



Laying Chicken Levy Collection Act 1988

No. 17 of 1988

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Laying Chicken Levy Collection Act 1988

No. 17 of 1988

An Act relating to the collection of the levy imposed by the *Laying Chicken Levy Act 1988*

[Assented to 11 May 1988]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

1. This Act may be cited as the *Laying Chicken Levy Collection Act 1988*.

Commencement

2. This Act commences on the commencement of the *Laying Chicken Levy Act 1988*.

Interpretation

3. In this Act, unless the contrary intention appears:

“authorised person” means a person who is, by virtue of an appointment under section 16, an authorised person for the purposes of the provision in which the expression appears;

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“chicken” means a chicken hatched from the egg of a domesticated fowl;

“examinable documents” means any documents relating to:

- (a) eggs to be used for the hatching of chickens;
- (b) the hatching of chickens; or
- (c) chickens less than one month old;

“hatchery” means a hatchery where chickens are hatched for commercial purposes;

“laying chicken” means a female chicken that is to be raised for the production of eggs;

“levy” means the levy imposed by the *Laying Chicken Levy Act 1988*;

“Secretary” means the Secretary to the Department;

“this Act” includes the regulations.

Nominal groups of 100 chickens

4. For the purposes of this Act, where, in accordance with the practice of the poultry industry, the proprietor of a hatchery treats a number of chickens, being a number not exceeding 106, as 100 chickens, that number of chickens shall be taken to be 100 chickens.

When levy due for payment

5. (1) Subject to this section, levy in respect of a laying chicken is due and payable at the end of the second month after the month in which the chicken was hatched.

(2) Levy in respect of the first 1,000 laying chickens hatched at a hatchery in a particular financial year is due and payable at the end of the second month after the month in which the thousandth chicken was hatched.

Penalty for late payment

6. If any levy payable by a person remains unpaid after the time when it became due for payment, the person is liable to pay to the Commonwealth, by way of penalty, an amount calculated at the rate of 20% per annum on the amount unpaid, computed from that time.

Remission of penalty

7. (1) Subject to subsection (2), the Minister or an authorised person may remit the whole or a part of an amount payable under section 6.

(2) An amount remitted by an authorised person may not exceed \$500.

(3) Where the Minister or an authorised person makes a decision refusing to remit the whole or part of an amount payable by a person (in this subsection called the ‘debtor’), the Minister or the authorised person shall cause to be served on the debtor a notice in writing setting out that decision.

Recovery of levy and other amounts

8. The following amounts may be recovered by the Commonwealth as debts due to the Commonwealth:

- (a) amounts of levy that are due for payment;
- (b) amounts payable under section 6.

Powers of authorised person in relation to premises

9. (1) An authorised person may:

- (a) with the consent of the occupier of the premises; or
- (b) in accordance with a warrant issued under section 10;

enter premises for the purposes of exercising the powers of an authorised person under subsection (3).

(2) Where an authorised person proposes to enter premises otherwise than in accordance with a warrant issued under section 10, the authorised person shall produce his or her identity card to the occupier of the premises for the occupier's inspection and, if the authorised person fails to do so, the authorised person is not entitled to enter the premises under subsection (1).

(3) Where an authorised person enters premises under subsection (1), the authorised person may:

- (a) search for, examine and take stock of:
 - (i) eggs to be used for the hatching of chickens; and
 - (ii) chickens less than one month old; and
- (b) search for, inspect, take extracts from and make copies of any examinable documents.

Warrant to enter premises

10. (1) If a magistrate, on application by an authorised person, is satisfied, by information on oath or affirmation:

- (a) that there is a reasonable ground for believing:
 - (i) that eggs to be used for the hatching of chickens are kept on particular premises;
 - (ii) that chickens are hatched on particular premises;
 - (iii) that chickens less than one month old are kept on particular premises; or
 - (iv) that there are examinable documents on particular premises; and
- (b) that the issue of the warrant is reasonably required for the purposes of this Act;

the magistrate may issue a warrant.

(2) The warrant authorises the authorised person to enter the premises:

- (a) with such assistance and by such force as is necessary and reasonable; and

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(b) during such hours as the warrant specifies or, if the warrant so specifies, at any time.

(3) The warrant shall specify the period (not being a period ending later than 28 days after the issue of the warrant) during which the warrant remains in effect.

Obstructing or hindering authorised persons

11. A person shall not, without reasonable excuse, obstruct or hinder an authorised person exercising powers under subsection 9 (3).

Penalty: \$1,000 or imprisonment for 6 months, or both.

Identity cards

12. (1) The Secretary may cause an identity card to be issued to an authorised person.

(2) An identity card shall:

- (a) contain a photograph of the authorised person to whom it is issued; and
- (b) be in a form approved, in writing, by the Secretary.

(3) Where a person to whom an identity card has been issued ceases to be an authorised person, the person shall forthwith return the identity card to a person occupying such office in the Department as is designated, in writing, by the Secretary.

Penalty for contravention of this subsection: \$100.

Power to require returns etc.

13. An authorised person may, by notice in writing given to a person, require the person to submit to the authorised person, within such reasonable time as is specified in the notice, such return or information in relation to matters relevant to the operation of this Act as is specified in the notice (including a return or information verified by statutory declaration).

Offences in relation to returns etc.

14. (1) A person shall not, without reasonable excuse, refuse or fail to submit a return or information that the person is required by or under this Act to submit.

(2) A person is not excused from submitting a return or information on the ground that the return or information might tend to incriminate the person, but any return or information submitted, and any information or thing (including any document) obtained as a direct or indirect consequence of the submitting of the return or information, is not admissible in evidence against the person in:

- (a) criminal proceedings other than proceedings for an offence against subsection (1) or (3); or
- (b) proceedings for recovery of an amount payable by way of penalty under section 6.

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(3) A person shall not knowingly present a document, make a statement or submit a return or information, that is false or misleading in a material particular, to a person performing duties under this Act.

Penalty:

- (a) if the person is a natural person—\$1,000 or imprisonment for 6 months, or both; or**
- (b) if the person is a body corporate—\$5,000.**

Conduct of directors, servants and agents

15. (1) Where it is necessary to establish, for the purposes of this Act, the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:

- (a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; and**
 - (b) that the director, servant or agent had the state of mind.**
- (2) Any conduct engaged in on behalf of a body corporate by:**
- (a) a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; or**
 - (b) any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent;**

shall be deemed, for the purposes of this Act, to have been engaged in also by the body corporate.

(3) Where it is necessary to establish, for the purposes of this Act, the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show:

- (a) that the conduct was engaged in by a servant or agent of the person within the scope of his or her actual or apparent authority; and**
- (b) that the servant or agent had the state of mind.**

(4) Any conduct engaged in on behalf of a person other than a body corporate by:

- (a) a servant or agent of the person within the scope of his or her actual or apparent authority; or**
- (b) any other person at the direction or with the consent or agreement (whether express or implied) of a servant or agent of the first-mentioned person, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent;**

shall be deemed, for the purposes of this Act, to have been engaged in also by the first-mentioned person.

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(5) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

Appointment of authorised persons

16. The Secretary may, in writing, appoint a person to be an authorised person for the purposes of a specified provision of this Act.

Review of decisions

17. (1) Application may be made to the Administrative Appeals Tribunal for review of a decision to refuse to remit under subsection 7 (1) the whole or part of an amount.

(2) Where the Minister or an authorised person makes a decision under subsection 7 (1) and gives to a person whose interests are affected by the decision notice in writing of the decision, that notice shall:

- (a) in all cases—include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal, by or on behalf of any person whose interests are affected by the decision, for review of the decision; and
- (b) except where subsection 28 (4) of that Act applies—include a statement to the effect that a request may be made under section 28 of that Act by or on behalf of such a person for a statement setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.

(3) A failure to comply with the requirements of subsection (2) in relation to a decision does not affect the validity of the decision.

Delegation by Secretary

18. (1) The Secretary may, by writing, delegate to the person occupying a specified office in the Department all or any of his or her powers under this Act.

(2) The delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the Secretary.

Payment of levy into Research Fund

19. The *Rural Industries Research Act 1985* has effect as if levy imposed by the *Laying Chicken Levy Act 1988* were imposed by the *Poultry Industry Levy Act 1965* and were, when received, received by virtue of paragraph 6 (1) (b) of the *Poultry Industry Levy Act 1965*.

Regulations

20. The Governor-General may make regulations, not inconsistent with this Act, 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;

and in particular:

- (c) providing for the manner of payment of levy and other amounts payable to the Commonwealth under this Act;
- (d) requiring proprietors of hatcheries and such other persons as are prescribed for the purposes of this paragraph to make and keep accounts, accounting records and other records in relation to:
 - (i) eggs to be used for hatching chickens;
 - (ii) the hatching of chickens; and
 - (iii) chickens less than one month old;
- (e) requiring proprietors of hatcheries and such other persons as are prescribed for the purposes of this paragraph to provide returns or information for the purposes of this Act; and
- (f) prescribing penalties not exceeding:
 - (i) in the case of a natural person—a fine of \$500; and
 - (ii) in the case of a body corporate—a fine of \$2,500;for offences against the regulations.

*[Minister's second reading speech made in—
House of Representatives on 24 February 1988
Senate on 23 March 1988]*