups.
Efficiency	5	Levy rate setting and the levy collection mechanism are fairly efficient.
Justifiability	5	The HEA is a small organisation with low overheads and not carrying or attempting to build large reserves. Its board composition (with grower and exporter representation) will provide sufficient oversight of levy rates.
Transparency	5	The levy setting process will be very transparent as they will be set in the regulations and the recognised product groups will be subject to the same rates.
Practical effectiveness	4	The levy calculation formula is slightly more uncomplicated than option 1, but still relatively simple.
Total score	29 / 30	

Table 9: Impact of options 1 and 2 on recognised product groups

Recognised Product Group	Export Earnings 2014/15, $million	Export Earnings 2015/16, $million	Status Quo Annual Levies, $	Option 1 Annual Levies, $	Option 2 Annual Levies, $
					Preferred
Avocados	115.472	84.550	47,300	65,000	65,000
Blackcurrants	12.884	12.604	24,480	15,293	15,293
Chestnuts	0.002	0.005	250	480	500
Persimmons	7.359	7.930	16,300	9,173	9,173
Buttercup Squash	58.739	58.190	43,100	65,000	55,079
Kiwifruit to Australia	40.648	41.718	41,400	49,420	44,710
Summerfruit	58.319	75.421	43,900	65,000	60,122
Tamarillos	0.074	0.042	305	305	500
Truffles	0.003	0.000	250	240	500
TOTAL	297.49	283.46	217,285	270,386	250,877

44. After taking the submissions into consideration, it is now proposed that the levy on recognised product groups is phased-in so that the change (increase or decrease) is no greater than 15 percent of the levy charged to that group in the previous year, calculated as follows:

a. for the first year, it will be based on changes from levies paid or payable for the 2016/17 year, as listed in appendix 2 attached; and

b. for the second year, it will be based on changes from levies paid or payable for the 2017/18 year.

5.3 IMPACT OF THE PROPOSALS

45. MPI estimates that the proposed fees and levy rates will modestly increase the HEA's income, generating a surplus of about $15,000 in the first year and $25,000 from the second year, and a balanced budget in the third year. The HEA's annual revenue will rise from $350,000 to about $420,000 a year. This would reverse the annual deficits the HEA has been running since 2009 and prevent further dwindling of its reserves.

46. The impacts on the participating industries from the proposed fees and levies will be minimal. The fees and levies have not been updated for quite some time, and over that period the HEA's monitoring activities have increased from increasing product volume and value. While the total cost of fees and levies will rise by about 20 percent in total between 2002 and 2017, the total value of exports for all the product groups combined have more than doubled in that period (rising from $150 million export earnings in 2003 to over $300 million in 2017). The number of export markets have also diversified over this time.

47. Impact on exporters: For the 52 licensed export companies, their combined annual cost in HEA fees (based on HEA's budget for the next 3 years) will rise from around $131,000 to $168,000, an increase of 28 percent. This will rise for some (exporters to high-valued markets) and reduce for others. For example, under the proposal, the HEA will only be able to impose a maximum licence application fee of $600 (once in 5 years) to low value markets compared with the current $1,500 (one fee for all markets). It will rise for high value markets, with a maximum of $2,500. The Fees Regulations, for exporter licensing, have not been updated since 2002.

48. The proposed product group levy will bring the charges currently paid under private contacts between the HEA and the product groups into a regulatory framework, which will improve transparency, equity and certainty.

49. Once the industries start to adopt the new targeted marketing and multi-tier licensing provisions in the Act, exporters to secondary markets will start to benefit from lower exporter licensing fees. For example, if an industry chooses to have two licence tiers, one for all markets and one for secondary markets, the Authority may set the exporter licensing fees for the secondary markets at 15 percent of the fee for all markets (i.e. category E in table 2).

50. Table 10 below shows the impact of the proposed levy on the recognised product groups, compared with the status quo formula.

Table 10: Impact of proposed levies on the recognised product groups

Year ending September	**2017**	**2018**	**2019**	**2020**	**2021**
Year	Current	1	2	3	4
Avocados	Annual change	15%	15%	0.5%	0.0%
Proposed levy amount		$56,237	$64,673	$65,000	$65,000
Levy from status quo formula	$47,300	$48,902			
Summerfruit	Annual change	15%	15%	7%	0%
Proposed levy amount		$51,693	$59,448	$63,897	$63,897
Levy from status quo formula	$43,900	$44,950			
Buttercup Squash	Annual change	15%	6%	0%	0%
Proposed levy amount		$49,531	$52,624	$52,624	$52,624
Levy from status quo formula	$43,100	$43,070			
Kiwifruit to Australia	Annual change	8%	0%	0%	0%
Proposed levy amount		$42,815	$42,815	$42,815	$42,815
Levy from status quo formula	$41,400	$41,435			

Blackcurrants	Annual change	-15%	-15%	-14%	0%
Proposed levy amount		$20,238	$17,202	$14,762	$14,762
Levy from status quo formula	$24,480	$23,809			

Persimmons	Annual change	-15%	-15%	-15%	-7%
Proposed levy amount		$14,149	$12,027	$10,223	$9,558
Levy from status quo formula	$16,300	$16,646			

Remaining 3 product groups - Proposed $500 minimum per product group		$1,500	$1,500	$1,500	$1,500
Total levy – proposed		$236,162	$250,288	$250,822	$250,157
Total levy - status quo	$217,535	$219,562			
Annual increase under proposed levy		$16,600	$14,125	$534	-$665
Percent increase in total levy over status quo		7.6%	6.0%	0.2%	-0.3%

Assumptions:

1. The 2-year average export values for 2016 & 2017 remain constant over the following 3 years.
2. Increases and decreases in amount of levy are capped at 15% for any 1 year.

51. The Act is enabling legislation, which means producers and exporters decide if and when to come under the Act and when to exit. Should the proposed fees and levies substantially impact on an industry's ability to pay its share of the Authority's cost, it can choose to exit the Act's export framework.

6 Consultation

52. Exporters, recognised product groups and the wider horticultural sector were consulted through a discussion document released on 19 April 2017. Submissions closed on 15 May 2017, giving stakeholders four weeks to make submissions.

53. The discussion document was published on MPI's and the HEA's websites. A link to the document was emailed to approximately 5,500 commercial fruit and vegetable growers on Horticulture New Zealand's database, and to all recognised product groups and exporters on the HEA's database. An alert was sent to all MPI's usual consultation contacts.

54. MPI and the HEA met with the product groups for the avocado, kiwifruit to Australia, and summerfruit industries to discuss the options in the discussion document.

55. The HEA was consulted during the development of the above discussion document, on the submissions, and on the policy proposals in the Cabinet paper. The HEA supports the fees and levies proposals.

56. A total of eleven submissions were received. Most submitters supported MPI's preferred fees and levies options. Some submitters suggested minor variations to the preferred options.

57. Based on the submissions, the Cabinet paper is proposing to phase-in the proposed recognised product group levy over the first two years to give affected product groups time to adjust their own funding arrangements to pay the new rates. The Cabinet paper, in response to the submissions, is also changing the marginal levy rates for recognised product group levies to 0.12 percent, 0.09 percent and 0.06 percent of product group export earnings.

58. Four submitters suggested some additional criteria, to the five listed in the discussion document, for assessing the fees and levies options. In response to the submissions, 'practical effectiveness' was added to the listed criteria. Submitters concerns were that the chosen options must be workable, easy to understand, and minimise compliance costs on the HEA.

7 Conclusions and recommendations

59. Of all the fees and levies options considered, MPI has assessed the following proposals best meet the assessment criteria listed under ‘objectives’ section of this paper, i.e., adequacy, equity, efficiency, justifiability, transparency and practical effectiveness.

   a. **Exporter licensing fees**: prescribe a set of fees, on a sliding scale to provide for up to five tiers of licence, with some fee reductions available on application fees for experienced exporters, and a flat fee for all applications for a licence exemptions and exemptions to export marketing strategy requirements.

   b. **Product group levies**: prescribe three different levy rates based on three different levels of annual average export earnings over two previous years, with a minimum annual levy amount of $500 (plus GST) and a maximum amount of $65,000 (plus GST) per product group. Also to phase-in the levies in the first two years, to enable the product groups to financially adjust to the new rates with the HEA using some reserves to fund any funding shortfall in the first year.

60. The Cabinet paper will also recommend that the proposed Fees Regulations be reviewed within four years of coming into effect, to ensure sufficient cost data is collected by the HEA to help identify and eliminate any cross-subsidisation between its different functions and between the different industries.

61. The impact on the participating industries from the proposed fees and levies will be minimal, for the following reasons:

   a. The HEA’s annual revenue from exporter licensing fees will rise by 25 percent (the Authority is budgeting on raising the fees from the 2002 levels but not the maximums proposed in table 2 above over the next few years) while the total export revenue for exports under the Act has doubled from $150 million in 2003 to close to $297 million in 2015 (estimate for 2017 is $343 million); and

   b. The proposed product group levy will increase the total levy collected by the Authority by eight percent in the first year, and a further six percent in the second year, averaging across the nine product groups (see table 10 above). The impact of this on the product groups and its grower members will be minimal as value of exports for most products are forecast to rise over time.

8 Implementation plan

62. It is proposed that the new fees and levies regulations are made in time for the HEA to implement them from 1 October 2017. The HEA will be informed soon after Cabinet approval, and will be consulted during the drafting of the new fees and levies regulations.

63. Under the preferred option, there will be a transitional provision for the recognised product groups over the first two years. Those groups facing an increase in levies will face a maximum of 15 percent increase a year over the first two years. Those whose levies will decline under the proposal will be paying up to 15 percent less.

64. The new regulations will prescribe the maximum exporter licensing fee, with the HEA board setting the actual amount each year. The HEA board will be able to set lower fees, within the maximum, if it considers that phasing-in of the new fees is required in the first year.

65. The proposed regulations are unlikely to introduce any new compliance costs. Exporters already pay licence application and annual monitoring fees under the current Fees Regulations, which will be replaced by the new regulations. The new regulations will replace the fees the recognised product groups currently pay the HEA under contracts negotiated between the HEA and the product groups.

9 Monitoring, evaluation and review

66. The proposed fees and levies regulations will require MPI to review the new regulations within four years of the regulations coming into force.

67. MPI will monitor how the HEA implements the new regulations on an ongoing basis, in particular how it will be collecting cost breakdown data for each of its services to the exporters and the product groups.

68. In addition the annual auditing of the HEA's accounts by independent auditors, the HEA's next five-yearly statutory performance review will be in 2020. MPI will ensure that the terms of reference for that review covers HEA's implementation of the new regulations and its data collection on costs of delivering each of its services.