



National Residue Survey (Customs) Levy Act 1998

Act No. 32 of 1998 as amended

This compilation was prepared on 31 August 2005
taking into account amendments up to Act No. 108 of 2005

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

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An Act to impose National Residue Survey Levies that are duties of customs

1 Short title [see Note 1]

This Act may be cited as the *National Residue Survey (Customs) Levy Act 1998*.

2 Commencement [see Note 1]

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

3 Simplified outline

The following is a simplified outline of this Act:

- This Act imposes National Residue Survey Levies that are duties of customs.
- Each Schedule imposes a particular levy and makes provision for:
 - (a) the operative rate of the levy; and
 - (b) the maximum rate of the levy; and
 - (c) the person who is liable to pay the levy; and
 - (d) any exemptions from the levy.

4 Definitions

Unless the contrary intention appears, a word or expression has the same meaning in a Schedule to this Act as it has in the *Primary Industries Levies and Charges Collection Act 1991*.

5 Act to bind Crown

This Act binds the Crown in right of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island. However, it does not bind the Crown in right of the Commonwealth.

6 Duties of customs

This Act authorises the imposition of a levy only so far as the levy is a duty of customs within the meaning of section 55 of the Constitution.

7 Imposition of levy

The Schedules have effect.

8 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Schedule 1—Aquatic animal export

1 Definitions

In this Schedule:

aquatic animal means:

- (a) live, fresh or processed fish; and
- (b) crustaceans and molluscs; and
- (c) aquatic reptiles; and
- (d) all other forms of amphibious or aquatic animal life;

but does not include:

- (e) aquatic mammals; or
- (f) oyster spat or live fish ova; or
- (g) aquarium fish; or
- (h) shells from which the fish have been removed.

aquatic animal product means a product of which the major component is aquatic animals.

2 Imposition of levy

- (1) National Residue Survey Levy is imposed on the export of aquatic animals, or aquatic animal products, from Australia after the commencement of this Schedule.
- (2) National Residue Survey Levy is not imposed by this Schedule if the aquatic animal or aquatic animal product is prescribed for the purposes of this subclause.

3 Rate of levy

- (1) The rate of National Residue Survey Levy imposed by this Schedule on the export of aquatic animals of a particular class or aquatic animal products produced from aquatic animals of a particular class is:
 - (a) the rate specified in the third column of the following table opposite that class; or

Clause 4

- (b) if regulations are made prescribing a rate in relation to that class, being a rate that does not exceed the rate specified in the fourth column of the following table opposite that class—that prescribed rate.

Rates table			
Item	Class of aquatic animal	Operative rate of levy	Maximum rate of levy
1	fin fish	1 cent per kilogram	5 cents per kilogram
2	abalone	1 cent per kilogram	5 cents per kilogram
3	other crustaceans and molluscs	1 cent per kilogram	5 cents per kilogram
4	any other aquatic animal	1 cent per kilogram	5 cents per kilogram

- (2) The regulations may prescribe different rates in relation to:
- (a) different groups of aquatic animals within the same class of aquatic animals; and
 - (b) aquatic animal products produced from different groups of aquatic animals within the same class of aquatic animals.
- (3) Subclause (2) does not affect the application of subsection 33(3A) of the *Acts Interpretation Act 1901*.

4 Who pays the levy

National Residue Survey Levy imposed by this Schedule on the export of aquatic animals or aquatic animal products is payable by the producer of the aquatic animals or aquatic animal products.

Schedule 2—Cattle export

1 Definitions

In this Schedule:

cattle and *dairy cattle* have the same respective meanings as in Schedule 3 to the *Primary Industries (Customs) Charges Act 1999*.

2 Imposition of levy

- (1) National Residue Survey Levy is imposed on the export of cattle (other than dairy cattle) from Australia after the commencement of this Schedule if levy under Schedule 1 to the *National Residue Survey (Excise) Levy Act 1998* has not been paid, and is not payable, in respect of an act or transaction relating to the cattle.
- (2) National Residue Survey Levy is imposed on the export of cattle (other than dairy cattle) from Australia after the commencement of this Schedule if:
 - (a) the cattle were purchased by the exporter, whether before or after the commencement of this Schedule; and
 - (b) the period starting on the date of the purchase and ending on the date of the export is longer than the longest of the following periods:
 - (i) 60 days;
 - (ii) the period for which the cattle are required under the *Quarantine Act 1908* to be held in quarantine before being exported;
 - (iii) the period for which the cattle are required under the law of the country to which they are being exported to be held in quarantine before being exported.

Clause 3

3 Rate of levy

- (1) The rate of National Residue Survey Levy imposed by this Schedule on the export of each head of cattle (other than a chargeable bobby calf) is 32 cents or, if another rate (not exceeding 35 cents) is prescribed by the regulations, the other rate.
- (2) The rate of National Residue Survey Levy imposed by this Schedule on the export of each head of cattle that is a chargeable bobby calf is 26 cents or, if another rate (not exceeding 35 cents) is prescribed by the regulations, the other rate.
- (3) For the purposes of subclause (1), a cow with a calf at foot are together taken to constitute a single head of cattle.
- (4) In this clause:

chargeable bobby calf means a bovine animal:

- (a) which, at the time when it is exported, had or has a liveweight that did not or does not exceed 80kg; or
- (b) which has not had its liveweight determined at the time when it is exported but which, in the opinion of the intermediary, would, if slaughtered at that time, have constituted or constitute a carcass whose dressed weight would not have exceeded or would not exceed 40kg;

but does not include:

- (c) a buffalo; or
- (d) a calf at foot with a cow.

intermediary means the person required, under the *Primary Industries Levies and Charges Collection Act 1991*, to pay to the Commonwealth, on behalf of the producer, an amount equal to the amount of National Residue Survey Levy imposed by this Schedule.

4 Who pays the levy

The National Residue Survey Levy imposed by this Schedule on the export of cattle is payable by the producer of the cattle.

Schedule 3—Honey export

1 Definitions

In this Schedule:

honey means honey that is produced in Australia.

2 Imposition of levy

- (1) National Residue Survey Levy is imposed on honey exported from Australia after the commencement of this Schedule.
- (2) National Residue Survey Levy is not imposed by this Schedule on honey on which National Residue Survey Levy imposed by:
 - (a) Schedule 7 to the *National Residue Survey (Excise) Levy Act 1998*; or
 - (b) the repealed *National Residue Survey (Honey) Levy Act 1992*;has been paid or is payable.
- (3) National Residue Survey Levy is not imposed by this Schedule on honey exported from Australia by a person in a month if the weight of the total quantity of the honey exported from Australia by the person in that month is 50 kilograms or less.
- (4) The regulations may exempt a specified class of honey from National Residue Survey Levy imposed by this Schedule.

3 Rate of levy

The rate of National Residue Survey Levy imposed by this Schedule on honey is 0.3 cents per kilogram or, if another rate (not exceeding 0.6 cents per kilogram) is prescribed by the regulations, the other rate.

4 Who pays the levy

The National Residue Survey Levy imposed by this Schedule on honey is payable by the producer of the honey.

Schedule 4—Horticultural products export

1 Definitions

In this Schedule:

apples means fruit of any species of the genus *Malus*.

eligible horticultural products means horticultural products specified in regulations made for the purposes of this definition.

horticultural products has the same meaning as in Schedule 10 to the *Primary Industries (Customs) Charges Act 1999*.

leviable horticultural products means:

- (a) onions; or
- (b) apples; or
- (c) pears; or
- (d) eligible horticultural products.

onion means a bulb of the species *Allium cepa*.

pears means fruit of any species of the genus *Pyrus*, except fruit of the species *Pyrus pyrifolia* (nashi).

2 Imposition of levy

- (1) National Residue Survey Levy is imposed on leviable horticultural products produced in Australia (whether before or after the commencement of this Schedule) that are exported from Australia after the commencement of this Schedule.
- (2) National Residue Survey Levy is not imposed by this Schedule on leviable horticultural products if the producer has paid levy imposed by Schedule 9 to the *National Residue Survey (Excise) Levy Act 1998* on those products.
- (3) The regulations may exempt from National Residue Survey Levy imposed by this Schedule:
 - (a) leviable horticultural products exported by a specified class of persons; or

- (b) specified subclasses of a class of leviable horticultural products.

3 Rate of levy—onions

The rate of National Residue Survey Levy imposed by this Schedule on onions is 40 cents per tonne or, if another rate (not exceeding \$5.00 per tonne) is prescribed by the regulations, the other rate.

4 Rate of levy—apples and pears

- (1) The rate of National Residue Survey Levy imposed by this Schedule on apples is 0.075 of a cent per kilogram or, if another rate (not exceeding 0.1 of a cent per kilogram) is prescribed by the regulations, the other rate.
- (2) The rate of National Residue Survey Levy imposed by this Schedule on pears is 0.075 of a cent per kilogram or, if another rate (not exceeding 0.1 of a cent per kilogram) is prescribed by the regulations, the other rate.

5 Rate of levy—eligible horticultural products

- (1) The rate of National Residue Survey Levy imposed by this Schedule on a particular class of eligible horticultural products is the rate that, under the regulations, is applicable to that class.
- (2) If the Australian Statistician has published an average annual unit gross value in relation to a class of eligible horticultural products for the first 3 of the 4 immediately preceding financial years, the rate of National Residue Survey Levy imposed by this Schedule in the current financial year in relation to products in that class must not exceed 2% of the average of those values.
- (3) Different rates may be prescribed by the regulations for different classes of eligible horticultural products.
- (4) Subclause (3) does not affect the application of subsection 33(3A) of the *Acts Interpretation Act 1901*.

Clause 6

6 Who pays the levy

The National Residue Survey Levy imposed by this Schedule on leviable horticultural products is payable by the producer of the products.

7 Regulations

Without limiting the manner in which classes of leviable horticultural products may be described in the regulations, the regulations may describe such classes by reference to:

- (a) the use for which the products are exported or sold for export; or
- (b) the state, form or condition of the products, whether by reference to a process or otherwise.

Schedule 5—Sheep, lambs and goats export

1 Definitions

In this Schedule:

lamb and ***sheep*** have the same respective meanings as in Schedule 12 to the *Primary Industries (Customs) Charges Act 1999*.

2 Imposition of levy

- (1) National Residue Survey Levy is imposed on the export of sheep, lambs or goats from Australia after the commencement of this Schedule if levy under Schedule 15 to the *National Residue Survey (Excise) Levy Act 1998* has not been paid, and is not payable, in respect of an act or transaction relating to the sheep, lambs or goats.
- (2) National Residue Survey Levy is imposed on the export of sheep, lambs or goats from Australia after the commencement of this Schedule if:
 - (a) the sheep, lambs or goats were purchased by the exporter, whether before or after the commencement of this Schedule; and
 - (b) the period starting on the date of the purchase and ending on the date of the export is longer than the longest of the following periods:
 - (i) 30 days;
 - (ii) the period for which the sheep, lambs or goats are required under the *Quarantine Act 1908* to be held in quarantine before being exported;
 - (iii) the period for which the sheep, lambs or goats are required under the law of the country to which they are being exported to be held in quarantine before being exported.

Clause 3

3 Rate of levy

- (1) The rate of National Residue Survey Levy imposed by this Schedule on the export of each head of sheep or lambs is 2 cents or, if another rate (not exceeding 8 cents) is prescribed by the regulations, the other rate.
- (2) The rate of National Residue Survey Levy imposed by this Schedule on the export of each head of goats is 3 cents or, if another rate (not exceeding 8 cents) is prescribed by the regulations, the other rate.

4 Who pays the levy

The National Residue Survey Levy imposed by this Schedule on the export of sheep, lambs or goats is payable by the producer of the sheep, lambs or goats.

Table of Acts**Notes to the *National Residue Survey (Customs) Levy Act 1998*****Note 1**

The *National Residue Survey (Customs) Levy Act 1998* as shown in this compilation comprises Act No. 32, 1998 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>National Residue Survey (Customs) Levy Act 1998</i>	32, 1998	17 Apr 1998	1 Aug 1998 (see <i>Gazette</i> 1998, No. S382)	
<i>National Residue Survey (Customs) Levy Amendment Act 1999</i>	28, 1999	14 May 1999	1 July 1999 (see s. 2)	Sch. 1 (item 4)
<i>National Residue Survey (Customs) Levy Amendment Act 2003</i>	92, 2003	14 Oct 2003	14 Oct 2003	Sch. 1 (item 6)
<i>National Residue Survey (Customs) Levy Amendment Act (No. 2) 2003</i>	93, 2003	14 Oct 2003	14 Oct 2003	Sch. 1 (item 3)
<i>National Residue Survey (Customs) Levy Amendment Act 2005</i>	108, 2005	29 Aug 2005	29 Aug 2005	Sch. 1 (item 5)

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Schedule 2	am. No. 28, 1999
Schedule 3	am. No. 93, 2003
Schedule 4	am. No. 28, 1999; No. 92, 2003; No. 108, 2005
Schedule 5	am. No. 28, 1999

Table A

Table A

Application, saving or transitional provisions

National Residue Survey (Customs) Levy Amendment Act 1999 (No. 28, 1999)

Schedule 1

4 Application of amendments

- (1) The amendments of Schedule 2 to the *National Residue Survey (Customs) Levy Act 1998* made by this Schedule apply to the export of cattle after the commencement of this item.
- (2) The amendments of Schedule 4 to the *National Residue Survey (Customs) Levy Act 1998* made by this Schedule apply to leviable horticultural products exported after the commencement of this item.
- (3) The amendments of Schedule 5 to the *National Residue Survey (Customs) Levy Act 1998* made by this Schedule apply to the export of sheep, lambs or goats after the commencement of this item.

National Residue Survey (Customs) Levy Amendment Act 2003 (No. 92, 2003)

Schedule 1

6 Application

- (1) The amendments made by this Schedule apply to apples and pears exported on or after the first day of the month immediately following the month in which this Schedule commences.
- (2) In this item:
month means one of the 12 months of a calendar year

Table A

National Residue Survey (Customs) Levy Amendment Act (No. 2) 2003
(No. 93, 2003)

Schedule 1

3 Application of amendments

The amendments made by this Schedule apply to honey exported from Australia after the commencement of this item.

National Residue Survey (Customs) Levy Amendment Act 2005 (No. 108, 2005)

Schedule 1

5 Application of amendments

- (1) The amendments made by this Schedule apply to apples and pears exported on or after:
- (a) if the first day of the first quarter after the Royal Assent quarter is more than 30 days after the day on which this Act receives the Royal Assent—the first day of the first quarter after the Royal Assent quarter; or
 - (b) otherwise—the first day of the second quarter after the Royal Assent quarter.

- (2) In this item:
- quarter** means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October of a year.
- Royal Assent quarter** means the quarter in which this Act receives the Royal Assent.