



Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 2004

No. 139, 2004

**An Act to amend the law relating to agriculture,
fisheries and forestry, 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

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	2
Schedule 1—Live-stock export marketing body and live-stock export research body		3
	<i>Australian Meat and Live-stock Industry Act 1997</i>	3
	<i>Primary Industries (Customs) Charges Act 1999</i>	10
	<i>Primary Industries (Excise) Levies Act 1999</i>	14
Schedule 2—Prescribed animals for purposes of certain definitions in the Australian Meat and Live-stock Industry Act		18
	<i>Australian Meat and Live-stock Industry Act 1997</i>	18
Schedule 3—Technical amendments		20
	Part 1—Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2003	20
	Part 2—Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2004	21



Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 2004

No. 139, 2004

An Act to amend the law relating to agriculture, fisheries and forestry, and for related purposes

[Assented to 13 December 2004]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Agriculture, Fisheries and Forestry
Legislation Amendment Act (No. 2) 2004*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	13 December 2004
2. Schedules 1 and 2	The day on which this Act receives the Royal Assent.	13 December 2004
3. Schedule 3, Part 1	Immediately after the commencement of section 2 of the <i>Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2003</i> .	2 May 2003
4. Schedule 3, Part 2	Immediately after the commencement of section 2 of the <i>Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2004</i> .	28 April 2004

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 contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 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.

Schedule 1—Live-stock export marketing body and live-stock export research body

Australian Meat and Live-stock Industry Act 1997

1 Section 58

Insert:

industry marketing body means the body for the time being declared to be the industry marketing body under subsection 60(1).

2 Section 58

Insert:

industry research body means the body for the time being declared to be the industry research body under subsection 60(2).

3 Section 58

Insert:

live-stock export marketing body means the body for the time being declared to be the live-stock export marketing body under subsection 60(3).

4 Section 58

Insert:

live-stock export research body means the body for the time being declared to be the live-stock export research body under subsection 60(3A).

5 Section 58 (definition of *marketing body*)

Repeal the definition.

6 Section 58 (definition of *research body*)

Repeal the definition.

7 Subsection 60(3)

Repeal the subsection, substitute:

- (3) The Minister may, in writing, declare a body to be the live-stock export marketing body.
- (3A) The Minister may, in writing, declare a body to be the live-stock export research body.
- (3B) The Minister may do either or both of the following:
 - (a) declare the same body to be both the industry marketing body and the industry research body;
 - (b) declare the same body to be both the live-stock export marketing body and the live-stock export research body;but the Minister must not:
 - (c) declare the same body to be either the industry marketing body or the industry research body, or both, and also to be either the live-stock export marketing body or the live-stock export research body, or both; or
 - (d) declare more than one industry marketing body, more than one industry research body, more than one live-stock export marketing body or more than one live-stock export research body at any one time.

Note: The heading to section 60 is replaced by the heading “**Declaration of industry marketing body, industry research body, live-stock export marketing body and live-stock export research body**”.

8 Subsection 60(4)

Before “marketing body”, insert “industry”.

9 Subsection 60(5)

Before “research body”, insert “industry”.

10 After subsection 60(5)

Insert:

- (5A) The Minister must not declare a body to be the live-stock export marketing body unless satisfied:
 - (a) that the body is a company limited by guarantee incorporated under the *Corporations Act 2001*; and

- (b) that, having regard to its membership, its memorandum and articles of association, and any undertakings it has given, or agreements or arrangements it has entered into with other industry representatives or the Minister (or both), whether before or after the commencement of this section, the body can appropriately represent that part of the industry that relates to the export of live-stock, in relation to that part of the industry's marketing, promotion or other prescribed interests; and
 - (c) that the body has consented to the declaration.
- (5B) The Minister must not declare a body to be the live-stock export research body unless satisfied:
- (a) that the body is a company limited by guarantee incorporated under the *Corporations Act 2001*; and
 - (b) that, having regard to its membership, its memorandum and articles of association, and any undertakings it has given, or agreements or arrangements it has entered into with other industry representatives or the Minister (or both), whether before or after the commencement of this section, the body can appropriately represent that part of the industry that relates to the export of live-stock, in relation to that part of the industry's research and development interests; and
 - (c) that the body has consented to the declaration.

11 Subsection 61(1)

Before "research body", insert "industry".

12 Section 62

After "research body", insert ", the live-stock export marketing body, the live-stock export research body".

13 Subsection 63(1A)

Before "marketing body", insert "industry".

Note: The heading to section 63 is altered by inserting "**industry**" before "**marketing**".

14 Paragraphs 63(1A)(d) and (g)

Repeal the paragraphs.

15 Subsection 63(1)

Before “marketing body”, insert “industry”.

16 Subsection 63(2)

Before “marketing body”, insert “industry”.

17 Subsection 64(1A)

Before “research body”, insert “industry”.

Note: The heading to section 64 is altered by inserting “**industry**” before “**research**”.

18 Paragraphs 64(1A)(d) and (g)

Repeal the paragraphs.

19 Subsection 64(1)

Before “research body”, insert “industry”.

20 Subsection 64(2)

Before “research body”, insert “industry”.

21 After section 64

Insert:

64A Payments to the live-stock export marketing body

- (1) There is to be paid to the live-stock export marketing body, at the times, and in the manner and subject to the conditions agreed between the Minister and the body, amounts equal to:
 - (a) amounts of charge received by the Commonwealth because of paragraph 3(1)(a) of Schedule 2 to the *Primary Industries (Customs) Charges Act 1999*; and
 - (b) amounts of charge received by the Commonwealth because of paragraphs 3(a), 4(a) and 5(a) of Schedule 11 to the *Primary Industries (Customs) Charges Act 1999*.
- (2) The amounts payable to the live-stock export marketing body under this section are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

64B Payments to the live-stock export research body

- (1) There is to be paid to the live-stock export research body, at the times, and in the manner and subject to the conditions agreed between the Minister and the body, amounts equal to:
 - (a) amounts of charge received by the Commonwealth because of paragraph 3(1)(b) of Schedule 2 to the *Primary Industries (Customs) Charges Act 1999*; and
 - (b) amounts of charge received by the Commonwealth because of paragraphs 3(b), 4(b) and 5(b) of Schedule 11 to the *Primary Industries (Customs) Charges Act 1999*.
- (2) The amounts payable to the live-stock export research body under this section are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

22 Subsection 65(2)

Repeal the subsection, substitute:

- (2) A reference in paragraph 63(1A)(c), 63(1A)(f), 63(1)(c), 63(1)(d), 63(1)(f), 63(1)(g), 64(1A)(c), 64(1A)(f), 64(1)(c), 64(1)(d), 64(1)(f), 64(1)(g), 64A(1)(a), 64A(1)(b), 64B(1)(a) or 64B(1)(b) to amounts of charge received by the Commonwealth includes a reference to amounts received under subsection 7(3) of the *Primary Industries Levies and Charges Collection Act 1991* and amounts payable by way of penalty under section 15 of that Act in relation to amounts of charge referred to in that paragraph.

23 Subsections 66(1), (2) and (3)

Before “research body” (wherever occurring), insert “industry”.

24 Subsection 67(1)

Before “marketing body”, insert “industry”.

25 Subsections 67(2) and (3)

Before “research body”, insert “industry”.

26 After subsection 67(3)

Insert:

- (3A) The amounts paid to the live-stock export marketing body under section 64A may be applied by that body only:
- (a) in payment to the Commonwealth of amounts equal to the expenses incurred by the Commonwealth in relation to:
 - (i) the collection or recovery of amounts referred to in section 64A; or
 - (ii) the administration of that section; and
 - (b) in making payments for or in connection with marketing or promotion relating to the export of live-stock and in accordance with the conditions (if any) on which the amounts were paid to that body under section 64A; and
 - (c) in making such other payments (if any), subject to such conditions (if any), as are prescribed.
- (3B) The amounts paid to the live-stock export research body under section 64B may be applied by that body only:
- (a) in payment to the Commonwealth of amounts equal to the expenses incurred by the Commonwealth in relation to:
 - (i) the collection or recovery of amounts referred to in section 64B; or
 - (ii) the administration of that section; and
 - (b) in making payments for or in connection with research and development relating to the export of live-stock and in accordance with the conditions (if any) on which the amounts were paid to that body under section 64B; and
 - (c) in making such other payments (if any), subject to such conditions (if any), as are prescribed.

27 Section 68

Omit “or 64”, substitute “, 64, 64A or 64B”.

28 At the end of Part 3

Add:

Division 4—Reporting to Parliament in relation to live-stock export bodies

68A Division applies if Minister and live-stock export body enter into funding agreement

This Division applies if the Minister and a body (the *live-stock export body*) that is:

- (a) the live-stock export marketing body; or
- (b) the live-stock export research body; or
- (c) both of those bodies;

enter into an agreement (the *funding agreement*) on conditions as mentioned in whichever of subsection 64A(1) or 64B(1), or both, is applicable.

68B Reporting to Parliament about funding agreement and variations

The Minister must, within 14 sitting days of each House of the Parliament after:

- (a) the day on which the funding agreement is entered into; and
- (b) if the funding agreement is later agreed to be varied—the day on which the agreement to vary the funding agreement is entered into;

arrange for a copy of the funding agreement, or the agreement to vary, to be tabled in that House.

68C Reporting to Parliament about compliance with funding agreement

- (1) The Minister must, as soon as practicable after the end of each financial year during the whole or part of which the funding agreement is in force, arrange for a report in accordance with subsection (2) to be tabled in each House of the Parliament.
- (2) The report must:
 - (a) give details of the amounts paid to the body under whichever of subsection 64A(1) or 64B(1), or both, is applicable; and

- (b) state whether the Minister is satisfied, on the basis of information provided by the body, that the spending by the body of those amounts complies with the funding agreement; and
- (c) if the Minister is not so satisfied—give details of why the Minister is not so satisfied.

68D Minister to table live-stock export body’s annual report in Parliament

If the live-stock export body gives the Minister a copy of its annual report for any financial year during the whole or part of which the funding agreement is in force, the Minister must, as soon as practicable after receiving the copy, arrange for a copy to be tabled in each House of the Parliament.

29 Subsection 69(8) (paragraph (a) of the definition of *prescribed body*)

Before “marketing”, insert “industry”.

30 Subsection 69(8) (paragraph (b) of the definition of *prescribed body*)

Before “research”, insert “industry”.

31 Subsection 69(8) (after paragraph (b) of the definition of *prescribed body*)

Insert:

- (ba) the live-stock export marketing body within the meaning of Part 3; or
- (bb) the live-stock export research body within the meaning of Part 3; or

Primary Industries (Customs) Charges Act 1999

32 Clause 1 of Schedule 2

Insert:

live-stock export marketing body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

33 Clause 1 of Schedule 2

Insert:

live-stock export research body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

34 Clause 1 of Schedule 2 (definition of *marketing body*)

Repeal the definition.

35 Clause 1 of Schedule 2 (definition of *research body*)

Repeal the definition.

36 Subclause 3(1) of Schedule 2 (note 1)

Before “marketing”, insert “live-stock export”.

37 Subclause 3(1) of Schedule 2 (note 2)

Before “research”, insert “live-stock export”.

38 Subclause 1(1) of Schedule 3

Insert:

industry marketing body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

39 Subclause 1(1) of Schedule 3

Insert:

industry research body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

40 Subclause 1(1) of Schedule 3 (definition of *marketing body*)

Repeal the definition.

41 Subclause 1(1) of Schedule 3 (definition of *research body*)

Repeal the definition.

42 Subclause 3(1) of Schedule 3 (note 1)

Before “marketing”, insert “industry”.

43 Subclause 3(1) of Schedule 3 (note 2)

Before “research”, insert “industry”.

44 Subclause 3(2) of Schedule 3 (note 1)

Before “marketing”, insert “industry”.

45 Subclause 3(2) of Schedule 3 (note 2)

Before “research”, insert “industry”.

46 Clause 1 of Schedule 11

Insert:

live-stock export marketing body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

47 Clause 1 of Schedule 11

Insert:

live-stock export research body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

48 Clause 1 of Schedule 11 (definition of *marketing body*)

Repeal the definition.

49 Clause 1 of Schedule 11 (definition of *research body*)

Repeal the definition.

50 Clause 3 of Schedule 11 (note 1)

Before “marketing”, insert “live-stock export”.

51 Clause 3 of Schedule 11 (note 2)

Before “research”, insert “live-stock export”.

52 Clause 4 of Schedule 11 (note 1)

Before “marketing”, insert “live-stock export”.

53 Clause 4 of Schedule 11 (note 2)

Before “research”, insert “live-stock export”.

54 Clause 5 of Schedule 11 (note 1)

Before “marketing”, insert “live-stock export”.

55 Clause 5 of Schedule 11 (note 2)

Before “research”, insert “live-stock export”.

56 Clause 1 of Schedule 12

Insert:

industry marketing body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

57 Clause 1 of Schedule 12

Insert:

industry research body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

58 Clause 1 of Schedule 12 (definition of *marketing body*)

Repeal the definition.

59 Clause 1 of Schedule 12 (definition of *research body*)

Repeal the definition.

60 Clause 3 of Schedule 12 (note 1)

Before “marketing”, insert “industry”.

61 Clause 3 of Schedule 12 (note 2)

Before “research”, insert “industry”.

62 Clause 4 of Schedule 12 (note 1)

Before “marketing”, insert “industry”.

63 Clause 4 of Schedule 12 (note 2)

Before “research”, insert “industry”.

64 Clause 5 of Schedule 12 (note 1)

Before “marketing”, insert “industry”.

65 Clause 5 of Schedule 12 (note 2)

Before “research”, insert “industry”.

Primary Industries (Excise) Levies Act 1999

66 Clause 1 of Schedule 1

Insert:

industry marketing body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

67 Clause 1 of Schedule 1

Insert:

industry research body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

68 Clause 1 of Schedule 1 (definition of *marketing body*)

Repeal the definition.

69 Clause 1 of Schedule 1 (definition of *research body*)

Repeal the definition.

70 Subclause 3(1) of Schedule 1 (note 1)

Before “marketing”, insert “industry”.

71 Subclause 3(1) of Schedule 1 (note 2)

Before “research”, insert “industry”.

72 Clause 1 of Schedule 3

Insert:

industry marketing body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

73 Clause 1 of Schedule 3

Insert:

industry research body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

74 Clause 1 of Schedule 3 (definition of *marketing body*)

Repeal the definition.

75 Clause 1 of Schedule 3 (definition of *research body*)

Repeal the definition.

76 Subclause 6(1) of Schedule 3 (note 1)

Before “marketing”, insert “industry”.

77 Subclause 6(1) of Schedule 3 (note 2)

Before “research”, insert “industry”.

78 Subclause 6(2) of Schedule 3 (note 1)

Before “marketing”, insert “industry”.

79 Subclause 6(2) of Schedule 3 (note 2)

Before “research”, insert “industry”.

80 Subclause 6(3) of Schedule 3 (note 1)

Before “marketing”, insert “industry”.

81 Subclause 6(3) of Schedule 3 (note 2)

Before “research”, insert “industry”.

82 Clause 1 of Schedule 17

Insert:

industry marketing body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

83 Clause 1 of Schedule 17

Insert:

industry research body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

84 Clause 1 of Schedule 17 (definition of *marketing body*)

Repeal the definition.

85 Clause 1 of Schedule 17 (definition of *research body*)

Repeal the definition.

86 Subclause 3(1) of Schedule 17 (note 1)

Before “marketing”, insert “industry”.

87 Subclause 3(1) of Schedule 17 (note 2)

Before “research”, insert “industry”.

88 Subclause 3(2) of Schedule 17 (note 1)

Before “marketing”, insert “industry”.

89 Subclause 3(2) of Schedule 17 (note 2)

Before “research”, insert “industry”.

90 Subclause 3(3) of Schedule 17 (note 1)

Before “marketing”, insert “industry”.

91 Subclause 3(3) of Schedule 17 (note 2)

Before “research”, insert “industry”.

92 Clause 1 of Schedule 18

Insert:

industry marketing body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

93 Clause 1 of Schedule 18

Insert:

industry research body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

94 Clause 1 of Schedule 18 (definition of *marketing body*)

Repeal the definition.

95 Clause 1 of Schedule 18 (definition of *research body*)

Repeal the definition.

96 Subclause 4(1) of Schedule 18 (note 1)

Before “marketing”, insert “industry”.

97 Subclause 4(1) of Schedule 18 (note 2)

Before “research”, insert “industry”.

98 Subclause 4(3) of Schedule 18 (note 1)

Before “marketing”, insert “industry”.

99 Subclause 4(3) of Schedule 18 (note 2)

Before “research”, insert “industry”.

100 Subclause 4(4) of Schedule 18 (note 1)

Before “marketing”, insert “industry”.

101 Subclause 4(4) of Schedule 18 (note 2)

Before “research”, insert “industry”.

Schedule 2—Prescribed animals for purposes of certain definitions in the Australian Meat and Live-stock Industry Act

Australian Meat and Live-stock Industry Act 1997

1 Section 3 (definition of *edible offal*)

Omit “live-stock”, substitute “cattle, calves, sheep, lambs, goats or other animals prescribed for the purposes of the definition of *meat*”.

2 Section 3 (definition of *live-stock*)

Omit “prescribed animals”, substitute “animals prescribed for the purposes of this definition”.

3 Section 3 (definition of *meat*)

Omit “live-stock”, substitute “cattle, calves, sheep, lambs, goats or other animals prescribed for the purposes of this definition”.

4 Transitional

(1) To avoid doubt, if:

- (a) just before the commencement of items 1 and 3, a licence, order or other instrument was in force; and
- (b) the licence, order or other instrument applied to:
 - (i) meat of an animal that was at that time a prescribed animal for the purposes of the definition of *live-stock* in section 3 of the *Australian Meat and Live-stock Industry Act 1997* as in force at that time; or
 - (ii) any meat product, meat by-product or edible offal (all within the meaning of that section) of such an animal;

then, after the commencement of items 1 and 3:

- (c) the licence, order or other instrument ceases to apply to that meat, meat product, meat by-product or edible offal; and
- (d) the application of the licence, order or instrument to any other meat, meat product, meat by-product or edible offal is not affected by the amendments made by the items.

- (2) To avoid doubt, the amendment made by item 2 does not affect the validity of any regulation made before the item commences.

Schedule 3—Technical amendments

Part 1—Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2003

1 Subsection 2(1) (table item 4, column 2)

Omit “*Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 2003*”, substitute “*Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2004*”.

2 Subsection 2(1) (table item 6, column 2)

Omit “*Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 2003*”, substitute “*Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2004*”.

3 Subsection 2(1) (table item 8, column 2)

Omit “*Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 2003*”, substitute “*Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2004*”.

4 Subsection 2(3)

Omit “*Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 2003*”, substitute “*Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2004*”.

5 Schedule 5 (note to Schedule heading)

Omit “*Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 2003*”, substitute “*Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2004*”.

6 Schedule 5 (heading before item 1)

Repeal the heading, substitute:

***Agriculture, Fisheries and Forestry Legislation Amendment
Act (No. 1) 2004***

Part 2—Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2004

7 Subsection 2(1) (table item 5B, column 2)

Omit “*Australian Federal Police and Other Legislation Amendment Act 2003*”, substitute “*Australian Federal Police and Other Legislation Amendment Act 2004*”.

[*Minister’s second reading speech made in—
House of Representatives on 17 November 2004
Senate on 2 December 2004*]

(209/04)