



Australian Government  
Department of Agriculture  
and Water Resources

# Levy payer registers

Guide for research and development corporations and information recipients

October 2018



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# Purpose of this guide

This guide aims to:

- support a rural research and development corporation (RDC) in using information held on its levy payer register
- provide information for RDCs and third parties when considering the disclosure of levy payer information from an RDC's levy payer register to a third party
- provide general guidance on expectations for third party use of levy payer information
- provide specific information about how to seek the approval of the Secretary of the Department of Agriculture and Water Resources (the Secretary) to disclose levy payer information to third parties
- outline the factors the Secretary may consider when making an approval.

## Links for accessing legislation referred to in this guide

This guide is based substantially on Commonwealth legislation and should be read in conjunction with:

- [Primary Industries Levies and Charges Collection Act 1991](#) (PILCC Act)
- [Privacy Act 1988](#).

Other legislation referred to in this guide includes:

- [Primary Industries Research and Development Act 1989](#)
- [Primary Industries \(Excise\) Levies Act 1999](#)
- [Primary Industries \(Customs\) Charges Act 1999](#)
- [National Residue Survey \(Excise\) Levy Act 1998](#)
- [National Residue Survey \(Customs\) Levy Act 1998](#).

## Further information

Additional context about levy payer registers can be found in [the Primary Industries Levies and Charges Collection Amendment Bill 2016 explanatory memorandum](#).

The Australian Bureau of Statistics is an eligible recipient of levy payer information under the PILCC Act and may use that information to perform any of its functions.

RDCs may receive requests from third parties for information about RDC members and shareholders under the arrangements set out in Chapter 2C of the *Corporations Act 2001*. Some of these members and shareholders may also be levy payers. Nothing in the PILCC Act or this guide changes an RDC's obligations under the *Corporations Act 2001*.

# About levy payer registers

## Levy payer register

A levy payer register is a database of the details of individuals and organisations that pay industry-specific agricultural levies and charges.

Levy payer registers will allow those RDCs that choose to set up a levy payer register to identify and consult with the levy payers that fund their activities. It is a matter for each RDC to decide, in consultation with industry, whether to keep a levy payer register. Each RDC's levy payer register will contain levy payer information only for those levies and charges it receives.

## Levy payer information

Levy payer information is information about a person who has paid, or is liable to pay, a levy or charge for a collection product and can include:

- name
- address
- contact details
- Australian Business Number (ABN) or Australian Company Number (ACN)
- the amount of levy or charge
- any other details determined by the Secretary in relation to the production or processing of a collection product.

Levy payer information is 'personal information' under the *Privacy Act 1988* and must be treated in accordance with the Australian Privacy Principles (APPs).

Information about the APPs—including guidelines on the interpretation of the APPs, examples of how they may apply in particular circumstances and advice on good privacy practice—may be provided by the [Office of the Australian Information Commissioner](#).

## Information covered in this guide

This guide applies **only** to levy payer information given to an RDC under section 27A of the PILCC Act. The PILCC Act and its regulations are the main laws that enable the collection, disclosure and use of levy payer information.

This guide **does not** apply to levy payer information collected by or provided to an RDC through other means.

# Uses of levy payer information

The RDCs and the Australian Bureau of Statistics (ABS) are 'eligible recipients' of levy payer information under the PILCC Act. This guide applies to levy payer information given to RDCs because only RDCs maintain registers of levy payers. The ABS may use levy payer information to perform any of its functions.

## Permitted uses for RDCs

An RDC may use levy payer information only for purposes specified in section 27B of the PILCC Act. These include:

- to maintain a register of levy payers
- to maintain a register of persons eligible to vote in any poll conducted by or on behalf of the body
- to make public any information of a statistical nature
- in performing any of its functions under a law of the Commonwealth or a contract between the Commonwealth and the body
- to determine whether a person is eligible to be a member or shareholder of the body (where relevant).

In some circumstances an RDC may identify a need to disclose information from its levy payer register to a third party to support its normal business. For example, an RDC may want to:

- engage a mail service provider to distribute a regular publication to levy payers about its research and extension activities
- hire a ballot provider to allocate voting entitlements for its annual general meeting
- commission a research company to conduct an evaluation of levy payer satisfaction with its investments.

Section 27B of the PILCC Act prohibits an RDC from disclosing information from its levy payer register without the Secretary's approval in writing.

The PILCC Act does not allow the Secretary to disclose information held in a levy payer register directly to a third party, nor does it allow the Secretary to compel an RDC to release levy payer information from its register. However, the Secretary may make an approval in writing for an RDC to release levy payer information without having received a request to do so. For example, this may occur in response to a biosecurity emergency.

## Permitted uses of levy payer information for third parties

A third party is any party that is not the RDC keeping the levy payer register, including another RDC.

An RDC may only disclose information from its levy payer register to a third party with the written approval of the Secretary.

Section 27B(6) of the PILCC Act provides that third parties may use information disclosed to them by an RDC from its levy payer register:

- for a research and development (R&D) activity (within the meaning of the *Primary Industries Research and Development Act 1989* (PIRD Act))
- for marketing activities (within the meaning of the PIRD Act)
- for biosecurity purposes
- for National Residue Survey purposes
- in connection with any activity carried out, or proposed to be carried out, by the disclosing RDC for the benefit of producers in the relevant industry.

In making an approval, the Secretary must take into account whether the proposed use of levy payer information fits into one of these permitted uses under the legislation.

## Uses not permitted

Levy payer registers have been created to allow the RDCs to consult with their levy payers to help them deliver the functions and services for which they were established. The RDCs' functions are set out in the legislation that establishes them and in statutory funding agreements with the Commonwealth.

Levy payer information may not be used for purposes such as:

- agri-political activities
- increasing the membership of an industry representative body
- an activity which would give a commercial advantage to a participant in the industry
- an activity unrelated to the function of the RDC.

## Reconsideration and review

Section 28 of the PILCC Act allows a person affected by 'a relevant decision' to ask the Minister to reconsider the decision.

A 'relevant decision' includes a decision by the Secretary to:

- approve the disclosure of levy payer information to a third party (paragraph 28(9)(b))
- specify conditions in an approval (paragraph 28(9)(c))
- revoke an approval (paragraph 28(9)(ca)).

The affected person has 28 days after they become aware of the decision to request reconsideration.

# Applying to disclose levy payer information

## How to apply

RDCs should write to the Secretary to seek approval to disclose levy payer information and include as much relevant information as possible. A summary of the type of information that is likely to be relevant is set out in the [What to include in a request to disclose levy payer information](#) section.

Each case may be different and will be assessed on its merits.

## Third party seeking approval

A third party seeking to access levy payer information should approach the relevant RDC and discuss the nature of its request. If the RDC supports disclosure of the information to the third party, the RDC may seek the written approval of the Secretary to disclose the information.

## RDCs can make multiple requests

An RDC can make multiple and subsequent requests to the Secretary to disclose levy payer information to the same or another third party.

## When a new approval must be sought

An RDC must seek a new approval to disclose levy payer information to a third party each time it wishes to:

- provide different levy payer information to a third party
- provide levy payer information to a third party for a different purpose permitted under the PILCC Act
- disclose levy payer information to a new third party
- extend the time for disclosure to a third party beyond the period previously approved.

## Next steps after the Secretary receives the request

The department will prepare advice to support the Secretary's consideration of the request.

The Secretary will consider the request and respond in writing.

Timeframes will depend on the complexity of the request, completeness of the information provided and the size of the request.



# Factors to consider when seeking approval

Levy payer information is personal information that can disclose a person's identity and financial information. It is important to establish as far as possible that those parties with access to the data can be trusted, that the access environment prevents unauthorised use and that the use of the data is appropriate.

## Matters for applicants to consider

Key considerations to think about when seeking approval to disclose information to a third party might include:

- how this disclosure to a third party would help the RDC to perform its functions
- how this disclosure would help the RDC to comply with its statutory funding agreement with the Commonwealth
- how the levy payers whose personal information is being disclosed to a third party would feel about the disclosure.

## Factors the Secretary may consider

In deciding whether to approve disclosure of levy payer information, the Secretary may consider whether a request to disclose levy payer information aligns with:

- the purpose of the legislation—to allow RDCs to identify and consult directly with the levy payers who fund their activities and accurately allocate voting entitlements
- the requirements of section 27B of the PILCC Act
- any practical and policy considerations the Secretary considers relevant, such as the factors listed in this chapter.

## Whether the proposed use of the information aligns with the purpose of levy payer registers

The Secretary will consider whether the proposed use aligns with the purpose of levy payer registers. For example:

- Is the RDC engaging the third party to consult with levy payers about its strategic priorities?
- Is the RDC engaging the third party to learn more about producers' needs?
- Is the RDC engaging the third party to monitor and evaluate its own performance in meeting industry's needs?

## Whether the proposed use of the information is permitted under the PILCC Act

Section 27B(6) of the PILCC Act provides that third parties may use information disclosed to them by an RDC from its levy payer register for these purposes:

- for a research and development (R&D) activity (within the meaning of the PIRD Act)
- for marketing activities (within the meaning of the PIRD Act)
- for biosecurity purposes
- for National Residue Survey purposes
- in connection with any activity carried out, or proposed to be carried out, by the disclosing RDC for the benefit of producers in the relevant industry.

### **What levy payer information will be disclosed**

The Secretary may consider the nature of information proposed to be disclosed. For example:

- Is all the levy payer information held on the register needed to complete the proposed task?
- Would access to a subset of levy payer information be sufficient to complete the task?
- Is the proposed time appropriate to carry out the task?

### **Whether the third party should have access to the information**

The Secretary may consider the third party and its characteristics. For example:

- Will the third party be required by the RDC to keep levy payer information confidential and/or on a secure system?
- Is the third party a participant in the industry, which might obtain a commercial advantage by using levy payer information for its own purposes?
- Is the amount of levy paid part of the information to be disclosed?
- Would levy payers be likely to object to their personal and commercial information being disclosed to that particular third party?

### **How levy payer information will be managed and protected**

The Secretary may consider how levy payer information will be protected and its use governed. For example:

- Is there a binding agreement between the RDC and the third party governing the use of the information?
- If there is an agreement, what happens under the terms of the agreement if the third party misuses levy payer information?
- Does any agreement between the RDC and the third party require the third party to comply with the APPs with respect to the use of personal information, regardless of whether the third party is bound by the APPs?
  - Further information is available from the [Office of the Australian Information Commissioner](#)
- Can a levy payer opt out of receiving (further) unwanted communications?
- Will levy payer information be kept secure and separate from existing contact lists?

## **Whether conditions should be imposed on the release of the information**

The Secretary may impose conditions on an approval to release levy payer information to a third party.

Subsection 27B(4A) of the PILCC Act allows the Secretary to make an approval subject to conditions he or she specifies in the approval. For example, the Secretary may:

- limit the period of time that the third party may have access to the information
- limit the type of information disclosed to the third party
- impose a pre-condition to disclosure that the RDC must enter an agreement with the third party protecting the use of levy payer information before disclosing the information
- require the information to be destroyed (or returned) after use (or after a certain period of time, or after the task for which it was required is completed).

The Secretary may revoke an approval in writing under subsection 27B(4B) of the PILCC Act if satisfied that the RDC has breached any of the conditions imposed in the approval.

If the Secretary chooses to revoke an approval, he or she must give notice of the revocation and the date from which it takes effect in accordance with subsection 27B(4C) of the PILCC Act.

# What to include in a request to disclose levy payer information

## What the information will be used for

Describe the purpose for which levy payer information will be used and how that information aligns with the uses permitted under subsection 27B(6) of the *Primary Industries Levies and Charges Collection Act 1991*.

## What information would be disclosed and for how long

Specify what information the RDC would disclose—for example, name, address, contact details, Australian Business Number or Australian Company Number, amount of levy paid.

Specify the time period for which the third party may use the levy payer information and explain why this is appropriate for the proposed use.

## Who can access the information

Identify the organisation(s) or individual(s) to whom the levy payer information would be provided.

Outline the nature of any relationship between the RDC and the recipient and between the recipient and levy payers.

## Protection of information

Set out how levy payer information will be protected and managed by the third party. For example:

- whether an agreement exists between the RDC and the third party covering the protection of levy payer information
- whether an opt-out option would be made available for levy payers not wishing to receive further communications.

## Any other relevant factors

Set out any other factors the applicant thinks the Secretary should consider, such as the benefits for industry that the activity will create or how it supports the RDC in performing its functions.

## Send the request

By email to: [leviestaskforce@agriculture.gov.au](mailto:leviestaskforce@agriculture.gov.au)

By post to:

The Secretary  
Department of Agriculture and Water Resources  
GPO Box 858  
Canberra, ACT 2601

# Glossary, abbreviations and acronyms

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<b>Term</b>	<b>Definition</b>
APPs	Australian Privacy Principles—as set out in Schedule 1 to the <i>Privacy Act 1988</i> and available from the Australian Government <a href="#">Office of the Australian Information Commissioner</a> .
Collection product	A product on which a levy or a charge is imposed under the <i>Primary Industries (Excise) Levies Act 1999</i> , the <i>Primary Industries (Customs) Charges Act 1999</i> , the <i>National Residue Survey (Excise) Levy Act 1998</i> , the <i>National Residue Survey (Customs) Levy Act 1998</i> and the regulations enabled by these Acts.
Eligible recipients	These are defined in subsection 27A(2) of the PILCC Act. In the context of this guide, the RDCs are the eligible recipients.
Levy payer information	Name, address, contact details, Australian Business Number, Australian Company Number, amount of levy paid and any other details determined by the Secretary in relation to the production or processing of a collection product (as defined in section 27A of the PILCC Act).
Levy payer register	A database of the details of individuals and organisations that pay industry-specific agricultural levies and charges – enabled by section 27A of the PILCC Act.
PILCC Act	<i>Primary Industries Levies and Charges Collection Act 1991</i> (Cth)
PIRD Act	<i>Primary Industries Research and Development Act 1989</i> (Cth)
Privacy Act	<i>Privacy Act 1988</i> (Cth)
RDC	Rural research and development corporation
Secretary	The Secretary of the Australian Government Department of Agriculture and Water Resources.
Third parties	Individuals or organisations seeking access to levy payer information through an RDC.

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