



# **Primary Industries Levies and Charges Collection Act 1991**

**No. 25, 1991**

## **Compilation No. 30**

<b>Compilation date:</b>	21 October 2016
<b>Includes amendments up to:</b>	Act No. 61, 2016
<b>Registered:</b>	21 October 2016

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## About this compilation

### This compilation

This is a compilation of the *Primary Industries Levies and Charges Collection Act 1991* that shows the text of the law as amended and in force on 21 October 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# **An Act relating to the collection of primary industries levies and charges imposed by various Acts**

## **1 Short title**

This Act may be cited as the *Primary Industries Levies and Charges Collection Act 1991*.

## **2 Commencement**

This Act commences on 1 July 1991.

## **3 Objects**

The objects of this Act are:

- (a) to rationalise levy and charge collection; and
- (b) to make provision for the efficient and effective collection of primary industry levies and charges.

## **4 Interpretation**

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

***abattoir*** means a place where animals intended for human consumption are slaughtered.

***associated Act*** means:

- (a) an Act specified in Schedule 1 or prescribed for the purposes of the definition of ***charge*** in this subsection; or
- (b) an Act specified in Schedule 2 or prescribed for the purposes of the definition of ***levy*** in this subsection.

***authorised person*** means a person who is, because of an appointment under section 26, an authorised person for the purposes of the provision in which the expression appears.

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**buying agent** means a person who, in the course of carrying on a business (including the business of a settlement agent or a solicitor), purchases products on behalf of the first purchaser, or the processor, of the products.

**charge** means charge imposed by or under an Act specified in Schedule 1 or by an Act prescribed for the purposes of this definition.

**charge payer** means a person who has paid, or is liable to pay, a charge.

**collecting authority** means a State, or an authority of a State, that, by reason of an agreement entered into under section 10, has agreed to collect on behalf of the Commonwealth money payable under this Act.

**collecting organisation** means an organisation with which the Secretary has entered into an agreement under section 11.

**collection products** means products on which levy or charge is imposed.

**distribution Act** means an Act that makes provision for the payment to any body, fund or account by the Commonwealth of amounts of money required by that Act to be equal to:

- (a) amounts of money received under this Act in respect of:
  - (i) charge; or
  - (ii) amounts paid under section 15 in relation to charge; or
- (b) amounts of money received under this Act in respect of:
  - (i) levy; or
  - (ii) amounts paid under section 15 in relation to levy.

**examinable documents** means any books or documents relating to:

- (a) the producing of collection products, whether by:
  - (i) growing or harvesting; or
  - (ii) processing the products or other products; or

- (b) the handling, storing, transporting, processing, marketing, purchasing or selling of collection products; or
- (c) the purchasing or selling of prescribed goods or services in relation to collection products of any kind;

including, without limiting the generality of the foregoing, books or documents relating to financial dealings between any of the following persons:

- (d) producers of collection products;
- (e) selling agents;
- (f) first purchasers;
- (g) feedlot operators;
- (h) buying agents;
- (i) exporters;
- (j) exporting agents;
- (ja) importers;
- (jb) importing agents;
- (k) processors of collection products;
- (m) receivers of collection products;
- (n) persons who handle, store, transport or market collection products;
- (p) persons who sell goods or services that, in relation to collection products of any kind, are prescribed goods or services;
- (q) persons who deal with by-products of collection goods.

**exporting agent** means a person who, in the course of carrying on a business, exports collection products from Australia on behalf of other persons (whether or not the other persons are the owners of the products).

**feedlot operator** means a person with control of premises where cattle within the meaning of Schedule 1 or 3 to the *Primary Industries (Excise) Levies Act 1999* or Schedule 2 to the *Primary Industries (Customs) Charges Act 1999* are confined in watered and serviced yards, with no access to pasture or crops, for a period

of more than 60 days, and fed a protein based feed the components of which are intended to facilitate efficient live-stock growth.

**first purchaser** means a person who, in the course of carrying on a business, purchases collection products from the producers of the products (otherwise than through selling agents) but does not include prescribed persons who so purchase collection products for retail sale.

**harvest** includes the removal of honey from a hive.

**importing agent** means a person who, in the course of carrying on a business, imports collection products into Australia on behalf of other persons (whether or not the other persons are the owners of the products).

**intermediary**, in relation to a producer, means a person required, under subsection 7(1), (2), (3) or (3A) to pay an amount on behalf of that producer.

**leviable amount**, in relation to a levy year, means:

- (a) \$50; or
- (b) if, before the commencement of the levy year, another amount is prescribed in relation to that year, that prescribed amount.

**levy** means levy imposed by or under an Act specified in Schedule 2 or by an Act prescribed for the purposes of this definition.

**levy payer** means a person who has paid, or is liable to pay, levy.

**levy year**, in relation to a collection product, means the period of whatever duration that is prescribed in relation to that product.

**magistrate** includes a justice of the peace.

**marketing law** means a law of a State relating to the marketing of a collection product or of primary products including a collection product.



**month** means a month of the year.

**order** means an order made under the regulations.

**organisation** includes an unincorporated body of persons.

**premises** includes:

- (a) a structure, building, aircraft, vehicle or vessel; and
- (b) a place (whether enclosed or built on or not); and
- (c) a part of premises (including premises of the kind referred to in paragraph (a) or (b)).

**prescribed** includes prescribed by an Order.

**prescribed goods or services**, in relation to collection products of a particular kind means:

- (a) if those products are not products of a kind referred to in paragraph (b)—goods or services identified by the regulations as goods or services used in subjecting those products to a process in the course of:
  - (i) their production or their preparation for sale; or
  - (ii) their use in the production of other goods; or
- (b) if those products are of a kind that will, for the purpose of the imposition of levy under subclause 2(2) of Schedule 15 to the *Primary Industries (Excise) Levies Act 1999*, be presumed to have been produced in Australia—goods identified by the regulations as goods used in the production of those products.

**process**, in relation to a collection product, means the performance of any operation in relation to the product but does not include the performance of an operation prescribed for the purposes of this definition, either generally or in relation to the product.

**processing establishment** means a place at which a process in relation to a product is performed by a processor and includes an abattoir.

**processor** means:

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- (a) in relation to a collection product declared by the regulations to be a product to which this paragraph applies—the person, association, co-operative society, board or authority that produces the product; or
- (b) in relation to a collection product declared by the regulations to be a product to which this paragraph applies—the proprietor of the processing establishment that processes the product unless, immediately prior to delivery to that establishment, the product is owned by the proprietor of another processing establishment, in which case the proprietor of that other establishment.

**producer** means:

- (a) in the case of honey on which levy is imposed by clause 2 of Schedule 14 to the *Primary Industries (Excise) Levies Act 1999* or a product prescribed for the purposes of this paragraph—the person who owned the product immediately before sale; or
- (b) in the case of leviable coarse grain, leviable grain legumes or leviable oil seeds on which, in each case, levy is imposed or in the case of a product prescribed for the purposes of this paragraph:
  - (i) where a marketing law vests the product in a person or body or in the Crown in right of a State at or before the time the product is harvested—the person who would have owned the product but for that marketing law; or
  - (ii) where subparagraph (i) does not apply—the person who owns the product immediately after it is harvested; or
- (c) in the case of relevant dairy produce or leviable cotton on which, in each case, levy is imposed or in the case of a product prescribed for the purposes of this paragraph:
  - (i) where a marketing law vests the product in a person or body or in the Crown in right of a State at or before the time the product is produced—the person who would have owned the product but for that marketing law; or
  - (ii) where subparagraph (i) does not apply—the person who, immediately before the product is produced, owns

the prescribed thing from which the product is produced; or

- (d) in the case of juicing fruit or processing fruit on which, in each case, levy is imposed or in the case of a product prescribed for the purposes of this paragraph—the person who produced the product by processing the product or another product; or
- (e) in the case of a product prescribed for the purposes of this paragraph—the person who, under the regulations, is to be taken to be the producer of the product; or
- (f) in the case of pigs in relation to which levy is imposed or in the case of such other animals as are prescribed for the purposes of this paragraph—the person who owns the animals at the time when the slaughter takes place; or
- (fa) in the case of live-stock within the meaning of Schedule 12 to the *Primary Industries (Customs) Charges Act 1999* (in so far as collection of charge imposed under that Schedule is concerned—the person who owned the live-stock immediately before the export in respect of which the charge is imposed; or
- (fb) in the case of cattle within the meaning of Schedule 3 to the *Primary Industries (Customs) Charges Act 1999* (in so far as collection of charges imposed under that Schedule is concerned)—the person who owned the cattle immediately before the export in respect of which the charge is imposed; or
- (fc) in the case of buffaloes (in so far as collection of charge imposed under Schedule 1 to the *Primary Industries (Customs) Charges Act 1999* is concerned)—the person who owned the buffaloes immediately before the export in respect of which the charge is imposed; or
- (g) in the case of honey, live-stock within the meaning of Schedule 11 to the *Primary Industries (Customs) Charges Act 1999* (in so far as the collection of charge imposed under that Schedule is concerned), logs within the meaning of Schedule 7 to the *Primary Industries (Customs) Charges Act 1999* or chargeable horticultural products on which, in each

- case, charge is imposed or in the case of a product prescribed for the purposes of this paragraph—the person who exports the product from Australia; or
- (ga) in the case of forest products within the meaning of Schedule 8 to the *Primary Industries (Customs) Charges Act 1999* or in the case of such other products as are prescribed for the purposes of this paragraph—the person who imports the product into Australia; or
- (h) in the case of fresh grapes, dried grapes or grape juice on which, in each case, levy (other than wine grapes levy) is imposed or in the case of a product prescribed for the purposes of this paragraph:
- (i) where a person is the grower of the product and the proprietor of the processing establishment at which the product is processed—that person; or
  - (iii) in any other case—the person who was the owner of the product immediately before delivery to a processing establishment; or
- (hb) in the case of a collection product that will, for the purpose of the imposition of levy under subclause 2(2) of Schedule 15 to the *Primary Industries (Excise) Levies Act 1999*, be presumed to have been produced in Australia—the person who would, if the collection product presumed to be produced were actually produced, be taken to be the grower of the product; or
- (hc) in the case of sugar cane on which levy is imposed by clause 3 of Schedule 24 to the *Primary Industries (Excise) Levies Act 1999* or in the case of a product prescribed for the purposes of this paragraph:
- (i) if a processing establishment processes sugar cane it has grown itself—the processor; or
  - (ii) if sugar cane is processed on behalf of the owner of the sugar cane—the owner of the sugar cane; or
  - (iii) if subparagraphs (i) and (ii) do not apply—the person who sells the sugar cane to a processing establishment; or

- (hd) in respect of fresh grapes, dried grapes or grape juice on which wine grapes levy is imposed—the person who is the owner of the product when the wine-making process (as defined by clause 1 of Schedule 26 to the *Primary Industries (Excise) Levies Act 1999*) begins in relation to the product; or
- (j) except where subsection (2), (2A) or (2B) applies, in the case of any other product—the grower or breeder of the product.

**product** includes a thing occurring naturally.

**proprietor** means:

- (a) in relation to an abattoir:
  - (i) if a licence is required under any law of the Commonwealth or of a State or Territory to carry on abattoir activities—the person who holds the licence; or
  - (ii) if no licence is required under any such law—the person carrying on the business of operating the abattoir; and
- (b) in relation to any other processing establishment—the person carrying on the business of processing collection products in that establishment.

**R & D Corporation** means an R & D Corporation established under section 8 of the *Primary Industries Research and Development Act 1989*.

**receiver**, in relation to a collection product, means the person who:

- (a) takes delivery of the product, personally or through a person acting on his or her behalf, from the producer otherwise than for storage on behalf of the producer where no person is liable to pay the producer for the product; or
- (b) takes the product out of the control of the producer under a marketing law.

**regulations** includes orders.

**Secretary** means the Secretary of the Department.

**selling agent** means a person who, in the course of carrying on a business (including the business of a settlement agent or a

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solicitor), sells collection products on behalf of the producers of the products but does not include a prescribed person who sells collection products by retail sale.

**State** includes the Australian Capital Territory and the Northern Territory.

**this Act** includes the regulations.

- (2) For the purposes of this Act:
- (a) a person who, under subclause 7(1), (2) or (3) of Schedule 3 to the *Primary Industries (Excise) Levies Act 1999*, is liable to pay levy in relation to cattle is taken to be the producer of the cattle, and a feedlot operator who buys the cattle from such a person is taken to be a first purchaser of the cattle; and
  - (b) a person who, under clause 4 of Schedule 1 to the *Primary Industries (Excise) Levies Act 1999*, is liable to pay levy in relation to cattle is taken to be the producer of the cattle; and
  - (c) a person who, under clause 4 of Schedule 2 to the *Primary Industries (Customs) Charges Act 1999*, is liable to pay charge in relation to cattle is taken to be the producer of the cattle; and
  - (d) a person who, under clause 4 of Schedule 17 to the *Primary Industries (Excise) Levies Act 1999*, is liable to pay levy in relation to live-stock is taken to be the producer of the live-stock; and
  - (e) a person who, under clause 5 of Schedule 18 to the *Primary Industries (Excise) Levies Act 1999*, is liable to pay levy in relation to live-stock is taken to be the producer of the live-stock; and
  - (f) a person who, under clause 3 of Schedule 2 to the *Primary Industries (Excise) Levies Act 1999*, is liable to pay levy in relation to buffaloes is taken to be the producer of the buffaloes.
- (2A) The operator of a mill to which logs are delivered is taken to be the producer of the logs for the operation of this Act relating to levy

imposed by Schedule 10 to the *Primary Industries (Excise) Levies Act 1999* on the logs.

Note: In subsection (2A), **logs**, **mill** and **operator** have the meanings they have in Schedule 10 to the *Primary Industries (Excise) Levies Act 1999*: see subsection (4) of this section.

- (2B) The person prescribed by regulations for the purposes of this subsection is taken to be the producer of logs (as defined in Schedule 10 to the *Primary Industries (Excise) Levies Act 1999*) for the operation of this Act relating to levy imposed by regulations made for the purposes of Schedule 27 to that Act on the logs.
- (3) A reference in this Act to a contravention of a provision of this Act includes a reference to an offence against section 6 of the *Crimes Act 1914*, or section 11.1, 11.4 or 11.5 of the *Criminal Code*, that relates to that provision.
- (4) Unless the contrary intention appears, for the purposes of the collection of a particular levy or charge, a word or expression contained in this Act that is not defined for the purposes of this Act but is defined in:
- (a) an associated Act for the purposes of the imposition of the levy or charge by that Act; or
  - (b) a Schedule to an associated Act for the purposes of the imposition of the levy or charge by that Schedule; or
  - (c) regulations made for the purposes of Schedule 27 to the *Primary Industries (Excise) Levies Act 1999* for the purposes of the imposition of the levy by those regulations; or
  - (d) regulations made for the purposes of Schedule 14 to the *Primary Industries (Customs) Charges Act 1999* for the purposes of the imposition of the charge by those regulations;
- has the same meaning in this Act as in the associated Act, that Schedule or those regulations, as the case may be.
- (5) For the purposes of the collection or recovery of a charge imposed by Schedule 4 to the *Primary Industries (Customs) Charges Act 1999* (which deals with dairy produce), the charge may be referred to as either a charge or a levy.

## **5 Act binds Crown**

- (1) This Act binds the Crown in right of each of the States and of Norfolk Island.
- (2) Nothing in this Act renders the Crown liable to be prosecuted for an offence.

## **5A Application of the *Criminal Code***

Chapter 2 (other than Part 2.5) of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

## **6 When levy or charge due for payment**

Amounts of levy or charge are due for payment as required by the regulations.

## **7 Liability of intermediaries**

- (1) Subject to subsection (2A), for better securing the payment of levy:
  - (a) a selling agent who sells products, being products on or in relation to which levy is imposed, on behalf of the producer of the products; and
  - (b) a first purchaser of such products (otherwise than such products purchased through a selling agent or a buying agent); and
  - (c) a buying agent who purchases such products on behalf of the first purchaser, or the processor, of the products, otherwise than from a selling agent;is liable to pay in accordance with subsection (4), on behalf of the producer, an amount equal to the sum of:
  - (d) the amount of any levy due for payment on or in relation to the products; and
  - (e) any amount payable by the producer under subsection 15(1) in relation to that levy.



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- (2) Subject to subsection (2A), for better securing the payment of levy:
- (a) a receiver of a product on or in relation to which levy is imposed, being a product declared by the regulations to be a product to which this paragraph applies; and
  - (b) a processor who processes a product on or in relation to which levy is imposed, being a product declared by the regulations to be a product to which this paragraph applies;
- is liable to pay in accordance with subsection (4), on behalf of the producer, an amount equal to the sum of:
- (c) the amount of any levy due for payment on or in relation to the product; and
  - (d) any amount payable by the producer under subsection 15(1) in relation to that levy.
- (2A) Subsections (1) and (2) do not both apply to a particular amount of levy that is payable. In the case of levy imposed on the sale of cattle by Schedule 3 to the *Primary Industries (Excise) Levies Act 1999*, subsection (2) only applies if subsection (1) does not. In any other case, subsection (1) only applies if subsection (2) does not.
- (3) For better securing the payment of charge, an exporting agent who exports prescribed products on which charge is imposed is liable to pay in accordance with subsection (4), on behalf of the producer, an amount equal to the sum of:
- (a) the amount of any charge due for payment on or in relation to the products; and
  - (b) any amount payable by the producer under subsection 15(1) in relation to that charge.
- Note: under paragraph (g) of the definition of *producer* in subsection 4(1), the producer is taken to be the person who exports the products from Australia.
- (3A) For better securing the payment of charge, an importing agent who imports prescribed products on which charge is imposed is liable to pay in accordance with subsection (4), on behalf of the producer, an amount equal to the sum of:
- (a) the amount of any charge due for payment on or in relation to the products; and

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- (b) any amount payable by the producer under subsection 15(1) in relation to that charge.

Note: under paragraph (ga) of the definition of *producer* in subsection 4(1), the producer is taken to be the person who imports the products into Australia.

- (3B) An agreement between a producer and an intermediary that purports, expressly or implicitly, to require the producer to pay levy or charge as a condition for the provision of services by the intermediary is void to that extent, if the intermediary would otherwise have to pay an amount under this section in relation to that levy or charge.
- (4) Amounts required to be paid under subsection (1), (2), (3) or (3A) in respect of products of a particular kind must be paid:
  - (a) unless paragraph (b) or (c) applies—to the Commonwealth; or
  - (b) if an agreement has been entered into under section 10 between the Commonwealth and a State concerning the collection of such amounts in respect of products of that kind and the agreement does not provide otherwise—to the collecting authority under that agreement; or
  - (c) if an agreement has been entered into under section 11 between the Commonwealth and a collecting organisation concerning the collection of such amounts in respect of products of that kind and the agreement does not provide otherwise—to the collecting organisation.
- (5) Where an amount is paid by an intermediary under subsection (1), (2), (3) or (3A):
  - (a) the producer is, to the extent of that amount, discharged from so much of his or her liability to the Commonwealth in relation to the products as has not previously been discharged under subsection 8(2); and
  - (b) the intermediary may recover from the producer, by set-off or otherwise, an amount equal to the amount by which the first-mentioned amount exceeds the amount (if any) deducted by the intermediary under subsection 8(1).

- (6) Where a person who is an intermediary in relation to a producer:
- (a) sells collection products; or
  - (b) purchases collection products; or
  - (c) receives collection products; or
  - (d) exports collection products; or
  - (da) imports collection products; or
  - (e) processes collection products;
- on which an amount of levy or charge, or an amount on account of levy or charge, has been paid to the Commonwealth, this section does not apply to that intermediary in respect of those products to the extent of that amount.
- (7) The regulations may provide that this section does not apply in relation to specified intermediaries or specified products.

## **8 Liability of intermediaries—ancillary provisions**

- (1) Despite any law of a State or any agreement (whether entered into before or after the commencement of this Act) to the contrary, an intermediary referred to in subsection 7(1), (2), (3) or (3A) may, for the purpose of ensuring that the intermediary is provided with the funds necessary for the due payment by the intermediary, on behalf of the producer, of levy or charge on the products, deduct from any money received by the intermediary on behalf of the producer, or payable by the intermediary, in relation to the products an amount equal to, or that may reasonably be expected to be equal to, the amount in relation to levy or charge for which the intermediary is liable under that subsection.
- (2) When an intermediary deducts an amount under subsection (1) in respect of levy or charge:
- (a) the producer is discharged from liability to pay that levy or charge to the extent of the amount deducted; and
  - (b) the intermediary must:
    - (i) give the producer, within 7 days after the date of deduction, a receipt or other written statement

- acknowledging deduction and specifying the date on which it was made; and
- (ii) in accordance with this Act, pay any amount in relation to the levy or charge that the intermediary is liable to pay on behalf of the producer.
- (3) The proprietor of an abattoir may, despite any law of a State or Territory or any contract entered into before the commencement of this Act, refuse to slaughter, or to permit the slaughter of, sheep, lambs, buffaloes, goats or pigs owned by another person at the abattoir unless that other person first provides the proprietor with the funds necessary for the due payment, on behalf of that other person, of levy on the slaughter of the sheep, lambs, buffaloes, goats or pigs.
- (4) The proprietor of an abattoir may, despite any law of a State or Territory or any contract entered into before the commencement of this Act, refuse to slaughter or to permit the slaughter of cattle (being cattle within the meaning of Schedule 1 or 3 to the *Primary Industries (Excise) Levies Act 1999*) owned by another person at the abattoir unless that other person first provides the proprietor with the funds necessary for the due payment, on behalf of that other person, of levy on or in relation to the cattle.
- (4A) In spite of any law of a State or Territory or any contract entered into before the commencement of the *Primary Industries Levies and Charges Collection Amendment Act 1992*, the proprietor of an abattoir may refuse to:
- (a) slaughter at the abattoir deer owned by another person; or
- (b) permit the slaughter at the abattoir of deer owned by another person;
- unless that other person first provides the proprietor with the funds necessary for the due payment, on behalf of that other person, of levy on the slaughter of the deer.
- (4B) If levy is imposed under Schedule 27 to the *Primary Industries (Excise) Levies Act 1999* on an animal in the event of the slaughter of the animal, the regulations may provide that the proprietor of an abattoir may refuse to:

- (a) slaughter the animal at the abattoir; or
  - (b) permit the slaughter of the animal at the abattoir;
- unless the person liable to pay the levy first provides the proprietor with the funds necessary for the due payment, on behalf of the person, of levy payable in relation to the animal.
- (4C) Regulations made for the purposes of subsection (4B) have effect despite:
- (a) any law of a State or Territory; or
  - (b) any contract, whether entered into before or after the commencement of this subsection.
- (5) Where a contract is made, whether at auction or otherwise, by which a person sells or agrees to sell pigs to another person, the amount that would, but for this section, be the price payable under the contract is taken to be reduced for all purposes (including, in the case of a contract made through an agent of the seller, the settlement of accounts between an agent and the seller) by an amount ascertained by multiplying an amount equal to the amount per pig that is the rate of the levy in force at the date of the contract by the number of the pigs comprised in the contract.
- (6) Where a contract mentioned in subsection (5) makes specific provision for a deduction by, or allowance to, the purchaser in respect of levy, so much of the reduction provided for in that subsection as does not exceed the amount of that deduction or allowance is not to be made.

## **9 Liability of sellers of prescribed goods or services**

- (1) For better securing the payment of levy or charge, a person who has been paid an amount on account of levy or charge or in relation to penalty under subsection (2) or (2A), must, within a prescribed period after the receipt of that amount, pay that amount to the Commonwealth.
- (2) Subject to this section, a person to whom prescribed goods or services in relation to collection products of a particular kind (other than collection products of a kind dealt with in subsection (2A)),

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are sold must, within a prescribed period after the purchase of those goods or services, pay to the person selling those goods or services:

- (a) an amount on account of:
    - (i) in the case of leviable products—the levy that would be payable by that first-mentioned person on products of that kind on their sale or use in the production of other goods after being subjected to the process facilitated by those goods or services; or
    - (ii) in the case of chargeable products that are not also leviable products—the charge that would be payable by that first-mentioned person on products of that kind on their exportation from Australia after being subjected to the process facilitated by those goods or services; and
  - (b) an amount equal to the amount of any penalty payable by that first-mentioned person under section 15 in relation to levy or charge, as the case may be, because of a previous purchase of such prescribed goods or services.
- (2A) Subject to this section, a person to whom prescribed goods are sold in relation to collection products of a kind that will, for the purposes of the imposition of levy, be presumed to have been produced in Australia must, within a prescribed period after the purchase of those goods, pay to the person selling those goods:
- (a) an amount on account of the levy that will be payable by that first-mentioned person on products of that kind on their presumed production; and
  - (b) an amount equal to the amount of any penalty payable by that first-mentioned person under section 15 in relation to levy because of a previous purchase of such prescribed goods.
- (3) A person is not required to make a payment under paragraph (2)(a) because of the purchase of prescribed goods or services in relation to collection products of a particular kind (other than collection products of a kind dealt with in subsection (3A)) if he or she informs the person selling those goods or services, in writing:
- (a) where leviable products of that kind are not also chargeable products:

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- (i) that he or she does not intend to use those goods or services in producing leviable products of that kind; or
  - (ii) that he or she does intend to use those goods or services in producing leviable products of that kind but does not intend to sell those products or use them in the production of other goods; and
- (b) where chargeable products of that kind are not also leviable products:
- (i) that he or she does not intend to use those goods or services in producing chargeable products of that kind; or
  - (ii) that he or she does intend to use those goods or services in producing chargeable products of that kind but does not intend to sell those products or use them in the production of other goods; and
- (c) where leviable products of that kind are also chargeable products:
- (i) that he or she does not intend to use those goods or services in producing leviable products, or chargeable products, of that kind; or
  - (ii) that he or she does intend to use those goods and services in producing leviable products, or chargeable products, of that kind but does not intend, in the case of leviable products, to sell those products or use them in the production of other goods, or, in the case of chargeable products, to export those products from Australia.
- (3A) A person is not required to make a payment under paragraph (2A)(a) because of the purchase of prescribed goods in relation to collection products of a kind that will, for the purpose of the imposition of levy, be presumed to have been produced in Australia if he or she informs the person selling those goods, in writing, that he or she does not intend to use those goods in producing leviable products of that kind.
- (4) Where a person makes a payment to a seller of prescribed goods or services in relation to collection products of a particular kind (other

than collection products of a kind dealt with in subsection (4A)) on account of levy or charge that would be payable on products of that kind if they were sold, or used in the production of other goods, after being subjected to the process facilitated by those goods or services, the first-mentioned person is, on making that payment, discharged from liability to pay levy or charge on collection products of that kind that are so sold or used after being subjected to the process facilitated by those goods or services but the liability of the seller under subsection (1) is not affected.

(4A) If:

- (a) a person makes a payment to a seller of prescribed goods in relation to collection products; and
- (b) those collection products are products of a kind that will, for the purpose of the imposition of levy, be presumed to have been produced in Australia; and
- (c) the payment is a payment on account of levy that will be payable on products of that kind on their presumed production;

the first-mentioned person is, on making that payment, discharged from liability to pay levy on the presumed production of collection products of that kind but the liability of the seller under subsection (1) is not affected.

(5) Where a person makes a payment of an amount of penalty to a seller of prescribed goods or services in relation to collection products of a particular kind, being penalty payable by reason of a previous purchase of such goods or services, the person is, on making that payment, discharged from liability to pay that penalty to the Commonwealth but the liability of the seller under subsection (1) is not affected.

(6) If, after payment of an amount on account of levy under this Act to the seller of prescribed goods or services, those goods or services are used in the production, or preparation for export from Australia, of chargeable products:

- (a) the amount paid to the seller is taken to have been paid on account of charge; and



- (b) any payment by the seller to the Commonwealth of an amount equal to the amount referred to in paragraph (a) is taken to have been made by the seller to the Commonwealth on account of charge.
- (7) Where a person has paid levy or charge in respect of collection products, that person is not liable to pay an amount on account of levy or charge, as the case may be, in respect of those products under this section.
- (8) In this section:
  - chargeable products* means a collection product in respect of which charge is imposed.
  - leviable products* means a collection product in respect of which levy is imposed.

## 10 Collection agreements with States and Territories

- (1) The Commonwealth may enter into an agreement with a State with respect to the collection in that State, on behalf of the Commonwealth:
  - (a) of levy or charge from a producer of collection products of a particular kind; or
  - (b) of amounts payable under subsection 7(1), (2), (3) or (3A) (in this section called the *related amounts*) by a person who is an intermediary in relation to a producer of such products; by that State or by an authority of that State that is specified in the agreement.
- (2) Without limiting the generality of the matters that may be provided for in an agreement entered into with a State, such an agreement may provide for:
  - (a) the person from whom amounts of levy, charges or related amounts are to be collected; and
  - (b) the keeping by the collecting authority in respect of the agreement of accounts and records in relation to amounts of

- levy, charge or related amounts collected by the collecting authority; and
  - (c) the payment by the collecting authority to the Commonwealth of amounts of levy, charge or related amounts collected by the collecting authority; and
  - (d) the giving by the collecting authority to the Minister of information with respect to amounts of levy, charge or related amounts collected by the collecting authority and of amounts paid by the collecting authority to the Commonwealth; and
  - (e) the inspection and audit of accounts and records kept by the collecting authority with respect to amounts of levy, charge or related amounts collected by the collecting authority.
- (3) While an agreement entered into under subsection (1) with a State is in force in relation to collection products of a particular kind:
- (a) payment of levy, charge or related amounts in respect of products of that kind that are sold in that State or used in that State in the production of other goods is to be made to the collecting authority in respect of the agreement; and
  - (b) where the agreement provides that an authority of that State is to be the collecting authority in respect of the agreement—that authority may retain out of any money payable by it to any person an amount not exceeding an amount of levy, charge or related amount that the person is liable to pay.
- (4) Where a person pays an amount of levy, charge or a related amount in accordance with paragraph (3)(a), or an amount in respect of levy, charge or of a related amount is deducted in accordance with paragraph (3)(b) from money payable to the person, the person is, to the extent of the amount so paid or deducted, discharged from liability to pay levy, charge or a related amount, as the case requires, to the Commonwealth.
- (5) The Secretary must give notice in the *Gazette* of the entering into an agreement under subsection (1) within 21 days of the making of the agreement.

- (6) A failure to comply with subsection (5) does not invalidate the agreement.

## **11 Collection agreements with collecting organisations**

- (1) The Secretary may enter into an agreement with an organisation with respect to the collection, on behalf of the Commonwealth:
- (a) of levy or charge from a producer of prescribed products of a particular kind; or
  - (b) of amounts payable under subsection 7(1), (2), (3) or (3A) (in this section called the *related amounts*) from an intermediary in relation to a producer of such products;
- by that organisation.
- (2) Without limiting the generality of the matters that may be provided for in an agreement entered into with a collecting organisation, such an agreement may provide for:
- (a) the State or region in which amounts of levy, charge or related amounts are to be collected by the collecting organisation; and
  - (b) the person from whom amounts of levy, charge or related amounts are to be collected by the collecting organisation; and
  - (c) the keeping by the collecting organisation in respect of the agreement of accounts and records in relation to amounts of levy, charge or related amounts collected by the organisation; and
  - (d) the payment by the collecting organisation to the Commonwealth of amounts of levy, charge or related amounts collected by the organisation; and
  - (e) the giving by the collecting organisation to the Minister of information with respect to amounts of levy, charge or related amounts collected by the organisation and of amounts paid by the organisation to the Commonwealth; and
  - (f) the inspection and audit of accounts and records kept by the collecting organisation with respect to amounts of levy, charge or related amounts collected by the organisation.

- (3) While an agreement entered into under subsection (1) with a collecting organisation is in force in relation to a particular State or a particular region in relation to collection products of a particular kind, payment of levy, charge or related amounts in respect of products of that kind that were sold in that State or region or used in that State or region in the production of other goods is to be made to the organisation in accordance with the terms of the agreement.
- (4) While an agreement entered into under subsection (1) with a collecting organisation is in force in relation to a particular producer or a particular intermediary in relation to collection products of a particular kind, payment of levy, charge or related amounts in respect of products of that kind by the producer or intermediary must be made to that organisation in respect of the agreement.
- (5) Where a person pays an amount of levy or charge, or a related amount, in accordance with subsection (3) or (4), the person is, to the extent of the amount so paid, discharged from liability to pay levy, charge or a related amount, as the case requires, to the Commonwealth.
- (6) The Secretary must give notice in the *Gazette* of the entering into of an agreement under subsection (1) within 21 days of the making of the agreement.
- (7) A failure to comply with subsection (6) does not invalidate the agreement.

## **12 Industry consultation**

- (1) Before entering into an agreement under subsection 10(1) or 11(1), the Secretary is to consult with any industry body that is representative of producers of collection products, or intermediaries in relation to producers of collection products, who have an interest in relation to the proposed agreement.
- (2) A failure to comply with subsection (1) does not invalidate the agreement.

### **13 Collected amounts**

Despite subsection 105(2) of the *Public Governance, Performance and Accountability Act 2013*, amounts of levy, charge or related amounts collected under section 10 or 11 of this Act are not other CRF money for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

### **14 Commonwealth not to discriminate or give preference**

The Commonwealth must not, in exercising its powers under subsection 10(1) or 11(1):

- (a) discriminate between States or parts of States within the meaning of subparagraph 51(ii) of the Constitution; or
- (b) give preference to one State or any part thereof within the meaning of section 99 of the Constitution.

### **15 Penalty for late payment**

- (1) If any levy or charge in relation to collection products remains unpaid after the time when it became due for payment, there is payable by the producer to the Commonwealth, by way of penalty accruing from the time the levy or charge became due for payment until it is paid in full, an amount worked out as follows:
  - (a) during the month in which the levy or charge became due for payment the amount of penalty accrues at the rate of 2% per month on the levy or charge due;
  - (b) during the next and each subsequent month the amount of penalty consists of the sum of each amount that accrued during a previous month and the amount accruing during that month at the rate of 2% per month on the sum of the amount of levy or charge then payable and penalty payable at the end of the previous month.

Note: See also subsection (5).

- (2) Where:

- (a) an intermediary deducts an amount under subsection 8(1) in relation to the unpaid levy or charge on any collection products; and
- (b) the intermediary does not pay the amount deducted to the Commonwealth, a collecting authority or a collecting organisation at or before the time when the levy or charge became due for payment;

there is payable by the intermediary to the Commonwealth, by way of penalty accruing from the time the levy or charge became due for payment until the amount deducted is paid to the Commonwealth, an amount worked out as follows:

- (c) during the month in which the levy or charge became due for payment the amount of penalty accrues at the rate of 2% per month on the amount deducted;
- (d) during the next and each subsequent month the amount of penalty consists of the sum of each amount that accrued during a previous month and the amount accruing during that month at the rate of 2% per month on the sum of the unpaid amount deducted and penalty payable at the end of the previous month.

(3) Where:

- (a) a person purchases prescribed goods or services in respect of a collection product of a particular kind; and
- (b) a person fails to pay to the seller of those goods or services an amount on account of levy or charge (in this subsection called the ***unpaid amount***) in accordance with subsection 9(2) within the period prescribed for the purposes of that subsection;

there is payable to the Commonwealth by the person, by way of penalty accruing from the end of that period until the unpaid amount is paid to the seller, an amount worked out as follows:

- (c) during the month in which that period ends the amount of penalty accrues at the rate of 2% per month on the unpaid amount;
- (d) during the next and each subsequent month the amount of penalty consists of the sum of each amount that accrued

during a previous month and the amount accruing during that month at the rate of 2% per month on the sum of the unpaid amount and penalty payable at the end of the previous month.

(4) Where:

- (a) a person who sells prescribed goods or services has received an amount on account of levy or charge; and
- (b) that person does not pay the amount received to the Commonwealth before the end of the period within which, under subsection 9(1), it should have been so paid;

there is payable to the Commonwealth by that person, by way of penalty accruing from the end of that period until the amount is so paid to the Commonwealth, an amount worked out as follows:

- (c) during the month in which that period ends the amount of penalty accrues at the rate of 2% per month on the amount received;
  - (d) during the next and each subsequent month the amount of penalty consists of the sum of each amount that accrued during a previous month and the amount accruing during that month at the rate of 2% per month on the sum of the amount received and penalty payable at the end of the previous month.
- (5) In respect of a collection product prescribed by the regulations, subsection (1) has effect as if a reference to the producer included a reference to the processor.

## 16 Remission of penalty

If an amount of penalty becomes payable under section 15 because an amount of levy or charge in respect of particular collection products remains unpaid after the time when it becomes due for payment, the Secretary may remit the whole or a part of that amount of penalty.

### **17 Recovery of levy, charge and other amounts**

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

- (a) amounts of levy or charge that are due for payment;
- (b) amounts payable under section 7;
- (c) amounts payable under subsection 9(1);
- (d) amounts payable under section 15.

### **18 Refund of levy, charge etc.**

- (1) Subject to subsection (2) or (3), where an amount referred to in section 17 has been overpaid, the amount overpaid must be refunded by the Commonwealth.
- (2) Subject to subsection (3), where an amount has been paid to the Commonwealth on account of levy, or as penalty, under section 9 because of the sale of prescribed goods or services in relation to collection products to a person and, on application in writing made to the Secretary by that person, the Secretary is satisfied that, for any reason:
  - (a) those goods or services will not be used by that person in subjecting any collection products to a process in the course of their production or of their preparation for sale or use in the production of other goods; or
  - (b) if those goods or services have been used by that person in subjecting any collection products to a process in the course of their production or of their preparation for sale or use in the production of other goods, those products will not be sold by that person or used by that person in the production of other goods;the Secretary must, by determination in writing, order the amount paid to be refunded and, upon the Secretary so doing, the amount paid must be refunded by the Commonwealth.
- (3) Where, in purported compliance with a distribution Act, an amount equal to the amount overpaid, or part of that amount, has been paid to a body, fund or account, then:



- (a) if the Commonwealth has not, under subsection (1), refunded the amount overpaid—that amount must be refunded by the body, or out of the fund or account, as the case may be; or
- (b) if the Commonwealth has so refunded the amount payable—the Commonwealth is entitled to recover from the body, fund or account, as the case may be, by set-off or otherwise, the amount so refunded.

### **19 Powers of authorised person in relation to premises**

- (1) An authorised person may, with the consent of the occupier or person in charge of premises or in accordance with a warrant issued under section 20, enter the premises for the purpose of ascertaining whether a person has contravened or is contravening a provision of this Act.
- (2) Where an authorised person enters any premises under subsection (1), the authorised person may:
  - (a) search the premises for, examine and take stock of, any products used to produce collection products; and
  - (b) search the premises for, inspect, examine, take extracts from, and make copies of, any examinable documents; and
  - (c) seize anything found during the course of the search that he or she believes, on reasonable grounds, will afford evidence of the contravention of this Act.

### **19A Offence of obstructing an authorised person acting under a warrant**

- (1) A person must not obstruct or hinder an authorised person in the exercise of his or her power under section 19 if the authorised person is exercising the power in accordance with a warrant issued under section 20.

Penalty: 30 penalty units

- (2) In subsection (1), strict liability applies to the physical element of circumstance, that the exercise of the power by the authorised

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person is under section 19 in accordance with a warrant issued under section 20.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

### **19B Persons to assist authorised person acting under a warrant**

- (1) If an authorised person enters any premises under section 19 in accordance with a warrant issued under section 20, the occupier or the person in charge must, if required to do so by the authorised person, provide reasonable assistance to the authorised person in the exercise of his or her power under that section in relation to such premises.

Penalty: 30 penalty units

- (2) An offence under subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

### **20 Warrant to enter premises**

- (1) If a magistrate, on application by an authorised person, is satisfied, by information on oath:
  - (a) that there are reasonable grounds for believing:
    - (i) that collection products are produced on particular premises, whether by growing or harvesting, or by processing the product or other products; or
    - (ii) that collection products are handled, stored or processed on particular premises; or
    - (iii) that prescribed goods or services in relation to collection products of a particular kind are sold or provided on particular premises; or
    - (iv) that goods produced from collection products are handled, stored or processed on particular premises; or
    - (v) that there are examinable documents on particular premises; and

- (b) that the issue of the warrant is reasonably required for the purpose of ascertaining whether a person has contravened or is contravening a provision of this Act;
- the magistrate may issue a warrant authorising the authorised person to enter the premises:
- (c) with such assistance, and by such force, as is necessary and reasonable; and
  - (d) during such hours as the warrant specifies, or, if the warrant so specifies, at any time.
- (2) A warrant must specify:
- (a) the powers exercisable under subsection 19(2) by the authorised person to whom the warrant is issued; and
  - (b) the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect.

## **21 Retention and return of seized property**

- (1) The authorised person may retain anything seized under section 19:
  - (a) for 60 days after seizure; or
  - (b) if proceedings in which the thing may afford evidence are commenced within that period, until the proceedings (including any appeal) are completed or terminated.
- (2) The Minister may authorise anything seized under section 19 to be released to the owner, or to the person from whose possession the thing was seized, either unconditionally or on such conditions as are specified in the authority.
- (3) Subsection (2) does not apply to anything while it is being held by a court as evidence in proceedings.
- (4) Where anything seized is a book, record or document, the authorised person must, while the authorised person has possession of the book, record or document, allow it to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the authorised person's possession.

## 22 Identity cards

- (1) The Secretary may cause an identity card to be issued to an authorised person.
- (2) An identity card must:
  - (a) contain a recent 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 must immediately return the identity card to a person occupying such office in the Department as is designated, in writing, by the Secretary.
- (4) A person who contravenes subsection (3) commits an offence punishable upon conviction by a fine not exceeding 1 penalty unit.
- (4A) Subsection (4) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (4A). See subsection 13.3(3) of the *Criminal Code*.
- (4B) An offence under subsection (4) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.
- (5) Where an authorised person proposes to enter premises otherwise than in accordance with a warrant issued under section 20, the authorised person must produce his or her identity card to the occupier or the person in charge of the premises for inspection and, if the authorised person fails to do so, the authorised person is not entitled to enter the premises under section 19.

## 23 Power to call for information

An authorised person may, by notice in writing given to a person, require the person:

- (a) to give the authorised person, within such reasonable time as is specified in the notice, such return of information in

relation to matters relevant to the operation of this Act as is specified in the notice; and

- (b) to verify any such return or information by statutory declaration.

## **24 Offences in relation to returns etc.**

- (1) A person must not refuse or fail to give a return or information that the person is required to give by or under this Act.

Penalty: 60 penalty units.

- (1A) Subsection (1) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (1A). See subsection 13.3(3) of the *Criminal Code*.

- (1B) An offence under subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (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 given, and any information or thing (including any document) obtained as a direct or indirect consequence of the giving 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) of this section or an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act; or
- (b) proceedings for recovery of an amount payable by way of penalty under section 15.

- (4) If a person is convicted of an offence under subsection (1):
  - (a) the court may direct the person to give the return or information that he or she is required to give by or under this Act; and

- (b) on being so directed, the person must give the return or information to an authorised person within the time specified in the direction.

#### **24A Offences in relation to weighing cattle carcasses**

- (1) This section applies to carcasses of cattle slaughtered at an abattoir if levy is imposed on the slaughter by Schedule 1 to the *Primary Industries (Excise) Levies Act 1999*.
- (2) The proprietor of the abattoir must take reasonable steps to ensure that:
  - (a) if the abattoir is able to determine the hot carcass weight of a carcass, that hot carcass weight is determined; and
  - (b) if the abattoir is unable to determine the hot carcass weight of a carcass but is able to determine its cold carcass weight within the weighing period, that cold carcass weight is determined within that period.
- (3) If:
  - (a) the abattoir is able to determine the hot carcass weight of a carcass but fails to do so; and
  - (b) the failure is attributable to the proprietor having contravened subsection (2);the proprietor commits an offence.

Penalty: 60 penalty units.

- (4) If:
  - (a) the abattoir is unable to determine the hot carcass weight of a carcass; and
  - (b) the abattoir is able to determine the cold carcass weight of the carcass within the weighing period but fails to do so; and
  - (c) the failure is attributable to the proprietor having contravened subsection (2);the proprietor commits an offence.

Penalty: 60 penalty units.

Note: The terms *hot carcase weight*, *cold carcase weight* and *weighing period* are defined in clause 1 of Schedule 1 to the *Primary Industries (Excise) Levies Act 1999*.

## 25 Conduct of directors, employees and agents

- (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, employee or agent of the body corporate within the scope of his or her actual or apparent authority; and
  - (b) that the director, employee or agent had the state of mind.
- (2) Any conduct engaged in on behalf of a body corporate by:
  - (a) a director, employee 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, employee 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, employee or agent;is to be taken, 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 an employee or agent of the person within the scope of his or her actual or apparent authority; and
  - (b) that the employee or agent had the state of mind.
- (4) Any conduct engaged in on behalf of a person other than a body corporate by:
  - (a) an employee 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 an employee 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 employee or agent; is to be taken, for the purposes of this Act, to have been engaged in also by the first-mentioned person.
- (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.
- (6) Where:
- (a) a person other than a body corporate is convicted of an offence; and
  - (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;
- the person is not liable to be punished by imprisonment for the offence.
- (7) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth, of a State or of an external Territory.
- (8) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.

## **26 Appointment of authorised persons**

The Secretary may, in writing:

- (a) appoint a person employed by, or in the service of, a collecting authority or a collecting organisation to be an authorised person for the purposes of section 23; and



- (b) appoint a person appointed or engaged under the *Public Service Act 1999* to be an authorised person for the purposes of a specified provision of this Act including section 23.

## **27 Publishing of information**

- (1) An authorised person may publish:
  - (a) the name and address of a person or body who has lodged a return under the regulations or of an intermediary in relation to a producer; or
  - (b) information relating to amounts of levy or charge received or receivable by the Commonwealth in any period including such information relating to a particular State or region;  
to any of the following:
    - (c) a body that receives money under a distribution Act;
    - (d) an industry body that is representative of producers of collection products or is representative of intermediaries in relation to producers of collection products;
    - (e) a person to whom the Secretary has granted access to such information.
- (2) Except for the purposes of regulations made under the repealed *Wheat Marketing Act 1989* in relation to the issue to wheat growers of statements of equity in the Wheat Industry Fund established by that Act, nothing in subsection (1) permits the publication of information in a manner that enables an amount of levy or charge paid or payable to be identified with a person (including a deceased person).

## **27A Giving of information about levy payers and charge payers**

- (1) An authorised person may give the following information to an eligible recipient:
  - (a) the name, address, contact details and ABN of any person who has paid, or is liable to pay, levy or charge in respect of a collection product;

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- (b) details relating to the amount of levy or charge that the person has paid, or is liable to pay, in respect of that collection product;
- (c) such other details (if any) determined in an instrument under subsection (3), being details relating to the production or processing of that collection product.

Note 1: This subsection applies separately for each collection product in respect of which a person has paid, or is liable to pay, levy or charge.

Note 2: Section 27B sets out limits on the use of information given under this subsection.

### *Eligible recipient*

- (2) For the purposes of this section, an **eligible recipient** is:
  - (a) an R & D Corporation; or
  - (b) the Rural Industries Research and Development Corporation established by section 9 of the *Primary Industries Research and Development Act 1989*; or
  - (c) the Australian Grape and Wine Authority established by section 6 of the *Australian Grape and Wine Authority Act 2013*; or
  - (d) a body covered by a declaration under section 60 of the *Australian Meat and Live-stock Industry Act 1997*; or
  - (e) the body declared to be the industry services body under section 7 of the *Dairy Produce Act 1986*; or
  - (f) the body declared to be the industry services body under section 6 of the *Egg Industry Service Provision Act 2002*; or
  - (g) the company declared to be the industry services body under Part 3 of the *Forestry Marketing and Research and Development Services Act 2007*; or
  - (h) the body declared to be the industry services body under subsection 9(1) of the *Horticulture Marketing and Research and Development Services Act 2000*; or
  - (i) the body declared to be the industry services body under section 11 of the *Pig Industry Act 2001*; or

- (j) the company declared to be the industry services body under Part 3 of the *Sugar Research and Development Services Act 2013*; or
- (k) the body declared to be the research body under section 30 of the *Wool Services Privatisation Act 2000*; or
- (l) the Australian Bureau of Statistics.

*Legislative instrument*

- (3) For the purposes of paragraph (1)(c), the Secretary may, by legislative instrument, determine details relating to the production or processing of a collection product.

*Definition*

- (4) In this section:

*ABN* has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

**27B Use of information given under section 27A**

*Uses*

- (1) A body covered by paragraph 27A(2)(a), (b), (c), (d), (e), (f), (g), (h), (i), (j) or (k) may use information given to it under subsection 27A(1) for any of the following purposes:
  - (a) to maintain a register of levy payers or charge payers;
  - (b) to maintain a register of those persons eligible to vote in any poll conducted by, or on behalf of, the body;
  - (c) to make public any information of a statistical nature;
  - (d) in performing any of its functions:
    - (i) under a law of the Commonwealth; or
    - (ii) under a contract, deed of agreement or other agreement between the Commonwealth and the body.
- (2) In addition, a body covered by paragraph 27A(2)(d), (e), (f), (g), (h), (i), (j) or (k) may use information given to it under

subsection 27A(1) to determine whether a person is, or remains eligible to be, a member or shareholder of the body.

- (3) The Australian Bureau of Statistics may use information given to it under subsection 27A(1) to perform any of its functions.

*Limits on secondary disclosure*

- (4) A body covered by any paragraph of subsection 27A(2) must not disclose information given to it under subsection 27A(1) to any other person or body except with the approval, in writing, of the Secretary.
- (5) Subsection (4) does not apply to the disclosure of personal information (within the meaning of the *Privacy Act 1988*) to an individual to whom that personal information relates.
- (6) If, in accordance with an approval under subsection (4), information is disclosed to a person or body, that person or body may use the information:
- (a) for an R&D activity (within the meaning of the *Primary Industries Research and Development Act 1989*); or
  - (b) for marketing activities (within the meaning of the *Primary Industries Research and Development Act 1989*); or
  - (c) for biosecurity purposes; or
  - (d) for National Residue Survey purposes; or
  - (e) if the disclosure was by a body (the *discloser*) covered by paragraph 27A(2)(a), (b), (c), (d), (e), (f), (g), (h), (i), (j) or (k)—in connection with any activity carried out, or proposed to be carried out, by the discloser for the benefit of producers of collection products of a particular kind.
- (7) An approval under subsection (4) is not a legislative instrument.

## **28 Reconsideration and review of decisions**

- (1) A person affected by a relevant decision who is dissatisfied with the decision may, within 28 days after the day on which the

decision first comes to the notice of the person, or within such further period as the Minister (either before or after the end of the period) by notice in writing served on the person allows, by notice in writing given to the Minister, request the Minister to reconsider the decision.

- (2) A request under subsection (1) must set out the reasons for making the request.
- (3) The Minister must, within 45 days after receiving a request under subsection (2), reconsider the relevant decision and may make a decision:
  - (a) in substitution for the relevant decision, whether in the same terms as the relevant decision or not; or
  - (b) revoking the relevant decision.
- (4) Where, as a result of a reconsideration under subsection (3), the Minister makes a decision in substitution for or revoking a relevant decision, the Minister must, by notice in writing served on the person who made the request under subsection (1) for the reconsideration, inform the person of the result of the reconsideration and give the reasons for his or her decision.
- (5) An application may be made to the Administrative Appeals Tribunal for review of a decision of the Minister under subsection (3).
- (6) A person who makes a relevant decision must give to a person affected by the decision a statement in writing to the effect that a person affected by the decision:
  - (a) may, if the person is dissatisfied with the decision, seek a reconsideration of the decision in accordance with this section; and
  - (b) may, subject to the *Administrative Appeals Tribunal Act 1975*, if the person is dissatisfied with a decision made upon that reconsideration, make application to the Administrative Appeals Tribunal for review of that decision.

- (7) Where the Minister makes a decision under subsection (3) and gives to a person affected by the decision notice in writing of the making of the decision, that notice must include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates by or on behalf of a person affected by the decision.
- (8) A failure to comply with the requirements of subsection (6) or (7) in relation to a decision does not affect the validity of the decision.
- (9) In this section:

**relevant decision** means:

- (a) a decision to refuse to remit, under section 16, the whole or part of an amount; or
- (d) a determination by the Secretary, or a delegate of the Secretary, under subclause 5(2) of Schedule 8 to the *Primary Industries (Excise) Levies Act 1999*, of the declared value of a quantity of deer velvet used in the production of other goods; or
- (e) a determination by the Secretary, or a delegate of the Secretary, under paragraph 3(3)(a) of Schedule 6 to the *Primary Industries (Customs) Charges Act 1999*, of the declared value of a quantity of deer velvet exported from Australia.

## 29 Delegation by Secretary

- (1) The Secretary may, in writing, delegate to the person occupying an office in the Department all or any of his or her powers under this Act other than his or her powers under section 26, 27A or 27B.
- (1A) The Secretary may, in writing, delegate to an SES employee in the Department, who is at or acting at Band 1 or 2 level, the Secretary's power under subsection 27B(4).
- (2) A delegate is, in the exercise of a delegated power, subject to the directions of the Secretary.

**29A Associated Acts do not authorise the imposition of a tax on property of a State**

- (1) An associated Act has no effect to the extent (if any) to which it authorises the imposition of a tax on property of any kind belonging to a State.
- (2) In this section, *property of any kind belonging to a State* has the same meaning as in section 114 of the Constitution.
- (3) For the purposes of this section, it is to be assumed that a reference in section 114 of the Constitution to a State includes a reference to the Australian Capital Territory and the Northern Territory.

**30 Regulations**

- (1) 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.
- (2) The matters that may be prescribed under subsection (1) include, but are not limited to:
  - (a) making provision in relation to the payment of levy or charge, of amounts on account of levy or charge and of other amounts payable to the Commonwealth under this Act; and
  - (b) requiring producers of collection products, intermediaries in relation to such producers, and any other person prescribed, to make and keep accounts and other records in respect of prescribed products; and
  - (ba) requiring persons who produce prescribed goods or provide prescribed services, and any other persons prescribed in relation to such goods or services, to make and keep accounts and other records in respect of such goods or services; and
  - (c) requiring producers of collection products, intermediaries in relation to such producers, and any other persons prescribed,

- to give returns or information for the purposes of this Act;  
and
- (ca) requiring persons who produce prescribed goods or provide prescribed services, and any other persons prescribed in relation to such goods or services, to give returns or information for the purposes of this Act; and
  - (d) establishing offences, punishable on conviction by a fine not exceeding 10 penalty units, for a failure to comply with requirements of the regulations.
- (3) Without limiting the manner in which products may be described in the regulations, the regulations may describe them by reference to:
- (a) the use for which the products are sold by the producer; or
  - (b) the use to which the products are put by the producer; or
  - (c) the state, form or condition of the products, whether by reference to a process or otherwise; or
  - (d) the variety or other scientific classification, whether by general description or by taxonomic description.

### 31 Orders

- (1) Subject to subsection (2), the regulations may make provision for or in relation to empowering the Minister to make orders, not inconsistent with this Act, with respect to any matter for or in relation to which provision may be made by the regulations.
- (2) An order must not be made prescribing any penalty.
- (3) An order is a legislative instrument.
- (6) An order is an enactment for the purposes of the *Administrative Appeals Tribunal Act 1975*.



## **Schedule 1—Acts that impose a charge**

Note: See subsection 4(1).

*Primary Industries (Customs) Charges Act 1999*

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*Primary Industries Levies and Charges Collection Act 1991*

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Compilation No. 30

Compilation date: 21/10/16

Registered: 21/10/16

## Schedule 2—Acts that impose a levy

Note: See subsection 4(1).

*National Residue Survey (Customs) Levy Act 1998*

*National Residue Survey (Excise) Levy Act 1998*

*Primary Industries (Excise) Levies Act 1999*

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

## Endnotes

### Endnote 1—About the endnotes

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Primary Industries Levies and Charges Collection Act 1991	25, 1991	1 Mar 1991	1 July 1991 (s 2)	
Coarse Grains Levy (Consequential Provisions) Act 1992	20, 1992	10 Apr 1992	1 Oct 1992 (s 2)	s 5
Primary Industries Levies and Charges Collection Amendment Act 1992	32, 1992	14 May 1992	1 July 1992 (s 2)	—
Primary Industries and Energy Legislation Amendment Act (No. 2) 1992	59, 1992	22 June 1992	s 29: 22 June 1992 (s 2)	—
National Residue Survey (Consequential Provisions) Act 1992	247, 1992	24 Dec 1992	Sch: 1 July 1993 (s 2)	—
Primary Industries and Energy Legislation Amendment Act 1993	94, 1993	16 Dec 1993	s 59–65: 1 Jan 1994 (s 2(3))	—
Primary Industries Levies and Charges Collection Amendment Act 1994	117, 1994	16 Sept 1994	s 5: 1 July 1991 (s 2(2)) Remainder: 1 Jan 1995 (s 2(1))	s 3(2)
Primary Industries Levies and Charges (Wine Grapes) Collection Amendment Act 1994	130, 1994	21 Oct 1994	1 Dec 1994 (s 2)	—

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Primary Industries Legislation Amendment Act 1994	137, 1994	18 Nov 1994	s 8–11: 1 Feb 1995 (s 2(2) and gaz 1994, No S470)	s 9(2)
Primary Industries Levies and Charges Collection Amendment Act 1995	79, 1995	30 June 1995	1 July 1995 (s 2)	—
Primary Industries and Energy Legislation Amendment Act (No.1) 1996	18, 1996	28 June 1996	Sch 3: 18 Dec 1996 (s 2(3) and gaz 1996, No GN50)	—
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 2 (item 89): 1 July 1991 (s 2(2))	—
Wine Export Charge (Consequential Amendments) Act 1997	86, 1997	27 June 1997	Sch 1 (item 6): 27 June 1997 (s 2)	—
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (item 1097): 1 Jan 1998 (s 2(2))	—
Wheat Marketing Amendment Act 1997	194, 1997	8 Dec 1997	Sch 1 (item 4): 8 Dec 1997 (s 2(1)) Sch 1 (item 140): 1 July 1999 (s 2(5))	—
Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997	207, 1997	17 Dec 1997	Sch 3 (items 9–22) and Sch 5 (item 21(1)): 1 July 1998 (s 2(4))	Sch 5 (item 21(1))
National Residue Survey Administration Amendment Act 1998	31, 1998	17 Apr 1998	Sch 2 (items 9–11): 1 Aug 1998 (s 2(3) and gaz 1998, No S382)	Sch 2 (item 8(2))

*Primary Industries Levies and Charges Collection Act 1991*

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Compilation date: 21/10/16

Registered: 21/10/16

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Primary Industries Levies and Charges (Consequential Amendments) Act 1999	32, 1999	14 May 1999	Sch 2 (items 1–36): 1 July 1999 (s 2(1)) Sch 2 (items 37–40): 1 Jan 2000 (s 2(2)(b))	Sch 2 (items 35, 36, 39, 40)
Statute Stocktake Act 1999	118, 1999	22 Sept 1999	Sch 2 (item 16): 22 Sept 1999 (s 2(1))	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (item 737): 5 Dec 1999 (s 2(1), (2))	—
Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 1999	170, 1999	10 Dec 1999	Sch 2: 1 Jan 2000 (s 2(2)(b))	Sch 2 (item 27)
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	Sch 2 (items 323, 324, 418, 419): 24 May 2001 (s 2(3))	Sch 2 (items 418, 419)
Wool Services Privatisation Act 2000	145, 2000	7 Dec 2000	Sch 1 (item 3): 1 Jan 2001 (s 2(2) and gaz 2000, No S638)	—
Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Act 2001	115, 2001	18 Sept 2001	s 4 and Sch 1 (items 248–256): 16 Oct 2001 (s 2)	s 4
Dairy Industry Service Reform Act 2003	32, 2003	15 Apr 2003	Sch 1 (items 121–124, 127–129): 1 July 2003 (s 2(1) item 2)	Sch 1 (items 127–129)



## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Forestry Marketing and Research and Development Services (Transitional and Consequential Provisions) Act 2007	123, 2007	28 June 2007	Sch 2 (items 7–11): 3 Sept 2007 (s 2(1) item 3)	—
Wheat Export Marketing (Repeal and Consequential Amendments) Act 2008	66, 2008	30 June 2008	Sch 2 (item 15): 1 July 2008 (s 2(1) item 2)	—
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 7 (item 111): 19 Apr 2011 (s 2(1) item 18)	—
Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2013	17, 2013	27 Mar 2013	Sch 5: 28 Mar 2013 (s 2(1) item 4)	Sch 5 (item 3)
Sugar Research and Development Services (Consequential Amendments and Transitional Provisions) Act 2013	115, 2013	29 June 2013	Sch 1 (items 15–17): 1 July 2013 (s 2(1) item 2)	—
Rural Research and Development Legislation Amendment Act 2013	146, 2013	13 Dec 2013	Sch 2 (item 15): 13 Dec 2013 (s 2(1) item 2)	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 11 (item 45) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14

## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
<b>as amended by</b>				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
<b>as amended by</b>				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2015	5, 2015	25 Feb 2015	Sch 3 (items 152–157): 25 Mar 2015 (s 2(1) item 10)	—
Acts and Instruments (Framework Reform) Act 2015	10, 2015	5 Mar 2015	Sch 3 (items 311, 348, 349): 5 Mar 2016 (s 2(1) item 2)	Sch 3 (items 348, 349)
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 231): 10 Mar 2016 (s 2(1) item 6)	—
Primary Industries Levies and Charges Collection Amendment Act 2016	56, 2016	16 Sept 2016	Sch 1 (items 1–6): 17 Sept 2016 (s 2(1) item 2)	Sch 1 (item 6)
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 1 (item 371): 21 Oct 2016 (s 2(1) item 1)	—

## Endnote 4—Amendment history

## Endnote 4—Amendment history

Provision affected	How affected
s 4 .....	am No 20, 1992; No 59, 1992; No 247, 1992; No 94, 1993; No 117, 1994; No 130, 1994; No 137, 1994; No 79, 1995; No 207, 1997; No 31, 1998; No 32, 1999; No 170, 1999; No 115, 2001; No 123, 2007; No 5, 2011; No 115, 2013; No 146, 2013 ed C28
s 5A.....	ad No 115, 2001
s 7 .....	am No 94, 1993; No 137, 1994; No 79, 1995; No 207, 1997; No 32, 1999; No 170, 1999
s 8 .....	am No 32, 1992; No 94, 1993; No 137, 1994; No 79, 1995; No 207, 1997; No 32, 1999; No 170, 1999
s 9 .....	am No 117, 1994
s 10 .....	am No 94, 1993; No 123, 2007
s 11 .....	am No 94, 1993; No 123, 2007
s 13 .....	am No 152, 1997 rs No 62, 2014
s 15 .....	am No 170, 1999; No 115, 2013
s 16 .....	am No 170, 1999 rs No 17, 2013
s 18 .....	am No 117, 1994
s 19 .....	am No 170, 1999
s 19A.....	ad No 170, 1999 am No 115, 2001
s 19B.....	ad No 170, 1999 am No 115, 2001
s 22 .....	am No 170, 1999; No 115, 2001; No 4, 2016; No 61, 2016
s 24 .....	am No 43, 1996; No 170, 1999; No 137, 2000; No 115, 2001
s 24A.....	ad No 137, 1994 am No 32, 1999; No 115, 2001; No 4, 2016
s 25 .....	am No 5, 2015

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 26 .....	am No 146, 1999
s 27 .....	am No 194, 1997; No 145, 2000; No 32, 2003; No 66, 2008; No 56, 2016
s 27A.....	ad No 56, 2016
s 27B.....	ad No 56, 2016
s 28 .....	am No 32, 1992; No 32, 1999; No 118, 1999; No 17, 2013
s 29 .....	am No 56, 2016
s 29A.....	ad No 32, 1999
s 30 .....	am No 170, 1999
s 31 .....	am No 10, 2015
Schedule 1.....	am No 32, 1992; No 94, 1993; No 86, 1997; No 207, 1997 rs No 32, 1999
Schedule 2.....	am No 20, 1992; No 32, 1992; No 247, 1992; No 94, 1993; No 79, 1995; No 18, 1996; No 194, 1994; No 207, 1997; No 31, 1998 rs No 32, 1999 am No 32, 1999

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