



Egg Industry Service Provision (Transitional and Consequential Provisions) Act 2002

No. 115, 2002

An Act to deal with transitional and consequential matters related to the enactment of the *Egg Industry Service Provision Act 2002*, and for related purposes

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

Contents

Part 1—Preliminary	2
1 Short title	2
2 Commencement	2
3 Simplified outline	3
4 Definitions	3
5 Application of this Act	4
6 Schedule(s)	4
Part 2—Transitional provisions	5
7 Transitional functions of Rural Industries Research and Development Corporation	5
8 Declaration of transfer time	5
9 Successor body	6
10 Transfer of assets	6
11 Transfer of liabilities	6
12 Exemption from stamp duty etc.	7
13 Operation of GST law	7
14 Certificates in relation to assets	8
15 Saving—levies.....	8
Part 3—Miscellaneous provisions	10
16 Operation of the Archives Act	10
17 Delegations	10
18 Compensation for acquisition of property	10
19 Regulations	11
Schedule 1—Amendments	12
<i>Primary Industries (Excise) Levies Act 1999</i>	12



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[Assented to 2 December 2002]

The Parliament of Australia enacts:

Section 1

Part 1—Preliminary

1 Short title

This Act may be cited as the *Egg Industry Service Provision (Transitional and Consequential Provisions) Act 2002*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 19 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	2 December 2002
2. Schedule 1	Immediately after the date when the first declaration of an industry services body under subsection 6(1) of the <i>Egg Industry Service Provision Act 2002</i> takes effect	16 January 2003 (see <i>Gazette</i> 2003, No. S11)

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.
- (3) If no industry services body is ever declared under subsection 6(1) of the *Egg Industry Service Provision Act 2002*, the provisions covered by item 2 of the table do not commence at all.

3 Simplified outline

The following is a simplified outline of this Act:

This Act deals with the transition from the provision of services to the Australian egg industry by the Rural Industries Research and Development Corporation to the provision of services to that industry by a body declared as the industry services body under the *Egg Industry Service Provision Act 2002*.

The Minister must declare a transfer time (see section 8). At the transfer time particular assets and liabilities of the Rural Industries Research and Development Corporation are transferred to the industry services body (see sections 10 and 11). Transfers are not subject to taxation (see sections 12). Other transitional matters (such as the transfer of records) are also dealt with.

This Act also makes amendments consequential on the enactment of the *Egg Industry Service Provision Act 2002* (see Schedule 1).

4 Definitions

(1) In this Act, unless the contrary intention appears:

asset means:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; and
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

instrument means:

- (a) an Act or any instrument under an Act; or
- (b) any other document.

liability means any liability, duty or obligation, whether actual, contingent or prospective.

successor body has the meaning given by section 9.

Section 5

transfer time means the time declared as the transfer time under section 8.

- (2) Expressions used in this Act that are defined in the *Egg Industry Service Provision Act 2002* have the same meanings as they have in that Act.

5 Application of this Act

This Act applies both within and outside Australia.

6 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Part 2—Transitional provisions

7 Transitional functions of Rural Industries Research and Development Corporation

- (1) It is a function of the Rural Industries Research and Development Corporation to plan, facilitate and participate in the implementation of this Act.
- (2) The Rural Industries Research and Development Corporation also has the function of providing funds to another entity (see subsection (5)) in order to:
 - (a) meet expenses or liabilities that the entity incurs in assisting the Rural Industries Research and Development Corporation with carrying out its function under subsection (1); or
 - (b) reimburse the entity for such expenses.
- (3) The Minister may give a written direction to the Rural Industries Research and Development Corporation about the performance of its functions under this section. The Corporation must comply with the direction.
- (4) The Minister must cause a copy of a direction to be laid before each House of the Parliament within 15 sitting days of that House after the direction is given.
- (5) In this section:

entity means any person or body (including the Commonwealth).

8 Declaration of transfer time

The Minister must, in writing, declare the beginning of a specified day to be the *transfer time* for the purposes of this Act.

Section 9

9 Successor body

The first body that is declared under the *Egg Industry Service Provision Act 2002* as the industry services body automatically becomes the *successor body*.

10 Transfer of assets

- (1) This section provides for an asset of the Rural Industries Research and Development Corporation (the *transferor*) used in connection with functions related to the Australian egg industry to become an asset of the successor body (the *transferee*).
- (2) The Minister may, in writing, make any or all of the following declarations in relation to the asset:
 - (a) a declaration that the asset vests in the transferee at the transfer time without any conveyance, transfer or assignment;
 - (b) a declaration that a specified instrument relating to the asset continues to have effect after the transfer time as if a reference in the instrument to the transferor were a reference to the transferee;
 - (c) a declaration that the transferee becomes the transferor's successor in law in relation to the asset immediately after the transfer time.

Note: An asset or instrument may be specified by name, by inclusion in a specified class or in any other way.

- (3) The declaration has effect accordingly.

11 Transfer of liabilities

- (1) This section provides for a liability of the Rural Industries Research and Development Corporation (the *transferor*) relating to the egg industry to become a liability of the successor body (the *transferee*).
- (2) The Minister may, in writing, make any or all of the following declarations in relation to the liability:
 - (a) a declaration that the liability vests in the transferee at the transfer time without any conveyance, transfer or assignment;

- (b) a declaration that a specified instrument relating to the liability continues to have effect after the transfer time as if a reference in the instrument to the transferor were a reference to the transferee;
- (c) a declaration that the transferee becomes the transferor's successor in law in relation to the liability immediately after the transfer time.

Note: A liability or instrument may be specified by name, by inclusion in a specified class or in any other way.

- (3) The declaration has effect accordingly.

12 Exemption from stamp duty etc.

- (1) No stamp duty or other tax is payable under a law of a State or Territory in respect of an exempt matter (see subsection (4)), or anything connected with an exempt matter.
- (2) The Minister may certify in writing:
 - (a) that a specified matter is an exempt matter; or
 - (b) that a specified thing was done in connection with a specified exempt matter.
- (3) In all courts, and for all purposes, a certificate under subsection (2) is evidence of the matter stated in the certificate.
- (4) In this section:

exempt matter means any of the following:

- (a) the transfer of an asset under section 10;
- (b) the transfer of a liability under section 11;
- (c) the operation of this Part in any other respect.

13 Operation of GST law

- (1) For the purposes of the GST law, the transfer of assets to the successor body under section 10 of this Act is taken to be consideration provided by the Commonwealth to the successor body for entering into obligations under the funding contract that

Section 14

was entered into by the successor body under the *Egg Industry Service Provision Act 2002*.

- (2) An expression that is used in this section and defined in the *A New Tax System (Goods and Services Tax) Act 1999* has the same meaning in this section as it has in that Act.

14 Certificates in relation to assets

- (1) This section applies if:
- (a) an asset vests in the successor body under this Part; and
 - (b) there is lodged with an assets official (see subsection (3)) a certificate that:
 - (i) is signed by the Minister; and
 - (ii) identifies the asset; and
 - (iii) states that the asset has become vested in the successor body under this Part.
- (2) The assets official may:
- (a) deal with, and give effect to, the certificate as if it were a proper and appropriate instrument for transactions in relation to assets of that kind; and
 - (b) make such entries in the register as are necessary having regard to the effect of this Part.
- (3) In this section:

assets official means the person or authority who, under a law of the Commonwealth, a State or a Territory, under a trust instrument or otherwise, has responsibility for keeping a register in relation to assets of the kind concerned.

15 Saving—levies

- (1) Amounts equal to amounts of levy (see subsection (3)) that are received by the Commonwealth, but in respect of which a corresponding payment has not been made out of the Consolidated Revenue Fund under section 30 of the *Primary Industries and Energy Research and Development Act 1989* before the transfer day, are to be paid to the successor body.

Section 15

(2) Amounts payable under this section are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

(3) In this section:

levy means:

- (a) amounts of levy (*laying chicken levy*) imposed under subclause 3(1) of Schedule 16 to the *Primary Industries (Excise) Levies Act 1999* at a rate set under paragraph 4(a) of that Schedule; and
- (b) amounts a person is liable to pay under section 7 of the *Primary Industries Levies and Charges Collection Act 1991* in relation to laying chicken levy; and
- (c) amounts payable under section 15 of the *Primary Industries Levies and Charges Collection Act 1991* in relation to laying chicken levy.

Note: Section 7 of the *Primary Industries Levies and Charges Collection Act 1991* concerns liability of intermediaries and section 15 of that Act concerns penalty for late payment.

Part 3—Miscellaneous provisions

16 Operation of the Archives Act

- (1) This Act does not authorise a Commonwealth record (within the meaning of the *Archives Act 1983*) to be transferred or otherwise dealt with except in accordance with the provisions of that Act.
- (2) A Commonwealth record (within the meaning of the *Archives Act 1983*) must not be transferred to a person under this Act unless the National Archives of Australia has given permission under paragraph 24(2)(b) of that Act.

17 Delegations

- (1) The Minister may delegate all or any of the Minister's powers and functions under this Act or the regulations to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or acting SES employee, in the Department.The delegation must be in writing.
- (2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

18 Compensation for acquisition of property

- (1) If:
 - (a) apart from this section, the operation of this Act would result in the acquisition of property from a person otherwise than on just terms; and
 - (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;the Commonwealth is liable to pay the person a reasonable amount of compensation in respect of the acquisition.

Section 19

- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (3) In this section:
- acquisition of property* has the same meaning as in paragraph 51(xxxi) of the Constitution.
- just terms* has the same meaning as in paragraph 51(xxxi) of the Constitution.

19 Regulations

- (1) The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made for matters of a transitional or saving nature arising from:
- (a) amendments made by this Act; and
 - (b) the enactment of this Act and the *Egg Industry Service Provision Act 2002*.

Schedule 1—Amendments

Primary Industries (Excise) Levies Act 1999

1 Clause 1 of Schedule 16

Insert:

industry services body has the same meaning as in the *Egg Industry Service Provision Act 2002*.

Note: If no industry services body is ever declared under subsection 6(1) of the *Egg Industry Service Provision Act 2002*, this item does not come into operation. See subsection 2(3) of this Act.

2 Paragraph 6(1)(a) of Schedule 16

Omit all the words after “unless”, substitute “the industry services body has made a recommendation to the Minister with respect to the amount to be prescribed by the regulations for the purposes of that paragraph.”.

Note: If no industry services body is ever declared under subsection 6(1) of the *Egg Industry Service Provision Act 2002*, this item does not come into operation. See subsection 2(3) of this Act.

3 Subclause 6(2) of Schedule 16

Omit all the words after “by”, substitute “the industry services body”.

Note: If no industry services body is ever declared under subsection 6(1) of the *Egg Industry Service Provision Act 2002*, this item does not come into operation. See subsection 2(3) of this Act.

4 Subclause 6(3) of Schedule 16

Repeal the subclause.

Note: If no industry services body is ever declared under subsection 6(1) of the *Egg Industry Service Provision Act 2002*, this item does not come into operation. See subsection 2(3) of this Act.

[*Minister’s second reading speech made in—
House of Representatives on 28 August 2002
Senate on 23 September 2002*]

(173/02)
