



**Australian Meat and Live-stock Industry
Act 1997**

No. 206, 1997



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**An Act relating to the Australian meat and live-
stock industry, and for related purposes**

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Australian Meat and Live-stock Industry Act 1997

No. 206, 1997

**An Act relating to the Australian meat and live-
stock industry, and for related purposes**

[Assented to 17 December 1997]

The Parliament of Australia enacts:

Part 1—Preliminary

Part 1 Preliminary

Division 1 Preliminary

Section 1

1 Short title

This Act may be cited as the *Australian Meat and Live-stock Industry Act 1997*.

2 Commencement

- (1) Part 1 of this Act commences on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the other provisions of this Act commence on a day or days to be fixed by Proclamation.
- (3) If a provision of this Act does not commence under subsection (2) within 9 months after the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

3 Definitions

In this Act, unless the contrary intention appears:

cattle means bovine animals other than buffaloes.

edible offal means any edible portion, other than the flesh, of live-stock.

industry means the meat and live-stock industry.

live-stock means cattle, calves, sheep, lambs, goats or other prescribed animals.

meat means the fresh or preserved flesh of live-stock, and includes meat products, meat by-products and edible offal, but does not include meat of a kind declared by the regulations to be, for the purposes of this Act, unfit for human consumption.

meat by-product includes skin, hide, tallow, meat meal and inedible offal.

meat product means food prepared from or containing meat, and includes canned meat.

4 Crown to be bound

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

5 Application of this Act

This Act applies both within and outside Australia.

6 Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Part 2—Control of meat and live-stock exports

Division 1—Preliminary

7 Definitions

In this Part, unless the contrary intention appears:

authorised officer means a person appointed under section 49 to be an authorised officer.

cattle producer means a person engaged in the raising or fattening of cattle.

covering includes a stopper, glass, bottle, vessel, box, container, capsule, case, frame or wrapper.

enter, in relation to a vessel or aircraft, includes go on board.

evidential material means a thing relevant to an offence, including such a thing in electronic form.

examine includes count, measure, weigh, grade or gauge.

exporter means a person engaged in the business of exporting meat or live-stock, or both.

export licence means a meat export licence or live-stock export licence.

live-stock export licence means a licence granted under this Part to export live-stock from Australia, and includes such a licence that has been renewed.

live-stock producer means a person engaged in the raising or fattening of live-stock.

meat export licence means a licence granted under this Part to export meat from Australia, and includes such a licence that has been renewed.

occupier, in relation to a vehicle, vessel or aircraft, means the person in charge of the vehicle, vessel or aircraft.

premises includes any place (whether enclosed, or built on, or not), vehicle, vessel or aircraft.

registered premises means premises registered, or that are part of an establishment that is registered, under regulations made under the *Export Control Act 1982*.

Secretary means the Secretary of the Department.

show cause notice means a notice under section 23.

8 Meat or live-stock export business

- (1) For the purposes of this Part, a person is taken to be a person who participates, or who would participate, in the management or control of the meat or live-stock export business, or proposed meat or live-stock export business, of another person if:
 - (a) the first-mentioned person has or would have authority to direct the operations, or an important or substantial part of the operations, of the business or proposed business; or
 - (b) the first-mentioned person has or would have authority to direct a person who has or would have authority of the kind referred to in paragraph (a) in the exercise of that authority or proposed authority.
- (2) A reference in this Part to the meat export business, or proposed meat export business, of a person includes a reference to any operations:
 - (a) that are carried out or proposed to be carried out by the person for or in connection with the slaughtering of animals, the dressing of animal carcasses or the treatment, packing, carriage, handling or storage of meat (including meat that is

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of a kind declared by the regulations to be meat unfit for human consumption); and

(b) that:

- (i) are or are proposed to be carried out as part of the business or proposed business; or
- (ii) are or are proposed to be carried out, wholly or partly, in connection with the business or proposed business.

(3) If:

- (a) a corporation (the *relevant corporation*) is the holder of, or an applicant for, a meat export licence; and
- (b) a corporation that is related to the relevant corporation carries out, or proposes to carry out, operations (the *relevant operations*) for or in connection with the slaughtering of animals, the dressing of animal carcasses or the treatment, packing, carriage, handling or storage of meat (including meat of a kind declared by the regulations to be meat unfit for human consumption); and
- (c) the relevant operations are or are proposed to be carried out, wholly or partly, in connection with the meat export business, or proposed meat export business, of the relevant corporation;

the relevant operations are taken, for the purposes of this Part, to be operations carried out or proposed to be carried out by the relevant corporation as part of its meat export business or proposed meat export business.

(4) For the purposes of subsection (3), the question whether corporations are related to each other is to be determined in the same manner as that question would be determined under the Corporations Law.

(5) In subsections (3) and (4):

corporation means a corporation within the meaning of the Corporations Law.

9 Secretary must have regard to industry policies

The Secretary must, in exercising the powers of the Secretary under Divisions 2 and 3 of this Part, have regard to any broad policies formulated jointly by prescribed industry bodies.

Division 2—Export licences

10 Grant of export licence

- (1) Subject to this Part, the Secretary may grant a person a licence, in writing, to export meat from Australia or to export live-stock from Australia.
- (2) The Secretary may, under subsection (1), grant a person both kinds of licence.
- (3) Subsection (1) does not prevent the Secretary from giving directions under section 17 restricting the kind of meat or live-stock export business, as the case may be, that the holder of an export licence is to be permitted to carry on under the conditions of the licence.

11 Application for licence

- (1) An application for an export licence must be made in accordance with the regulations.
- (2) An applicant for an export licence must pay the prescribed fee in respect of the application:
 - (a) when the application is lodged; or
 - (b) at any later time permitted under the regulations.
- (3) If a person has given the Secretary information or a document in connection with an application for an export licence and, before the application is granted or refused:
 - (a) a change happens so that the information, or anything stated in the document, ceases to be correct in relation to a matter; or
 - (b) the person becomes aware that the information, or anything stated in the document, is incorrect in relation to a matter;

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the person must, within 7 days after the change happens or the person becomes so aware, as the case may be, give the Secretary a written statement setting out the correct particulars of the matter.

- (4) A person who fails to comply with subsection (3) is guilty of an offence punishable, on conviction, by imprisonment for not longer than 12 months.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a maximum fine of an amount that is 5 times the maximum fine that could be imposed on an individual convicted of the same offence

12 Requirements for grant of licence

- (1) The Secretary must not grant an export licence unless satisfied that:
- (a) if the applicant is an individual, the applicant is:
 - (i) a person of integrity; and
 - (ii) competent to hold the licence; and
 - (iii) a person of sound financial standing; and
 - (b) if the applicant is a body corporate, the applicant is:
 - (i) a body corporate of integrity; and
 - (ii) competent to hold the licence; and
 - (iii) a body corporate of sound financial standing; and
 - (c) each person who participates or would participate, in the management or control of the applicant's meat or live-stock export business or proposed meat or live-stock export business is a person of integrity; and
 - (d) the applicant is, and is likely to continue to be, able to comply with the conditions to which the licence, if granted, would be subject; and
 - (e) the granting of the licence to the applicant would not, for any other reason, be contrary to the interests of the industry.

Section 13

- (2) The regulations may prescribe the matters to which the Secretary is to have regard for the purpose of satisfying himself or herself about the matters referred to in subsection (1).

13 Notice of refusal to grant licence

If the Secretary refuses to grant an application for an export licence, the Secretary must notify the applicant in writing of the refusal.

14 Review of refusal to grant licence

- (1) Application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary refusing an application for an export licence.
- (2) If an application for an export licence has not been determined within 2 months after it is made, the Secretary is taken, for the purposes of subsection (1), to have refused the application.

15 Licence subject to prescribed conditions

An export licence is subject to any conditions that are prescribed by the regulations, in addition to the conditions to which an export licence is subject under this Act.

16 Licence subject to condition that holder inform the Secretary of certain events

An export licence is subject to a condition that, if a prescribed event or circumstance happens, the holder of the licence will, within the prescribed time after the event or circumstance happens, give the Secretary written particulars of the event or circumstance.

17 Licence also subject to compliance with orders and directions under this section

- (1) The Secretary may:
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- (a) make written orders, not inconsistent with the regulations, to be complied with by the holders of export licences; and
 - (b) give written directions, not inconsistent with the regulations, to be complied with by the holder of an export licence.
- (2) Without limiting subsection (1), orders made and directions given under this section may make provision with respect to any matter relating to, or incidental to, the following:
- (a) the quality, standard and grading of meat and live-stock;
 - (b) the purchase of meat and live-stock;
 - (c) the terms and conditions of the sale of meat and live-stock, including terms and conditions relating to price;
 - (d) the carriage, handling and storage of meat and live-stock;
 - (e) the sale and distribution of meat and live-stock after export;
 - (f) the keeping of, and access to, records;
 - (g) the measures to be taken to ensure compliance with orders made under this section or section 18 or directions given under this section.
- (3) Without limiting subsection (1), orders made and directions given under this section:
- (a) may prohibit (either absolutely or unless particular conditions are complied with) the export, or sale for export, of meat or live-stock by reference to any one or more of the following matters:
 - (i) quantity;
 - (ii) quality, standard, grade or class;
 - (iii) the countries or places to which the meat or live-stock, as the case may be, is not to be exported;
 - (iv) the persons to whom, or the authorities or organisations to which, the meat or live-stock, as the case may be, is not to be exported or sold for export;
 - (v) any other matter that the Secretary thinks appropriate;
 - and

Section 18

- (b) may require the holder of an export licence to do any one or more of the following:
 - (i) obtain the prior approval of the Secretary for each export, or each export of a particular kind, to be made by the holder of the licence;
 - (ii) make declarations to the Secretary, including declarations with respect to meat or live-stock that have been exported, or are proposed to be exported, from Australia;
 - (iii) give information, send returns or produce documents, to the Secretary, including information, returns or documents with respect to sales, or orders for the supply, of meat or live-stock.
- (4) If a direction given under this section is inconsistent with an order made under this section or section 18, the direction prevails and the order, to the extent of the inconsistency, does not have any effect.
- (5) An export licence is subject to the condition that the holder of the licence must comply with:
 - (a) orders made under this section; and
 - (b) any directions given from time to time to the holder under this section.

18 Secretary may make certain orders

- (1) If the Secretary is satisfied that a person, authority or organisation is in a position to set the prices for all, or substantially all, of the meat or live-stock, or of meat or live-stock of a particular quality, exported from Australia to a country or place, the Secretary may make any orders that he or she considers necessary or desirable for the purpose of ensuring that Australian live-stock producers receive a fair return in respect of meat or live-stock, or meat or live-stock of that quality, exported from Australia to that country or place.
- (2) The Secretary may make any orders that he or she considers:

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- (a) would be beneficial for the development, or the further development, in a country or place outside Australia, of a market for meat or live-stock, or of a market for meat or live-stock of a particular quality, exported from Australia; and
 - (b) would be in the best commercial interests of the industry.
- (3) Without limiting subsection (1) or (2), an order under either of those subsections may prohibit (either absolutely or unless particular conditions are complied with) the export, or sale for export, of meat or live-stock, or of meat or live-stock of the particular quality, from Australia to the country or place by any one other than a specified holder of an export licence.
 - (4) An order under this section must not be inconsistent with the regulations.
 - (5) An export licence is subject to the condition that the holder must comply with orders under this section.
 - (6) In this section:

quality includes standard, grade and class.

19 Orders are disallowable instruments

Orders made under section 17 or 18 are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.

20 Directions by the Secretary

- (1) If a notice setting out the terms of directions given under section 17 to the holder of an export licence is given personally to, is served by post on, or is sent by telegraph, telex, facsimile service or a similar means of communication to, the holder of the licence, the directions are taken, for the purposes of paragraph 17(5)(b) to have been given to the holder of the licence.

Section 21

- (2) Application may be made to the Administrative Appeals Tribunal for review of a direction under section 17.

21 Duration of licence

An export licence:

- (a) comes into force on the date stated in the licence or, if no date is stated, the date on which it is granted; and
- (b) subject to this Part, remains in force for the period (which must be at least one year) stated in the licence, but may be renewed under section 22.

22 Renewal of licence

- (1) The holder of an export licence may, not earlier than 3 months and not later than one month before the licence is due to expire, apply to the Secretary for the renewal of the licence.
- (2) The Secretary may extend the period within which an application for the renewal of an export licence may be made, whether or not the period has ended or the licence has expired.
- (3) An application for the renewal of an export licence must be made in accordance with the regulations.
- (4) An application for renewal of an export licence must pay the prescribed fee in respect of the application when the application is lodged, or at any later time permitted under the regulations.
- (5) If the holder of an export licence duly applies for the renewal of the licence, the Secretary must, in writing, renew the licence unless the Secretary has determined under paragraph 24(1)(d) that the licence not be renewed.
- (6) Subject to this Part, an export licence that has been renewed continues in force for the period (which must be at least one year) specified in the renewal instrument, but may be further renewed under this section.

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- (7) A renewal of an export licence does not take effect if the licence is cancelled under paragraph 24(1)(c).
- (8) An export licence that is suspended may be renewed under this section, but the renewal does not take effect until the suspension stops.
- (9) Application may be made to the Administrative Appeals Tribunal for review of a decision by the Secretary under subsection (2).

23 Notice to licence holder to show cause

- (1) If the Secretary has reasonable grounds for believing, in relation to an export licence, that:
 - (a) if the licence is held by an individual, the holder of the licence has ceased to be:
 - (i) a person of integrity; or
 - (ii) competent to hold the licence; or
 - (iii) a person of sound financial standing; or
 - (b) if the licence is held by a body corporate, the holder of the licence has ceased to be:
 - (i) a body corporate of integrity; or
 - (ii) competent to hold the licence; or
 - (iii) a body corporate of sound financial standing; or
 - (c) a person who has begun to participate in the management or control of the meat or live-stock export business of the holder of the licence is not a person of integrity; or
 - (d) a person who participates in the management or control of the meat or live-stock export business of the holder of the licence has ceased to be a person of integrity; or
 - (e) information or a document given to the Secretary in connection with the application for the licence was false or misleading and, if the information or document has not been false or misleading, the licence would not have been granted; or

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- (f) the holder of the licence failed to comply with subsection 11(3) in relation to the application for the licence and, if the failure had not occurred, the licence would not have been granted; or
 - (g) the holder of the licence has contravened a condition of the licence;
- the Secretary may give a written notice under this section to the holder of the licence.
- (2) The regulations may prescribe the matters to which the Secretary is to have regard in determining whether a circumstance referred to in paragraph (1)(a), (b), (c) or (d) has occurred.
 - (3) A show cause notice must:
 - (a) state the grounds on which the Secretary formed the belief because of which the notice is given; and
 - (b) include a statement to the effect that the holder of the relevant licence may, within 14 days after the day on which the notice is given to the holder, give the Secretary a written statement showing cause why the licence should not be dealt with under subsection 24(1).
 - (4) A show cause notice to the holder of an export licence may state that the licence is suspended, if it appears to the Secretary to be necessary or desirable in the interests of the industry to suspend the licence under this section.
 - (5) If a show cause notice to the holder of an export licence states that the licence is suspended, the licence is suspended from the time the notice is given to the holder of the licence.
 - (6) If an export licence is suspended under this section, the licence period is taken to include the period of the suspension.
 - (7) If an export licence is suspended under this section:
 - (a) the Secretary may at any time revoke the suspension; and
-

Section 24

- (b) if the licence has not been dealt with under subsection 24(1) within 60 days after the day on which the licence is suspended—the suspension lapses at the end of that period.
- (8) Application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary to suspend an export licence under this section.
- (9) In this section:

licence period, in relation to an export licence, means the period during which the licence is to remain in force.

24 Powers of the Secretary in relation to licence

- (1) If the Secretary:
 - (a) has given a show cause notice to the holder of an export licence; and
 - (b) after considering any written statement by the holder of the licence given within the period mentioned in paragraph 23(3)(b), is satisfied of any of the matters mentioned in subsection 23(1);the Secretary may, by written notice given to the holder of the licence:
 - (c) cancel the licence; or
 - (d) if the licence is about to expire—determine that the licence not be renewed; or
 - (e) if the licence is not already suspended—suspend the licence for the period specified in the notice; or
 - (f) if the licence is already suspended—further suspend the licence for the period specified in the notice; or
 - (g) reprimand the holder of the licence.
- (2) If the Secretary:
 - (a) has given a show cause notice to the holder of an export licence; and
 - (b) decides not to take any further action in the matter;

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Division 2 Export licences

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the Secretary must, by written notice given to the holder, tell the holder of the decision and, if the licence is suspended under section 23, revoke the suspension.

- (3) The Secretary may suspend or further suspend an export licence under subsection (1) for a period ending after the day on which the licence, if not renewed, would expire.
- (4) Application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary under subsection (1).

25 Cancellation of licence at request of holder

The Secretary must cancel an export licence at the written request of the holder of the licence.

Division 3—Export quotas

26 Definitions

Expressions used in this Division have the same meanings as in subsection 3(1) of the *Australian Meat and Live-stock (Quotas) Act 1990*.

27 Orders establishing a system or systems of quotas

Without limiting sections 17 and 18, orders under those sections may provide for the establishment and administration of a system of quotas, including provision for or in relation to:

- (a) the body that is to administer a system of quotas; and
- (b) the method to be used in applying subsection 6(1) of the *Australian Meat and Live-stock (Quotas) Act 1990*; and
- (c) the transfer of a quota or a part of a quota; and
- (d) the surrender or cancellation of a quota or part of a quota.

28 Cancellation and variation of quotas

- (1) The Secretary may, by written notice given to the holder of a quota, cancel the quota, or part of the quota, in accordance with the orders referred to in section 27.
- (2) The Secretary may, by written notice given to the holder of a quota, vary any or all of the following:
 - (a) the period of effect of the quota;
 - (b) the quantity or description of goods covered by the quota;
 - (c) the condition or conditions of the quota.
- (3) The Secretary may vary a quota under this section:
 - (a) at any time, on his or her own initiative; or
 - (b) on application by the holder of the quota and on payment of the prescribed fee.

Section 29

29 Reimbursement for reduction of rights under quota

If:

- (a) a quota was granted to the holder of the quota by sale; and
- (b) the quota is cancelled, or varied, other than on application by the holder, so as to reduce the rights granted by the quota; and
- (c) the Minister determines in writing that, having regard to all the circumstances, it would be appropriate for the Commonwealth to repay to the holder a specified proportion of the sale price;

the amount specified in the determination is payable to the holder out of the Consolidated Revenue Fund, which is appropriated accordingly.

30 Review of decisions

Application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary:

- (a) cancelling a quota or part of a quota; or
- (b) varying a quota, or refusing to vary a quota on application by the holder of the quota.

31 Licensees to comply with quota system

An export licence is subject to the condition that the holder must comply with subsection 5(2) of the *Australian Meat and Live-stock (Quotas) Act 1990*.

32 Policies on quotas to be made available on request

The Secretary must, if requested by an exporter, make available to the exporter full particulars of such of the policies referred to in section 9 as relate to quotas.

**33 Concurrent operation of the Australian Meat and Live-stock
(Quotas) Act and this Division and Division 2**

The *Australian Meat and Live-stock (Quotas) Act 1990* and this Division are in addition to, and not in substitution for, any provision of Division 2.

Division 4—Enforcement

34 Searches to monitor compliance with Part

- (1) Subject to this section, to the extent to which it is reasonably necessary to do so for the purpose of finding out whether this Part or the regulations, or the conditions to which export licences are subject, have been complied with, an authorised officer may, at any time during ordinary working hours on any day and with any necessary help:
 - (a) enter any registered premises; or
 - (b) enter any vehicle, vessel or aircraft in which the officer has reasonable cause to believe meat or live-stock, or records relating to meat or live-stock, are contained and, if necessary for the purpose, stop and detain it.
- (2) An authorised officer who so enters any registered premises or any vehicle, vessel or aircraft may, with any necessary help, do any one or more of the following:
 - (a) inspect the premises, vehicle, vessel or aircraft or any thing found there;
 - (b) seize any thing found there that may be evidence of the commission of an offence against this Part if the officer believes on reasonable grounds that it is necessary to seize the thing to prevent its concealment, loss or destruction;
 - (c) take samples of any thing (including parts of the premises, vehicle, vessel or aircraft) found there;
 - (d) take extracts from, and make copies of, any document found there.
- (3) An authorised officer may not:
 - (a) under paragraph (2)(b)—seize a thing; or
 - (b) under paragraph (2)(c)—take samples of a thing;that appears to the officer to be in a person's possession or custody unless the officer makes out and tenders to the person a receipt, in

a form approved by the Secretary, for the thing seized or sample taken.

- (4) An authorised officer may not exercise any powers under subsection (1) in relation to any registered premises or any vehicle, vessel or aircraft if:
 - (a) the occupier (if any) of the premises, vehicle, vessel or aircraft has required the officer to produce his or her identity card for inspection by the occupier; and
 - (b) the officer fails to comply with the requirement.
- (5) Any thing seized under paragraph (2)(b), or any sample of any thing taken under paragraph (2)(c), is to be dealt with as prescribed.

35 Offence-related searches and seizures

- (1) If an authorised officer has reasonable grounds for suspecting that there may be at any premises a particular thing that may be evidence of the commission of an offence against this Part, the officer, with any necessary help, may:
 - (a) with the consent of the occupier of the premises; or
 - (b) under a warrant issued under section 37;
enter the premises and:
 - (c) search the premises for the thing; and
 - (d) if the thing is found, take photographs (including video recordings) of the premises or thing, take samples of the thing, seize the thing or undertake more than one of those activities.
- (2) If, in the course of searching, under a warrant issued under section 37, for a particular thing in relation to a particular offence, an authorised officer finds a thing that the officer believes, on reasonable grounds, to be:
 - (a) a thing that may be evidence of the commission of the offence, although not the thing stated in the warrant; or

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(b) a thing that may be evidence of the commission of another offence against this Part;

and the officer believes, on reasonable grounds, that it is necessary to seize the thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or the other offence, the warrant is taken to authorise the officer to seize the thing.

36 Release of seized goods

The Secretary may authorise any meat or live-stock, or any other thing, seized under section 34 or 35 to be released to the owner, or to the person from whose possession it was seized, either unconditionally or on any conditions that the Secretary thinks fit, including, in respect of meat or live-stock, conditions as to the giving of security for payment of the value of the meat or live-stock if they are forfeited under section 57.

37 Offence-related warrants

- (1) An authorised officer may apply to a magistrate for a warrant under this section in relation to particular premises.
- (2) Subject to subsection (3), a magistrate may issue the warrant in accordance with the prescribed form if satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, at the premises a particular thing that may be evidence of the commission of an offence against this Part.
- (3) A magistrate must not issue a warrant under subsection (2) unless the informant or some other person has given the magistrate, either orally or by affidavit, any further information that the magistrate requires about the grounds on which the issue of the warrant is being sought.
- (4) The warrant must:
 - (a) state the nature of the offence; and

- (b) contain a description of the premises to which the warrant relates; and
- (c) state the kinds of evidential material that are to be searched for under the warrant; and
- (d) authorise an authorised officer named in the warrant, with any help, and using any force, that is necessary and reasonable, to enter the premises and exercise the powers referred to in paragraphs 35(1)(c) and (d) in respect of the thing; and
- (e) state whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and
- (f) state a day, not later than 14 days after the day of issue of the warrant, upon which the warrant ceases to have effect.

38 Announcement before entry

- (1) An authorised officer who is authorised to enter premises under a warrant issued under section 37, or a person helping such an officer, must, before any person enters the premises under the warrant:
 - (a) announce that he or she is authorised by the warrant to enter the premises; and
 - (b) give any person at the premises an opportunity to allow entry to the premises.
- (2) The authorised officer, or a person helping the officer, does not have to comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure that the effective execution of the warrant is not frustrated.

39 Details of warrant to be given to occupier

- (1) If a warrant under section 37 in relation to premises is being executed and the occupier of the premises or another person who apparently represents the occupier is present at the premises, the
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officer or a person helping the officer must make a copy of the warrant available to that person.

- (2) The authorised officer must identify himself or herself to the person at the premises.
- (3) The copy of the warrant referred to in subsection (1) need not include the signature of the magistrate who issued the warrant.

40 Use of equipment to examine or process things

- (1) An authorised officer who enters premises under section 34 or 35, or a person helping the officer, may bring to the premises any equipment reasonably necessary for the examination or processing of things found at the premises in order to determine whether they are things that may be seized under that section.
- (2) If:
 - (a) it is not practicable to examine or process the things at the premises; or
 - (b) the occupier of the premises consents in writing;the things may be moved to another place so that the examination or processing can be carried out in order to determine whether they are things that may be seized under section 34 or 35, as the case may be.
- (3) If things containing electronically stored information are moved to another place for the purpose of examination or processing under subsection (2), the authorised officer must, if it is practicable to do so:
 - (a) tell the occupier the address of the place and the time at which the examination or processing will be carried out; and
 - (b) allow the occupier, or a representative of the occupier, to be present during the examination or processing.
- (4) The authorised officer, or a person helping the officer, may operate equipment already at the premises to carry out the examination or processing of a thing found at the premises in order to determine

whether it is a thing that may be seized under section 34 or 35, as the case may be, if the officer or person helping believes on reasonable grounds that:

- (a) the equipment is suitable for the examination or processing; and
- (b) the examination or processing can be carried out without damage to the equipment or the thing.

41 Use of electronic equipment at premises

- (1) Subject to subsection (4), if a thing found at premises that an authorised officer has entered under section 34 or 35 is or includes records of information in a written or electronic form, the officer, or a person helping the officer, may operate, or the officer may require the occupier or an employee of the occupier who is present to operate, equipment at the premises for the purpose of finding out whether:
 - (a) the equipment; or
 - (b) a disk, tape or other storage device that:
 - (i) is at the premises; and
 - (ii) can be used with, or is associated with, the equipment;contains records that are relevant to determining whether this Part or the conditions to which export licences are subject have been complied with.
- (2) If the authorised officer, or a person helping the officer, after equipment at the premises is operated, finds that the equipment contains records of the kind mentioned in subsection (1), or that a disk, tape or other storage device at the premises contains records of that kind, he or she may:
 - (a) seize the equipment or the disk, tape or other storage device; or
 - (b) if the records can, by using facilities at the premises, be put in documentary form—operate the facilities to put the records in that form and seize the documents so produced; or

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- (c) if the records can be transferred to a disk, tape or other storage device that:
 - (i) is brought to the premises; or
 - (ii) is at the premises and whose use for the purpose has been agreed to in writing by the occupier of the premises;operate the equipment or other facilities to copy the records to the storage device and remove the storage device from the premises.
- (3) An authorised officer or person helping an authorised officer may seize equipment under paragraph (2)(a) only if:
 - (a) it is not practicable to put the relevant records in documentary form as mentioned in paragraph (2)(b) or to copy the records as mentioned in paragraph (2)(c); or
 - (b) possession by the occupier of the equipment could be an offence.
- (4) An authorised officer, or a person helping an authorised officer, must not operate equipment for the purpose mentioned in subsection (1) unless he or she believes on reasonable grounds that the operation of the equipment will not damage it.

42 Compensation for damage to electronic equipment

- (1) If:
 - (a) equipment is damaged because of being operated as mentioned in section 40 or 41; and
 - (b) the damage was caused by:
 - (i) insufficient care being exercised in selecting the person who was to operate the equipment; or
 - (ii) insufficient care being exercised by the person (other than the occupier or a person employed by the occupier) operating the equipment;the Commonwealth must pay compensation for the damage to the owner of the equipment.

- (2) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises and the employees and agents of the occupier, if they were available at the time, had provided any warning or guidance as to the operation of the equipment that was appropriate in the circumstances.

43 Copies of seized things to be given

- (1) Subject to subsection (2), if an authorised officer who has entered premises under section 34 or 35 seizes:
- (a) a document, film, computer file or other thing that can readily be copied; or
 - (b) a storage device the information in which can readily be copied;
- the officer must, if asked to do so by the occupier of the premises or another person who apparently represents the occupier and is present when the seizure takes place, give a copy of the thing or the information to that person as soon as practicable after the seizure.
- (2) Subsection (1) does not apply if:
- (a) the thing that has been seized was seized under paragraph 41(2)(b) or (c); or
 - (b) possession by the occupier of the document, film, computer file, thing or information could be an offence.

44 Return of things that are seized

- (1) If an authorised officer seizes a thing under section 34 or 35, the officer must take reasonable steps to return it if the reason for its seizure no longer exists.
- (2) If the thing has not been returned before the end of 60 days after its seizure, the authorised officer must take reasonable steps to return it unless:
- (a) proceedings in which the thing may be used in evidence were begun before the end of the 60 days and have not been

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- completed (including an appeal to a court in relation to those proceedings); or
- (b) the officer may keep the thing because of an order under section 45; or
 - (c) the officer is authorised by this Part or by an order of a court to keep, destroy or dispose of the thing.
- (3) If the thing has to be returned, it must be returned to the person from whom it was seized or, if that person is not entitled to possess it, to the owner.
 - (4) If there is a dispute as to the ownership of the thing, the authorised officer may keep the thing until the dispute is resolved.
 - (5) This section has effect subject to section 45.

45 Court of summary jurisdiction may permit a thing to be kept

- (1) If:
 - (a) before the end of 60 days after an authorised officer seizes a thing under section 34 or 35; or
 - (b) before the end of a period previously stated in an order of a court under this section in respect of a thing seized by an officer as mentioned in paragraph (a);proceedings in which the thing may be used in evidence have not been brought, the officer may apply to a court of summary jurisdiction for an order that he or she may keep the thing for a further period.
- (2) If the court is satisfied that it is necessary for the authorised officer to continue to keep the thing:
 - (a) for the purposes of an investigation as to whether an offence has been committed; or
 - (b) to enable evidence of an offence to be secured for the purposes of a prosecution;the court may order that the officer may keep the thing for a period stated in the order.

- (3) If the court thinks that notice of the application should be given to any person, it may require such a notice to be given before it hears the application.

46 Warrants may be granted by telephone in urgent circumstances

- (1) If, because of circumstances of urgency, an authorised officer considers it necessary to do so, the officer may apply, by telephone, for a warrant under subsection 37(1).
- (2) Before so applying, an authorised officer must prepare an information of a kind referred to in subsection 37(2) that sets out the grounds on which the issue of the warrant is being sought, but the officer may, if it is necessary to do so, apply before the information has been sworn.
- (3) If a magistrate to whom an application is made by telephone is satisfied:
- (a) after having considered the terms of the information prepared under subsection (2); and
 - (b) after having received any further information that the magistrate requires about the grounds on which the issue of the warrant is being sought;
- that there are reasonable grounds for issuing the warrant, the magistrate must complete and sign a warrant of a kind that the magistrate would have issued under section 37 if the application had been made under that section.
- (4) If a magistrate signs a warrant under subsection (3):
- (a) the magistrate must notify the authorised officer of the terms of the warrant and the date on which and the time at which it was signed, and write on it the reasons for the granting of the warrant; and
 - (b) the officer must complete a form of warrant in the terms notified to the officer by the magistrate and write on it the name of the magistrate and the date on which and the time at which the warrant was signed.

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- (5) If an authorised officer completes a form of warrant under subsection (4), the officer must, not later than the day after the day on which the warrant ended or was executed, whichever is the earlier, send to the magistrate who signed the warrant the form of warrant completed by the officer and the information duly sworn in connection with the warrant.
- (6) Upon receiving the documents referred to in subsection (5), the magistrate must attach to them the warrant signed by the magistrate and deal with the documents in the manner in which the magistrate would have dealt with the information if the application for the warrant had been made under section 37.
- (7) A form of warrant duly completed by an authorised officer under subsection (4) is, if it is in accordance with the terms of the warrant signed by the magistrate, authority for any entry, search or seizure that the warrant so signed authorises.
- (8) If it is material, in any proceedings, for a court to be satisfied that an entry, search or seizure was authorised under this section, and the warrant signed by a magistrate under this section authorising the entry, search or seizure is not produced in evidence, the court must assume, unless the contrary is proved, that the entry, search or seizure was not authorised by such a warrant.

47 Power of authorised officer to require information or documents

- (1) Subject to subsection (2), an authorised officer who has entered premises under this Division may, to the extent that it is reasonably necessary for the purpose of finding out whether this Part or the regulations, or the conditions to which an export licence is subject, have been complied with, require a person to give information to the officer and to produce any documents referred to by the officer.
- (2) An authorised officer is not entitled to make a requirement of a person under subsection (1) unless the officer produces his or her identity card for inspection by the person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) A person must not fail to comply with a requirement under subsection (1).

Penalty: 30 penalty units.

48 Help to authorised officers

- (1) Subject to subsection (3), if an authorised officer requests the owner or occupier of any premises entered by the officer under section 34 or 35 to give to the officer reasonable help in the exercise of the officer's powers under that section in relation to the premises, the owner or occupier must not fail to comply with the request, either intentionally or being reckless as to the request.

Penalty: Imprisonment for 6 months.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (2) If an authorised officer makes a request of a person under this section, the officer must produce his or her identity card for inspection by the person.
- (3) If an authorised officer fails to comply with subsection (2), the person need not comply with a request by the officer under this section.

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

49 Authorised officers

- (1) The Secretary may, in writing, appoint a person or a class of persons to be an authorised officer or authorised officers, as the case may be, for the purposes of this Part.
- (2) The Secretary must cause to be given to each person who is an authorised officer an identity card:
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- (a) that states the person's name and the fact that the person is an authorised officer for the purposes of this Part; and
 - (b) to which is attached a photograph of the person taken within 3 years before the identity card is given to the person.
- (3) A person who, having ceased to be an authorised officer, fails to return his or her identity card to the Secretary, as soon as practicable, is guilty of an offence punishable on conviction by a fine or not more than 1 penalty unit.

50 Protection of authorised officers and other people

- (1) An authorised officer is not liable to any action, suit or proceeding for or in relation to anything done or omitted to be done in good faith in the exercise or purported exercise of any power or authority conferred on him or her by this Part.
- (2) A person who is requested by an authorised officer, whether under section 48 or otherwise, to help the officer in the exercise or purported exercise of any power or authority conferred on the officer by this Part is not liable to any action, suit or proceeding for or in relation to anything done or omitted to be done in good faith in helping the officer.

51 Secretary may require information or documents

- (1) The Secretary may, by written notice given to a person, require the person, within a reasonable time stated in the notice, to give the Secretary any information, or produce to the Secretary any documents, referred to in the notice that relate to:
 - (a) the industry; or
 - (b) the meat or live-stock business of the person or of another person; or
 - (c) any meat or live-stock that have been, or are proposed to be, exported from Australia; or
 - (d) the holder of an export licence.

- (2) A person must not fail to comply with a notice under subsection (1), either intentionally or being reckless as to the nature.

Penalty: Imprisonment for 12 months.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (3) A person is not excused from giving information or producing a document under subsection (1) on the ground that the information or the production of the document, as the case may, might tend to incriminate the person or make the person liable to a penalty. However, if the information is given or the document is produced by an individual, the information or the production of the document, and any information or thing (including any document) obtained as a direct or indirect result of the giving of the information or the production of the document, as the case may be, is not admissible in evidence against the individual in proceedings other than proceedings for an offence against subsection 55(1) or (2).

52 Nominees

- (1) A declaration required to be made, information required to be given, a return required to be sent or a document required to be produced to the Secretary, for the purposes of this Part, by the holder of an export licence is taken not to have been duly made, given, sent or produced unless it is made, given, sent or produced by:
- (a) the holder of the licence; or
 - (b) an individual appointed, for the time being, under this section to be a nominee of the holder of the licence.
- (2) The holder of an export licence:
- (a) may, by written notice given to the Secretary, appoint an individual to be the holder's nominee; and
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- (b) may, by a later written notice given to the Secretary, end the appointment.
- (3) A notice under subsection (2) must contain the prescribed matters.
- (4) If an individual appointed, for the time being, by a notice under this section to be a nominee of the holder of an export licence makes a declaration, gives information, sends a return or produces a document to the Secretary in accordance with the authority conferred on him or her by the notice, the declaration, information, return or document, as the case may be, is taken, for the purposes of this Part (including any proceedings for an offence against this Part) to be made, given, sent or produced, as the case may be, on behalf of, and with the knowledge and consent of, the holder of the licence.
- (5) Despite any other provision of this Act, or any other act, a person who is convicted of an offence against this Part because of the operation of subsection (4) is not subject to a penalty of imprisonment.
- (6) A declaration made, information given, a return sent or a document produced to the Secretary for the purpose of complying with the conditions to which an export licence is subject is taken for the purposes of subsections (1) and (4) to be a declaration required to be made, information required to be given, a return required to be sent or a document required to be produced, as the case may be, to the Secretary for the purposes of this Part by the holder of the licence.

53 Evidence of analyst

- (1) The Secretary may, by writing, appoint appropriately qualified people to be analysts for the purposes of this Part.
- (2) An analyst appointed under subsection (1) may sign a certificate stating that the person who signed the certificate was appointed as an analyst under subsection (1) and also stating, in relation to a substance, any of the following:
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- (a) when, where and from whom the analyst received the substance;
 - (b) what, if any, labels or other means of identifying the substance accompanied it when it was received;
 - (c) in what container or containers the substance was received;
 - (d) if the substance, or any portion of it, was examined or analysed:
 - (i) the name of the method of examination or analysis; and
 - (ii) the results of the examination or analysis;
 - (e) how the substance was dealt with after handling by the analyst, including particulars of:
 - (i) the quantity retained; or
 - (ii) the name of the person, if any, to whom any retained quantity was given; or
 - (iii) measures taken to secure any retained quantity.
- (3) For the purposes of this Part, but subject to subsection (4), a certificate purporting to have been signed under subsection (2) is admissible in any proceedings as prima facie evidence of the matters stated in it.
- (4) A certificate referred to in subsection (2) must not be received in evidence under that subsection in any proceedings for an offence against this Part unless the person charged has been given a copy of the certificate together with reasonable notice of the intention of the prosecutor to produce the certificate as evidence in the proceedings.
- (5) If, under subsection (3), a certificate of an analyst appointed under subsection (1) is admitted in evidence, the person charged may require the analyst to be called as a witness for the prosecution and the analyst may be cross-examined as if he or she had given evidence of the matters in the certificate.

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54 Export of meat or live-stock without export licence etc.

- (1) A person who is not the holder of a meat export licence must not export meat from Australia.
- (2) A person who is not the holder of a live-stock export licence must not export live-stock from Australia.
- (3) The holder of an export licence must not contravene a condition of the licence either intentionally or being reckless as to the condition.

Penalty: Imprisonment for 5 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

55 False information etc.

- (1) A person is guilty of an offence if the person:
 - (a) makes a declaration, gives information, sends a return or produces a document to the Secretary; and
 - (b) does so knowing the declaration, information, return or document is false or misleading in a material particular.

Penalty: Imprisonment for 12 months, or 60 penalty units, or both.

- (2) A person is guilty of an offence if the person:
 - (a) makes a declaration, gives information, sends a return or produces a document to the Secretary; and
 - (b) does so recklessly as to whether the declaration, information, return or document is false or misleading in a material particular.

Penalty: Imprisonment for 6 months, or 30 penalty units, or both.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of

that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

56 Person falsely holding out to be the holder of licence etc.

- (1) A person who is not the holder of an export licence must not hold out that the person is the holder of an export licence.
- (2) A person who is not the holder of an export licence must not represent that the person can export meat from Australia.
- (3) A person must not make a contract for the carriage of meat to a country or place outside Australia unless:
 - (a) the person is the holder of a meat export licence; or
 - (b) the person makes the contract as the agent of the holder of a meat export licence; or
 - (c) the person makes the contract with the holder of a meat export licence and, under the contract, the person is to carry the meat to the country or place outside Australia.
- (4) A person who is not the holder of a live-stock export licence must not represent that the person can export live-stock from Australia.
- (5) A person must not make a contract for the carriage of live-stock to a country or place outside Australia unless:
 - (a) the person is the holder of a live-stock export licence; or
 - (b) the person makes the contract as the agent of the holder of a live-stock export licence; or
 - (c) the person makes the contract with the holder of a live-stock export licence and, under the contract, the person is to carry the live-stock to the country or place outside Australia.

Penalty: Imprisonment for 12 months.

Note 1: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

Part 2 Control of meat and live-stock exports

Division 4 Enforcement

Section 57

Note 2: A defendant bears an evidential burden in relation to the matter in subsections (3) and (5) (see subsection 13.3(3) of the *Criminal Code*).

57 Forfeiture of goods

- (1) If a court convicts a person of an offence against this Part in respect of any meat or live-stock, the court may order the forfeiture to the Commonwealth of the meat or live-stock.
- (2) The forfeiture of any meat under subsection (1) extends to the forfeiture of any covering in which the meat is contained.
- (3) Any meat or live-stock forfeited under this section may be sold, or otherwise disposed of, as a prescribed person directs.

Part 3—Industry marketing and research bodies, and approved donors

Division 1—Preliminary

58 Definitions

In this Part:

approved donor means a body for the time being declared to be an approved donor under section 61.

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

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

59 Minister must have regard to industry policies

The Minister must, in exercising the powers of the Minister under this Part, have regard to any broad policies formulated jointly by prescribed industry bodies.

Division 2—Declaration of industry bodies and approved donors

60 Declaration of industry marketing and research bodies

- (1) The Minister may, in writing, declare a body to be the industry marketing body.
- (2) The Minister may, in writing, declare a body to be the industry research body.
- (3) The Minister may declare the same body to be both the marketing body and the research body, but must not declare more than one marketing body or more than one research body at any one time.
- (4) The Minister must not declare a body to be the marketing body unless satisfied:
 - (a) that the body is a company limited by guarantee incorporated under the Corporations Law; and
 - (b) that, having regard to its membership, its memorandum and articles of association, and any undertakings it has given, or agreements or arrangements it has entered into with other industry representatives or the Minister (or both), whether before or after the commencement of this section, the body can appropriately represent the industry's marketing, promotion or other prescribed interests; and
 - (c) that the body has consented to the declaration.
- (5) The Minister must not declare a body to be the research body unless satisfied:
 - (a) that the body is a company limited by guarantee incorporated under the Corporations Law; and
 - (b) that, having regard to its membership, its memorandum and articles of association, and any undertakings it has given, or agreements or arrangements it has entered into with other industry representatives or the Minister (or both), whether

before or after the commencement of this section, the body can appropriately represent the industry in relation to the industry's research and development interests; and

(c) that the body has consented to the declaration.

(6) A declaration under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

61 Declaration of approved donors

(1) The Minister may, in writing, declare a body (other than the research body) to be an approved donor.

(2) The Minister must not declare a body to be an approved donor unless satisfied:

(a) that the body is a company limited by guarantee incorporated under the Corporations Law; and

(b) that, having regard to its membership, its memorandum and articles of association, and any undertakings it has given, or agreements or arrangements it has entered into with other industry bodies or the Minister (or both), whether before or after the commencement of this section, the body can appropriately represent the industry in relation to the industry's research and development interests; and

(c) that the body has consented to the declaration.

(3) A declaration under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

62 Bodies to inform Minister about changes to their memoranda and articles of association

The industry marketing body, the industry research body or an approved donor must, as soon as practicable, after any alteration of its memorandum or articles of association is made, give the Minister a written notice setting out the alteration and explaining its effect.

Division 3—Payments to industry bodies

63 Payments to the marketing body

- (1) There is to be paid to the marketing body, at the times, in the manner and subject to the conditions agreed between the Minister and the body, amounts equal to:
- (a) the amounts of levy received by the Commonwealth because of paragraphs 6(1)(a), 7(a) and 8(1)(a) of the *Live-stock Transactions Levy Act 1997*; and
 - (b) the amounts of levy received by the Commonwealth because of paragraphs 6(a), 7(a) and 8(a) of the *Live-stock Slaughter (Processors) Levy Act 1997*; and
 - (c) the amounts of charge received by the Commonwealth because of paragraphs 5(a), 6(a) and 7(a) of the *Live-stock (Producers) Export Charges Act 1997*; and
 - (d) the amounts of charge received by the Commonwealth because of paragraphs 5(a), 6(a) and 7(a) of the *Live-stock (Exporters) Export Charge Act 1997*; and
 - (e) the amounts of levy received by the Commonwealth because of paragraph 6(1)(a) of the *Beef Production Levy Act 1990*; and
 - (f) the amounts of charge received by the Commonwealth because of paragraphs 5(1)(a) and 5(2)(a) of the *Cattle (Producers) Export Charges Act 1997*; and
 - (g) the amounts of charge received by the Commonwealth because of paragraph 6(1)(a) of the *Cattle (Exporters) Export Charge Act 1997*; and
 - (h) the amounts of levy received by the Commonwealth because of paragraphs 7(1)(a), 7(2)(a) and 7(3)(a) of the *Cattle Transactions Levy Act 1997*;
- in respect of transactions or activities that take place after the commencement of this Part.

- (2) The amounts payable to the marketing body under this section are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

64 Payments to the research body

- (1) There is to be paid to the research body, at the times, in the manner and subject to the conditions agreed between the Minister and the body, amounts equal to:
- (a) the amounts of levy received by the Commonwealth because of paragraphs 6(1)(b), 7(b) and 8(1)(b) of the *Live-stock Transactions Levy Act 1997*; and
 - (b) the amounts of levy received by the Commonwealth because of paragraphs 5(b), 6(b) and 7(b) of the *Live-stock Slaughter (Processors) Levy Act 1997*; and
 - (c) the amounts of charge received by the Commonwealth because of paragraphs 5(b), 6(b) and 7(b) of the *Live-stock (Producers) Export Charges Act 1997*; and
 - (d) the amounts of charge received by the Commonwealth because of paragraphs 7(b), 8(b) and 9(b) of the *Live-stock (Exporters) Export Charge Act 1997*; and
 - (e) the amounts of levy received by the Commonwealth because of paragraph 6(1)(b) of the *Beef Production Levy Act 1990*; and
 - (f) the amounts of charge received by the Commonwealth because of paragraphs 5(1)(b) and 5(2)(b) of the *Cattle (Producers) Export Charges Act 1997*; and
 - (g) the amounts of charge received by the Commonwealth because of paragraph 6(1)(b) of the *Cattle (Exporters) Export Charge Act 1997*; and
 - (h) the amounts of levy received by the Commonwealth because of paragraphs 7(1)(b), 7(2)(b) and 7(3)(b) of the *Cattle Transactions Levy Act 1997*;

in respect of transactions or activities that take place after the commencement of this Part.

Section 65

- (2) The amounts payable to the research body under this section are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

65 References to amounts of levy and amounts of charge

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

66 Commonwealth's matching payments

- (1) Subject to this section, there is also to be paid to the research body out of the Consolidated Revenue Fund, which is appropriated accordingly, amounts equal to one-half of:
- (a) the amounts from time to time paid by the research body under paragraphs 67(2)(b) and (c); and
 - (b) the amounts from time to time paid by the research body for industry research and development purposes approved in writing by the Minister, being amounts so paid from amounts
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received by that body from approved donors for industry research and development purposes.

- (2) The sum of the amounts paid to the research body under subsection (1) must not be greater than the sum of:
 - (a) the amounts paid to the research body under subsection 64(1), other than amounts related to amounts received by the Commonwealth by way of penalty; and
 - (b) the amounts paid to the research body by approved donors for industry research and development purposes.
- (3) The sum of the amounts that, during a particular financial year, are paid to the research body under subsection (1) must not be greater than an amount equal to 0.5% of the amount that the Secretary determines to be the gross value of production of the industry for the financial year.
- (4) The regulations may provide for the way in which the Secretary is to determine the amount of the gross value of production of the industry for a financial year.

67 Application of money

- (1) The amounts paid to the marketing body under section 63 may be applied by that body only:
 - (a) in payment to the Commonwealth of amounts equal to the expenses incurred by the Commonwealth in relation to:
 - (i) the collection or recovery of amounts referred to in section 63; or
 - (ii) the administration of that section; and
 - (b) in making payments for or in connection with industry marketing or promotion and in accordance with the conditions (if any) on which the amounts were paid to that body under section 63; and
 - (c) in making such other payments (if any), subject to such conditions (if any), as are prescribed.

Section 68

- (2) The amounts paid to the research body under section 64 may be applied by that body only:
 - (a) in payment to the Commonwealth of amounts equal to the expenses incurred by the Commonwealth in relation to:
 - (i) the collection or recovery of amounts referred to in section 64; or
 - (ii) the administration of that section; and
 - (b) in making payments for or in connection with industry research and development and in accordance with the conditions (if any) on which the amounts were paid to that body under section 64; and
 - (c) in making such other payments (if any), subject to such conditions (if any), as are prescribed.
- (3) The amounts paid to the research body under section 66 may be applied by that body only:
 - (a) in making payments for or in connection with industry research and development and in accordance with the conditions (if any) determined in writing by the Minister; and
 - (b) in making such other payments (if any), subject to such conditions (if any), as are prescribed.
- (4) A determination by the Minister under this section is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

68 Reimbursement of Commonwealth

If the Commonwealth pays a refund in respect of an amount of levy or charge referred to in section 63 or 64, the body that received an amount equal to that amount of levy or charge must pay to the Commonwealth an amount equal to the refund.

Part 4—Miscellaneous

69 Ministerial directions

- (1) The Minister may, in writing, direct a prescribed body to do the things specified in the direction.
- (2) A prescribed body must not fail to comply with a direction given to it under this section, either intentionally or being reckless as to the direction.

Penalty: 300 penalty units

- (3) The Minister must not give a direction unless the direction relates to one or more of the following:
 - (a) trade and commerce with other countries, and among the States;
 - (b) quarantine;
 - (c) foreign corporations, or trading or financial corporations formed within the limits of the Commonwealth;
 - (d) external affairs;
 - (e) any other matter with respect to which the Parliament has power to make laws under the Constitution.
- (4) The Minister may only give a direction to a prescribed body if:
 - (a) the Minister is satisfied that, because of the existence of exceptional and urgent circumstances, it is in the national interest of Australia to do so; and
 - (b) before giving the direction, the Minister has given the directors of the body an adequate opportunity to discuss with the Minister the need for the proposed direction.
- (5) The Minister must not give a direction to a prescribed body that would require the body to incur expenses greater than the amounts paid to the body under this Act and any amounts paid to the body

Section 70

under the *Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997*.

- (6) Subject to subsection (7), if the Minister gives a direction under this section, the Minister must cause a copy of the direction to be laid before each House of the Parliament within 15 sitting days of that House after the direction is given.
- (7) Subsection (6) does not apply in relation to a direction given to a prescribed body if:
 - (a) the Minister, on the recommendation of the body, determines, in writing, that compliance with the subsection would, or would be likely to, prejudice the body's commercial activities; or
 - (b) the Minister determines, in writing, that compliance with the subsection would, or would be likely to, prejudice the national interest of Australia.
- (8) In this section:

prescribed body means:

- (a) the marketing body within the meaning of Part 3; or
- (b) the research body within the meaning of Part 3; or
- (c) an industry body prescribed by regulations made under the *Australian Meat and Live-stock Industry (Repeals and Consequential Provisions) Act 1997* while that body holds money paid to it in accordance with that Act.

70 Delegations

- (1) The Minister may, in writing, delegate to the Secretary all or any of the Minister's powers under this Act, other than the Minister's powers under section 69.
- (2) The Secretary may, in writing, delegate to an SES employee in the Department all or any of the Secretary's powers under this Act, except the Secretary's power to appoint authorised officers under section 49.

(3) In this section:

SES employee means a person who is:

- (a) an SES officer within the meaning of the *Public Service Act 1922*; or
- (b) an SES employee within the meaning of the *Public Service Act 1997*.

71 Compensation for acquisition of property

(1) If, apart from this section, the operation of this Act would result in the acquisition of property from a person otherwise than on just terms, there is payable to the person by the Commonwealth such reasonable amount of compensation as is agreed between the person and the Commonwealth or, failing agreement, as is determined by a court of competent jurisdiction.

(2) In this section:

acquisition of property and *just terms* have the same respective meanings as in paragraph 51(xxxi) of the Constitution.

72 Minister not to be taken to be a director of a company

The Minister is not taken to be a director of any body corporate for the purposes of the Corporations Law merely because of the powers to give directions conferred on the Minister by this Act.

73 Operation of certain laws not restricted

Nothing in this Act or the regulations restricts the operation of the *Customs Act 1901*, the *Commerce (Trade Descriptions) Act 1905* or the *Export Control Act 1982*, or the operation of any regulations made under any of those Acts.

Section 74

74 Regulations

- (1) The Governor-General may make regulations prescribing all matters:
 - (a) that are required or permitted by this Act to be prescribed; or
 - (b) that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may prescribe penalties of not more than 10 penalty units for offences against the regulations.

*[Minister's second reading speech made in the—
House of Representatives on 1 October 1997
Senate on 29 October 1997]*

(165/97)