



Primary Industries and Energy Legislation Amendment Act 1994

No. 94 of 1994

**An Act to amend the law relating to primary industries and
energy, and for related purposes**

[Assented to 29 June 1994]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Primary Industries and Energy Legislation Amendment Act 1994*.

Commencement

2.(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) The amendment of the *Agricultural and Veterinary Chemicals Act 1988* made by the Schedule commences on 30 June 1994.

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(3) The amendment of the *Agricultural and Veterinary Chemicals (Administration) Act 1992* made by the Schedule commences or is taken to have commenced immediately after the commencement of the *Agricultural and Veterinary Chemicals (Consequential Amendments) Act 1994*.

(4) The amendment of the *Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994* made by the Schedule commences or is taken to have commenced immediately after the commencement of the *Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994*.

(5) The amendments of the *Law and Justice Legislation Amendment Act 1994* made by the Schedule commence, or are taken to have commenced, immediately after the commencement of section 91 of that Act.

(6) The amendment of the *Rural Adjustment Act 1992* made by the Schedule is taken to have commenced on 1 July 1993.

(7) The amendment of the *Offshore Minerals Act 1994* made by the Schedule is taken to have commenced on 25 February 1994.

PART 2—AMENDMENTS OF THE QUARANTINE ACT 1908

Division 1—Preliminary

Principal Act

3. In this Part, “**Principal Act**” means the *Quarantine Act 1908*¹.

Division 2—Fees and deposits

Object of Division

4. The object of this Division is to make provision for late payment fees in respect of quarantine services, and for booking fees and deposits for services provided at quarantine stations, and to authorise the withholding of quarantine services until fees and any deposits have been paid.

Fees and deposits

5.(1) Section 86E of the Principal Act is amended:

(a) by inserting before subsection (1) the following subsections:

“(1A) In this section:

‘**basic fee**’ has the meaning given by subsection (2B);

‘**late payment fee**’ has the meaning given by subsection (2B);

‘**payment day**’, in relation to a basic fee or a deposit in respect of a quarantine service, means the last day of the period within which the fee or deposit is required to be paid;

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‘quarantine service’ means anything referred to in paragraph (1)(a), (b), (c) or (d).

“(1B) The Minister may, by notice published in the *Gazette*, make determinations for the purposes of this section.”;

- (b) by omitting from subsection (1) all the words before paragraph (a) and substituting “A determination may require fees of amounts set out in the determination to be paid in respect of.”;
- (c) by inserting in paragraph (1)(c) “in Australia or” after “station”;
- (d) by omitting from subsection (2) “notice under subsection (1)” and substituting “determination”;
- (e) by inserting after subsection (2) the following subsections:

“(2A) A determination may state the period within which fees are to be paid.

“(2B) If a determination states a period within which a fee (the **‘basic fee’**) is to be paid, a determination may also require an additional fee (a **‘late payment fee’**) to be paid if the basic fee is not paid on or before the payment day.

“(2C) A late payment fee may be either or both of the following:

- (a) a fee of a stated amount;
- (b) a fee of a stated amount in respect of each day after the payment day and before the day on which the basic fee is paid.

“(2D) The Minister may remit the whole or a part of a late payment fee if he or she is satisfied that it is appropriate to do so having regard to all the circumstances.

“(2E) A determination may, in respect of the reservation of space at a quarantine station for an animal in respect of a period, require the payment of either or both of the following:

- (a) a booking fee;
- (b) a deposit on account of the basic fee that will be payable for the management and maintenance of the animal at the station.

“(2F) A determination may make provision for or in relation to:

- (a) the forfeiture, in circumstances referred to in the determination, of the whole or a part of a deposit paid under a requirement mentioned in subsection (2E); and
- (b) the return or other application, in circumstances referred to in the determination, of such a deposit less any costs worked out in accordance with the determination that are associated with the return or other application of the deposit.

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“(2G) If:

- (a) the basic fee payable for a quarantine service, or a deposit payable on account of the basic fee for a quarantine service referred to in paragraph (1)(c), is not paid on or before the payment day; or
- (b) a late payment fee that is payable in respect of a quarantine service is not paid;

a Director of Quarantine may direct that no quarantine service is to be provided, or a particular quarantine service or kind of quarantine service is not to be provided, for the person who failed to make the payment until the basic fee, the deposit or the late payment fee, as the case may be, is paid.”.

(2) A determination under subsection 86E(1) of the Principal Act that was in force immediately before the commencement of this section continues in force as if it had been made under subsection 86E(1B) of the Principal Act as amended by subsection (1) of this section.

Division 3—Compliance agreements

Object of Division

6. The object of this Division is to authorise the Commonwealth to enter into agreements with other persons for the carrying out by them of quarantine functions on behalf of the Commonwealth.

Insertion of new section

7. Before section 67 of the Principal Act the following section is inserted in Part VII.

Compliance agreements

“66B.(1) The Secretary to the Department, on behalf of the Commonwealth, may enter into an agreement (a ‘**compliance agreement**’) with a person in connection with the application of particular procedures under this Act in respect of goods that may be brought into Australia or the Cocos Islands in accordance with the agreement.

“(2) The terms of a compliance agreement must be in accordance with this section and the regulations.

“(3) A compliance agreement may provide that, in circumstances stated in the agreement, the Secretary to the Department may, by written notice given to a party to the agreement other than the Commonwealth, cancel the agreement or suspend its operation for a period, or until the happening of an event, stated in the notice.

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“(4) A quarantine officer may notify a party to a compliance agreement other than the Commonwealth in writing of procedures under this Act to which the agreement is to extend in addition to those specifically referred to in the agreement and, if such a notification is given, the agreement has effect as if those procedures were referred to in it.

“(5) The regulations may require a compliance agreement to include provision for the giving of security for the proper observance of the agreement by a party other than the Commonwealth and, if security is so given under such a provision, the security may be enforced or forfeited regardless of any liability or penalty to which a person may be subject under this Act or the regulations.

“(6) A quarantine officer may release goods to which a compliance agreement applies from quarantine on the basis of a certificate or assurance, given by a person authorised under the agreement to give such a certificate or assurance, that all the procedures under this Act to which the agreement refers have been complied with in respect of the goods.

“(7) A party to a compliance agreement other than the Commonwealth must not intentionally or recklessly fail to ensure that any requirements imposed on that party under the agreement are complied with.
Penalty for a contravention of this subsection: 500 penalty units or imprisonment for 10 years, or both.”.

Division 4—Notices of importation and clearance of goods etc.

Object of Division

8. The object of this Division is to provide for notices to be given of the proposed importation of goods and to provide for the manner of giving those notices, and any other notices in respect of the goods, including the giving of notices by electronic means.

Insertion of new sections

9. After section 16AB of the Principal Act the following sections are inserted in Part III:

Notice of proposed importation of goods

“16AC.(1) If a person proposes to import goods into Australia or the Cocos Islands, the person, or an agent of the person, may give notice of the proposed importation in accordance with this section.

“(2) If a person imports goods into Australia or the Cocos Islands and notice of the proposed importation of the goods was not given under subsection (1), the person must, as soon as practicable after the importation, cause notice of the importation to be given in accordance with this section.
Penalty: 50 penalty units or imprisonment for 2 years, or both.

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“(3) Subsection (2) does not apply to goods imported in circumstances prescribed by the regulations if any conditions prescribed by the regulations are complied with.

“(4) A notice under subsection (1) or (2) must be given in the manner, and must contain the information relating to the goods, that is prescribed by the regulations.

“(5) The regulations:

(a) may provide for a notice under subsection (1) to be given to:

(i) an officer; or

(ii) an officer of Customs within the meaning of the *Customs Act 1901*; and

(b) may provide that the lodging of an entry, by electronic means or otherwise, under the *Customs Act 1901* in relation to goods is to constitute:

(i) if the goods have not been imported—the giving of a notice of the proposed importation of the goods under subsection (1); or

(ii) if the goods have been imported—the giving of a notice of the importation of the goods under subsection (2); and

(c) may provide for a notice under this section to be given by electronic means.

“(6) If a notice under this section is given to an officer of Customs as mentioned in subparagraph (5)(a)(ii) or is given by the lodging of an entry under the *Customs Act 1901* as mentioned in paragraph (5)(b), a person to whom section 16 of the *Customs Administration Act 1985* applies may, despite that section, give the notice, or particulars of the entry, to a quarantine officer.

Quarantine officer may require additional information about goods

“16AD.(1) A quarantine officer may, by written notice given to a person who has imported, or proposes to import, goods into Australia or the Cocos Islands or to an agent of such a person, require the person to whom the notice is given to give any information about the goods that is stated in the notice.

“(2) A notice under subsection (1), and any information given in response to such a notice, may be given by electronic means.

“(3) If a notice under subsection (1) is given by electronic means, the notice is taken to have been given by the principal quarantine officer in the State or Territory in which the notice was sent.

“(4) A person must not, without reasonable excuse, intentionally or recklessly fail to comply with a notice given to the person under subsection (1).

Penalty: 50 penalty units or imprisonment for 2 years, or both.

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False or misleading information

“16AE. A person must not include any information in a notice given under subsection 16AC(1) or (2), or give any information in response to a notice given under subsection 16AD(1), that the person knows to be false or misleading in a material particular.

Penalty: 50 penalty units or imprisonment for 2 years, or both.

Manner of communicating decisions by quarantine officers

“16AF.(1) If a quarantine officer decides to order goods into quarantine, or to authorise goods to be brought into Australia or the Cocos Islands (whether by releasing the goods from quarantine, granting a permit, giving an authorisation, or otherwise), the decision may be recorded, and notice of the decision may be given to a person affected by it, by electronic means.

“(2) If a notice referred to in subsection (1) requires the doing of any thing, the person to whom the notice is given must not intentionally or recklessly fail to ensure that that thing is done as required by the notice.

Penalty: 500 penalty units or imprisonment for 10 years, or both.

Evidence of giving of notices by electronic means

“16AG. The regulations may provide for the manner in which evidence may be given in a proceeding for the purpose of proving:

- (a) that a notice of the proposed importation of goods has, or has not, been given under subsection 16AC(1); or
- (b) that a notice of the importation of goods has, or has not, been given under subsection 16AC(2); or
- (c) that a notice has been given under section 16AD requiring a person to give information to a quarantine officer; or
- (d) that information has, or has not, been given as required by a notice under section 16AD; or
- (e) the nature of any information given in response to a notice under section 16AD; or
- (f) that a quarantine officer has authorised goods to be brought into Australia or the Cocos Islands by releasing the goods from quarantine, granting a permit, giving an authorisation, or otherwise.”.

Regulations

10. Section 87 of the Principal Act is amended by inserting after paragraph (1)(r) the following paragraph:

- “(ra) for prescribing the means (which may include electronic means) for granting a permit, giving a notice or authorisation, making a requirement or declaration, or providing information, under this Act or the regulations;”.

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PART 3—MINOR AMENDMENTS OF OTHER ACTS

Amendments of Acts

11. The Acts specified in the Schedule are amended as set out in the Schedule.

**Application of amendments of the Law and Justice Legislation
Amendment Act**

12. The amendments of the *Law and Justice Legislation Amendment Act 1994* made by the Schedule:

- (a) do not affect any distribution of a dividend on or before the day on which this Act receives the Royal Assent; and
 - (b) do not make the trustee liable for any act or omission of the trustee that occurred on or before the day on which this Act receives the Royal Assent.
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SCHEDULE

Section 11

AMENDMENTS OF ACTS

Agricultural and Veterinary Chemicals Act 1988

Subsection 48(1):

Omit the subsection, substitute:

“(1) If this Act is not repealed before the end of 30 June 1996 it ceases to be in force at that time.”.

Agricultural and Veterinary Chemicals (Administration) Act 1992

Paragraph 7(1A)(b):

Before “constituents”, insert “active”.

***Agricultural and Veterinary Chemical Products (Collection of Levy)
Act 1994***

Subsection 3(1):

Insert:

“‘**relevant particulars**’, in relation to a registered chemical product, has the same meaning as in the Agricultural and Veterinary Chemicals Code set out in the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1994*;”.

Law and Justice Legislation Amendment Act 1994

Subsection 91(1):

Omit “The amendments”, substitute “Subject to this section, the amendments”.

Subsection 91(2):

Omit the subsection, substitute:

“(2) So far as the amendments made by section 90 relate to RAS payments, the amendments apply in relation to:

- (a) RAS payments paid after 28 April 1994, regardless of the date of the bankruptcy; and
- (b) RAS payments paid on or before 28 April 1994, if the bankruptcy occurred as a result of a creditor’s petition or debtor’s petition presented after 28 April 1994.

For the purposes of this subsection, ‘**RAS payments**’ means amounts described in paragraph (2)(k), (m), (ma), (mb), (mc) or (md) of the Principal Act as amended by this Act.”.

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SCHEDULE—continued

Snowy Mountains Hydro-electric Power Act 1949

Paragraph 14(1)(b):

Omit “duties of his office;”, substitute “duties of the office.”.

Subsection 14(1):

Omit all the words after paragraph (b).

After subsection 14(1):

Insert:

“(1A) A person may be appointed under paragraph (1)(a) to act in an office for an indefinite period.”.

Subsection 14(4):

Omit “, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires”, substitute “or the vacancy is filled”.

Rural Adjustment Act 1992

Section 20:

Repeal the section, substitute:

Annual report

“20.(1) As soon as practicable after 30 June in each year, the Chairperson must:

- (a) prepare a report on the Council’s operations during the year ending on that 30 June; and
- (b) give the report to the Minister.

The report must include a report on the operation of the Rural Adjustment Scheme during the year.

“(2) The Minister must cause the report to be tabled in each House of the Parliament within 15 sitting days of that House after the Minister received the report.”.

Offshore Minerals Act 1994

Schedule 1, paragraphs 7(3)(c) and (d):

Omit “75%”, substitute “25%”.

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NOTES

1. No. 3, 1908, as amended. For previous amendments, see No. 15, 1912; No. 42, 1915; No. 47, 1920; No. 30, 1924; Nos. 19 and 92, 1947; No. 80, 1950; No. 61, 1961; No. 12, 1966; No. 1, 1969; No. 216, 1973 (as amended by No. 20, 1974); Nos. 1, 105 and 155, 1979; No. 70, 1980; No. 54, 1981; No. 51, 1982; No. 84, 1983; Nos. 19 (as amended by No. 165, 1984) and 22, 1984; No. 2, 1985; Nos. 104 (as amended by No. 155, 1988) and 141, 1987; No. 99, 1988; No. 37, 1990; No. 134, 1991; No. 104, 1992; and No. 20, 1994.

[*Minister's second reading speech made in—
Senate on 24 March 1994
House of Representatives on 8 June 1994*]