



Primary Industries Levies and Charges Collection Act 2024

No. 58, 2024

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About this compilation

This compilation

This is a compilation of the *Primary Industries Levies and Charges Collection Act 2024* that shows the text of the law as amended and in force on 21 February 2025 (the *compilation date*).

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

Uncommenced amendments

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

Application, saving and transitional provisions for provisions and amendments

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

Editorial changes

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

Modifications

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

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act relating to collecting levies imposed under the Primary Industries (Excise) Levies Act 2024 or the Primary Industries (Services) Levies Act 2024 and charges imposed under the Primary Industries (Customs) Charges Act 2024, and for related purposes

Part 1—Preliminary

1 Short title

This Act is the *Primary Industries Levies and Charges Collection Act 2024*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	9 July 2024
2. Sections 3 to 9	1 January 2025.	1 January 2025
3. Section 10	The day after this Act receives the Royal Assent.	10 July 2024
4. Section 11	1 January 2025.	1 January 2025

Section 3

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
5. Section 12	The day after this Act receives the Royal Assent.	10 July 2024
6. Sections 13 to 59	1 January 2025.	1 January 2025

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Simplified outline of this Act

Levies imposed by regulations under the *Primary Industries (Excise) Levies Act 2024* or the *Primary Industries (Services) Levies Act 2024*, and charges imposed by regulations under the *Primary Industries (Customs) Charges Act 2024*, are collected under rules made under this Act.

The levies or charges are collected from the levy payers or charge payers or amounts equal to levies or charges are collected from collection agents.

The Commonwealth may enter into an agreement with a State, the Australian Capital Territory or the Northern Territory or another person or body about the collection, on behalf of the Commonwealth, of levy or charge or amounts equal to levy or charge.

Amounts equal to amounts collected under the rules are then disbursed to various research and development corporations and other industry bodies under the *Primary Industries Levies and Charges Disbursement Act 2024*.

There are offences and civil penalties for persons who fail to:

- (a) give a return or notice under the rules; or
- (b) make or keep records in accordance with the rules.

The Regulatory Powers Act is triggered to allow enforcement actions in relation to this Act that are monitoring or investigation powers, obtaining civil penalty orders in relation to contraventions of civil penalty provisions, issuing infringement notices or obtaining injunctions.

The Secretary may require from a person information or documents relevant to the operation of this Act.

Entrusted persons can use or disclose information (referred to as relevant levy/charge information) in accordance with this Act.

Entrusted persons may commit an offence or contravene a civil penalty provision if they use or disclose protected information other than in accordance with this Act.

4 Definitions

In this Act:

ABARES staff member means:

- (a) an APS employee in the part of the Department known as the Australian Bureau of Agricultural and Resource Economics and Sciences; or
- (b) a person employed or engaged by the Commonwealth to perform services for that Bureau.

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

ACN has the meaning given by section 9 of the *Corporations Act 2001*.

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algae means macroalgae, microalgae or cyanobacteria, and includes seaweeds.

algal product means:

- (a) an alga; or
- (b) any part of an alga; or
- (c) anything produced by an alga; or
- (d) anything wholly or principally produced from, or wholly or principally derived from, an alga.

animal means any member, alive or dead, of the animal kingdom (other than a human being).

animal product means:

- (a) an animal; or
- (b) any part of an animal; or
- (c) anything produced by an animal; or
- (d) anything wholly or principally produced from, or wholly or principally derived from, an animal.

approved electronic system means an electronic system covered by section 55.

approved form means a form approved by the Secretary by written instrument under the rules.

charge means a charge imposed by regulations under the *Primary Industries (Customs) Charges Act 2024*.

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

Note: Regulations under the *Primary Industries (Customs) Charges Act 2024* specify the charge payer.

civil penalty provision has the same meaning as in the Regulatory Powers Act.

collection agent means a person who, under the rules, is liable to pay an amount as mentioned in paragraph 10(1)(a).

collection commodities/services means the following:

- (a) animal products, plant products, fungus products or algal products in relation to which levy is imposed by regulations under Part 2 of the *Primary Industries (Excise) Levies Act 2024* or charge is imposed by regulations under Part 2 of the *Primary Industries (Customs) Charges Act 2024*;
- (b) goods in relation to which levy is imposed by regulations under Part 3 or 4 of the *Primary Industries (Excise) Levies Act 2024* or charge is imposed by regulations under Part 3 of the *Primary Industries (Customs) Charges Act 2024*;
- (c) services in relation to which levy is imposed by regulations under Part 2 of the *Primary Industries (Services) Levies Act 2024*.

Commonwealth entity has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

compliance officer means:

- (a) the Secretary; or
- (b) an APS employee in the Department in respect of whom an appointment under section 52 is in force.

declared recipient body means a body that is the subject of a declaration in force under subsection 39(1) of the *Primary Industries Levies and Charges Disbursement Act 2024*.

entrusted person means any of the following:

- (a) the Minister;
- (b) the Secretary;
- (c) an APS employee in the Department;
- (d) any other person who is employed or engaged by the Commonwealth to provide services to the Commonwealth in connection with the Department;
- (e) any other person who is:
 - (i) employed or engaged by the Commonwealth or a body corporate that is established by a law of the Commonwealth; and

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- (ii) in a class of persons prescribed by rules made for the purposes of this subparagraph.

equivalent amount: see paragraph 10(1)(a).

fungus means any member, alive or dead, of the fungi kingdom, and includes yeasts, mushrooms and truffles.

fungus product means:

- (a) a fungus; or
- (b) any part of a fungus; or
- (c) anything produced by a fungus; or
- (d) anything wholly or principally produced from, or wholly or principally derived from, a fungus.

levy means a levy imposed by regulations under:

- (a) the *Primary Industries (Excise) Levies Act 2024*; or
- (b) the *Primary Industries (Services) Levies Act 2024*.

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

Note: Regulations under the *Primary Industries (Excise) Levies Act 2024* or the *Primary Industries (Services) Levies Act 2024* specify the levy payer.

marketing activities has the meaning given by the *Primary Industries Levies and Charges Disbursement Act 2024*.

personal information has the same meaning as in the *Privacy Act 1988*.

plant means any member, alive or dead, of the plant kingdom.

plant product means:

- (a) a plant; or
- (b) any part of a plant; or
- (c) anything produced by a plant; or
- (d) anything wholly or principally produced from, or wholly or principally derived from, a plant.

Regulatory Powers Act means the *Regulatory Powers (Standard Provisions) Act 2014*.

relevant levy/charge information means:

- (a) information obtained by a person under this Act or the rules;
or
- (b) information obtained or generated by a person in the course of or for the purposes of:
 - (i) administering this Act or the rules or monitoring compliance with this Act or the rules; or
 - (ii) assisting another person to administer this Act or the rules or monitor compliance with this Act or the rules.

research and development activity has the meaning given by the *Primary Industries Levies and Charges Disbursement Act 2024*.

reviewable decision means a decision referred to in subsection 48(1).

rules means the rules made by the Secretary under section 59.

Secretary means the Secretary of the Department.

staff member of a Commonwealth entity means the following:

- (a) the chief executive officer (however described) of that entity;
- (b) an employee of that entity;
- (c) any other person engaged by that entity, under contract or otherwise, to perform duties or functions, or to exercise powers, of that entity.

State or Territory body includes a Department of State, or an authority or agency, of a State or Territory.

statutory recipient body means the following:

- (a) a research and development corporation established under regulations, or continued in existence under regulations, made for the purposes of section 8 of the *Primary Industries Research and Development Act 1989*;

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- (b) the Rural Industries Research and Development Corporation established under section 9 of the *Primary Industries Research and Development Act 1989*;
- (c) Wine Australia.

5 Act binds Crown

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

Note: In addition, the Crown is not liable to be subject to civil proceedings for a contravention of a civil penalty provision or to be given an infringement notice in relation to contraventions of this Act: see subsections 22(6) and 23(6).

6 Application of this Act in external Territories

- (1) Subject to subsection (2), this Act and the rules do not extend to the external Territories.
- (2) The rules may extend this Act, and any provisions of the rules, to an external Territory that is prescribed by the rules.

Part 2—Collection of levy or charge

Division 1—Introduction

7 Simplified outline of this Part

Collection of levy or charge

The rules may provide for the collection from levy payers or charge payers of levy or charge (see Division 2).

Payment by collection agents of amounts equal to levy or charge

The rules may make collection agents liable to pay an amount, on behalf of a levy payer or charge payer, equal to levy or charge (see Division 3).

Late payment penalties

There are late payment penalties if levy or charge, or amounts equal to levy or charge, are not paid on time.

Collection agreements

The Commonwealth may enter into an agreement with a State, the Australian Capital Territory or the Northern Territory or another person or body about the collection, on behalf of the Commonwealth, of levy or charge or amounts equal to levy or charge (see Division 4).

Recovery and refund of amounts

There are provisions dealing with debt recovery and refunds of overpayments (see Division 5).

Division 2—Payment of levy or charge

8 Payment of levy or charge

- (1) The rules may make provision for and in relation to the following:
 - (a) the time levy or charge is due and payable;
 - (b) the levy or charge being payable to the Commonwealth or another entity on behalf of the Commonwealth;
 - (c) any other matters relating to a levy payer's or charge payer's liability to pay levy or charge.
- (2) For the purposes of paragraph (1)(b), the rules must not provide for the levy or charge being payable to another entity on behalf of the Commonwealth unless there is an agreement in force under section 12 for that other entity to collect the levy or charge on behalf of the Commonwealth.

9 Late payment penalty

- (1) If:
 - (a) levy or charge is payable by a levy payer or charge payer; and
 - (b) an amount (the ***unpaid amount***) of that levy or charge remains unpaid at the end of the day (the ***due day***) on which the levy or charge is due to be paid;the levy payer or charge payer is liable to pay to the Commonwealth, by way of penalty, an amount, worked out under subsection (3), for each day in the period under subsection (2).

Note: The penalty stops accruing once the levy payer or charge payer pays the unpaid amount of levy or charge.

Penalty period

- (2) The period begins on the day after the due day and ends at the end of the day before the day on which the whole of the unpaid amount, or the outstanding balance of the unpaid amount, is paid.

Amount of penalty

- (3) The amount of penalty for a day (the **penalty day**) in the period described in subsection (2) is worked out using this method statement.

Method statement

- Step 1. Divide 0.02 by the number of days in the calendar month in which the penalty day occurs.
- Step 2. Multiply the amount at step 1 by the sum of:
- (a) so much of the unpaid amount as remains unpaid at the end of the penalty day; and
 - (b) the total amount of penalty (if any) for days in each calendar month before the calendar month in which the penalty day occurs.
- Step 3. Round the amount at step 2 to the nearest cent (rounding 0.5 cents upwards): the result is the amount of penalty for the penalty day.

Note: The amount of penalty for a day is based on a rate of 2% per month.

Example: Assume \$1,200 levy is due on 31 August and a partial payment of \$300 is made on 16 September and the outstanding balance of \$900 is paid on 10 October.

The period under subsection (2) is the period beginning on 1 September and ending at the end of 9 October.

Calculation of penalty in September based on unpaid amount of \$1,200

The penalty for each of the penalty days 1-15 September is 80 cents (which is 0.02 divided by 30 and the result multiplied by \$1,200).

The total penalty for the penalty days 1-15 September is \$12 (equal to the daily penalty of 80 cents multiplied by 15).

Calculation of penalty in September based on outstanding unpaid amount of \$900

Part 2 Collection of levy or charge
Division 2 Payment of levy or charge

Section 9

The penalty for each of the penalty days 16-30 September is 60 cents (which is 0.02 divided by 30 and the result multiplied by \$900).

The total penalty for the penalty days 16-30 September is \$9 (equal to the daily penalty of 60 cents multiplied by 15).

The total penalty for September is \$21.

Calculation of penalty in October based on unpaid amount of \$900 and total penalty of \$21 for September

The penalty for each of the penalty days 1-9 October is as follows:

- (a) the amount at step 1 is 0.02 divided by 31, which is 0.00064516129;
- (b) the amount at step 2 is 0.00064516129 multiplied by \$921 (the outstanding balance of \$900 plus the \$21 penalty for September), which is \$0.59419354809;
- (c) the amount at step 3 is 59 cents, which is the amount of the penalty for each of the penalty days 1-9 October.

The total penalty for the penalty days 1-9 October is \$5.31 (equal to the daily penalty of 59 cents multiplied by 9).

Total penalty

Since the outstanding balance of \$900 is paid on 10 October, there is no further penalty. The total amount of penalty to be paid is \$26.31 (\$21 for September plus \$5.31 for October).

When penalty is due and payable

- (4) The amount of penalty under this section for a day is due and payable to the Commonwealth at the end of that day.

Remission of penalty

- (5) The Secretary may remit the whole or a part of an amount of penalty under this section.
- (6) In deciding whether to do so, the Secretary:
 - (a) must take into account the following:
 - (i) whether the failure to pay the levy or charge, that resulted in the penalty, was the result of an honest mistake or inadvertence by the levy payer or charge payer;
 - (ii) the circumstances in which that failure occurred;

- (iii) the amount of the penalty;
 - (iv) the levy payer's or charge payer's history of compliance with this Act and the rules; and
- (b) may take into account any other matter that the Secretary considers relevant.

Division 3—Payment by collection agents of amounts equal to levy or charge

10 Payment of amounts equal to levy or charge

- (1) For better securing the payment of levy or charge imposed in relation to collection commodities/services, the rules may make provision for and in relation to the following:
 - (a) making persons (each of whom is a *collection agent*) liable to pay an amount (the *equivalent amount*), on behalf of the levy payer or charge payer, equal to the amount of levy or charge due for payment in relation to the collection commodities/services;
 - (b) the time the equivalent amount is due and payable;
 - (c) the equivalent amount being payable to the Commonwealth or another entity on behalf of the Commonwealth;
 - (d) any other matters relating to the above matters.

Note: For limitations on the rules, see subsections (10) and (11).

Deductions by collection agent

- (2) For the purpose of ensuring a collection agent has the funds necessary to pay the equivalent amount, the collection agent may deduct an amount from:
 - (a) money received by the collection agent on behalf of the levy payer or charge payer in relation to the collection commodities/services; or
 - (b) money payable by the collection agent to the levy payer or charge payer in relation to the collection commodities/services.
- (3) The amount the collection agent may deduct is an amount equal to, or that may reasonably be expected to be equal to, the equivalent amount.

- (4) If the collection agent deducts an amount, the collection agent must give the levy payer or charge payer a receipt or other written statement within 7 days after the deduction specifying the amount of the deduction and the day of the deduction.
- (5) Subsections (2) and (3) apply despite:
- (a) any law of a State, the Australian Capital Territory or the Northern Territory; and
 - (b) any agreement.

Discharge of levy payer's or charge payer's liability

- (6) If the collection agent deducts an amount under subsection (2), the levy payer or charge payer is discharged from liability to pay the levy or charge to the extent that the amount deducted does not exceed the amount of the levy or charge.

Example: Assume a levy payer is liable to pay \$100 levy.

A collection agent deducts \$90 under subsection (2), which is the amount the collection agent reasonably expected to be the levy payer's liability. Under subsection (6), the levy payer's liability is discharged by \$90.

- (7) If the collection agent makes a payment as mentioned in paragraph (1)(a), the levy payer or charge payer is discharged from liability to pay the levy or charge to the extent of:
- (a) so much of the amount paid that does not exceed the amount of the levy or charge; less
 - (b) the amount of the discharge (if any) under subsection (6).

Example 1: To continue the example in subsection (6), assume the collection agent makes a payment of \$100 as mentioned in paragraph (1)(a).

Under subsection (7), the levy payer's liability is discharged by \$10, being the outstanding amount of the levy payer's liability.

Example 2: To continue the example in subsection (6), assume instead the collection agent makes a payment of \$120 as mentioned in paragraph (1)(a).

Under subsection (7), the levy payer's liability is discharged by \$10, being the outstanding amount of the levy payer's liability. The \$10 is equal to \$100 (so much of the \$120 payment made by the collection

Part 2 Collection of levy or charge

Division 3 Payment by collection agents of amounts equal to levy or charge

Section 10

agent that does not exceed the \$100 levy) less the \$90 discharge under subsection (6).

The collection agent has overpaid \$20. The collection agent is entitled to a refund of \$20 under section 14.

Collection agent may recover amount from levy payer or charge payer

- (8) If the collection agent makes a payment as mentioned in paragraph (1)(a), the collection agent may recover from the levy payer or charge payer, by set-off or otherwise, an amount equal to:
- (a) so much of the amount paid that does not exceed the amount of the levy or charge; less
 - (b) any deduction the collection agent made under subsection (2).

Example: To continue example 1 in subsection (7), the collection agent is able to recover \$10 from the levy payer (the difference between the \$100 the collection agent paid and the \$90 deduction the collection agent made).

When agreement between levy or charge payer and collection agent is void

- (9) An agreement between a levy payer or charge payer and a collection agent that purports (either expressly or impliedly) to require the levy payer or charge payer to pay levy or charge as a condition for the provision of services by the agent is void to that extent, if the agent would otherwise be liable to pay an amount as mentioned in paragraph (1)(a) in relation to that levy or charge.

Limitations on rules

- (10) For the purposes of paragraph (1)(a), the rules must not provide for a State to be liable to pay an amount on behalf of the levy payer or charge payer unless:
- (a) a Minister of the State has informed the Minister administering this Act, in writing, that the State gives consent to the rules doing so; and

- (b) a Minister of the State has not informed the Minister administering this Act, in writing, that the State withdraws that consent.
- (11) For the purposes of paragraph (1)(c), the rules must not provide for the equivalent amount being payable to another entity on behalf of the Commonwealth unless there is an agreement in force under section 12 for that other entity to collect the equivalent amount on behalf of the Commonwealth.

11 Late payment penalty

- (1) If:
- (a) an equivalent amount is payable by a collection agent under rules made for the purposes of subsection 10(1); and
 - (b) the whole or a part (the ***unpaid amount***) of that equivalent amount remains unpaid at the end of the day (the ***due day***) on which the equivalent amount is due to be paid;
- the collection agent is liable to pay to the Commonwealth, by way of penalty, an amount, worked out under subsection (3), for each day in the period under subsection (2).

Note: The penalty stops accruing once the collection agent pays the unpaid amount.

Penalty period

- (2) The period begins on the day after the due day and ends at the end of the day before the day on which the whole of the unpaid amount, or the outstanding balance of the unpaid amount, is paid.

Amount of penalty

- (3) The amount of penalty for a day (the ***penalty day***) in the period described in subsection (2) is worked out using this method statement.

<i>Method statement</i>

Part 2 Collection of levy or charge

Division 3 Payment by collection agents of amounts equal to levy or charge

Section 11

- Step 1. Divide 0.02 by the number of days in the calendar month in which the penalty day occurs.
- Step 2. Multiply the amount at step 1 by the sum of:
- (a) so much of the unpaid amount as remains unpaid at the end of the penalty day; and
 - (b) the total amount of penalty (if any) for days in each calendar month before the calendar month in which the penalty day occurs.
- Step 3. Round the amount at step 2 to the nearest cent (rounding 0.5 cents upwards): the result is the amount of penalty for the penalty day.

Note: The amount of penalty for a day is based on a rate of 2% per month.

Example: Assume an equivalent amount of \$1,500 is due on 31 August and a partial payment of \$600 is made on 16 September and the outstanding balance of \$900 is paid on 10 October.

The period under subsection (2) is the period beginning on 1 September and ending at the end of 9 October.

Calculation of penalty in September based on unpaid amount of \$1,500

The penalty for each of the penalty days 1-15 September is \$1 (which is 0.02 divided by 30 and the result multiplied by \$1,500).

The total penalty for the penalty days 1-15 September is \$15.

Calculation of penalty in September based on outstanding unpaid amount of \$900

The penalty for each of the penalty days 16-30 September is 60 cents (which is 0.02 divided by 30 and the result multiplied by \$900).

The total penalty for the penalty days 16-30 September is \$9 (equal to the daily penalty of 60 cents multiplied by 15).

The total penalty for September is \$24.

Calculation of penalty in October based on unpaid amount of \$900 and total penalty of \$24 for September

The penalty for each of the penalty days 1-9 October is as follows:

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- (a) the amount at step 1 is 0.02 divided by 31, which is 0.00064516129;
- (b) the amount at step 2 is 0.00064516129 multiplied by \$924 (the outstanding balance of \$900 plus the \$24 penalty for September), which is \$0.59612903196;
- (c) the amount at step 3 is 60 cents, which is the amount of the penalty for each of the penalty days 1-9 October.

The total penalty for the penalty days 1-9 October is \$5.40 (equal to the daily penalty of 60 cents multiplied by 9).

Total penalty

Since the outstanding balance of \$900 is paid on 10 October, there is no further penalty. The total amount of penalty to be paid is \$29.40 (\$24 for September plus \$5.40 for October).

When penalty is due and payable

- (4) The amount of penalty under this section for a day is due and payable to the Commonwealth at the end of that day.

Remission of penalty

- (5) The Secretary may remit the whole or a part of an amount of penalty under this section.
- (6) In deciding whether to do so, the Secretary:
 - (a) must take into account the following:
 - (i) whether the failure to pay the equivalent amount, that resulted in the penalty, was the result of an honest mistake or inadvertence by the collection agent;
 - (ii) the circumstances in which that failure occurred;
 - (iii) the amount of the penalty;
 - (iv) the collection agent's history of compliance with this Act and the rules; and
 - (b) may take into account any other matter that the Secretary considers relevant.

Division 4—Collection agreements

12 Collection agreements

Collection agreements with State or Territories

- (1) The Commonwealth may enter into an agreement with a State, the Australian Capital Territory or the Northern Territory about the collection, on behalf of the Commonwealth, by the State or Territory or an authority of the State or Territory of either or both of the following:
 - (a) levy or charge payable by a levy payer or charge payer;
 - (b) equivalent amounts that a collection agent is liable to pay as mentioned in paragraph 10(1)(a).

Collection agreements with other persons or bodies

- (2) The Commonwealth may enter into an agreement with a person or body about the collection, on behalf of the Commonwealth, by that person or body of either or both of the following:
 - (a) levy or charge payable by a levy payer or charge payer;
 - (b) equivalent amounts that a collection agent is liable to pay as mentioned in paragraph 10(1)(a).

Content of agreements

- (3) Without limiting subsection (1) or (2), an agreement may provide for:
 - (a) the persons from whom amounts are to be collected; and
 - (b) in the case of an agreement under subsection (2)—the State, Territory or region in which amounts are to be collected; and
 - (c) the keeping of accounts and records in relation to amounts collected; and
 - (d) the payment to the Commonwealth of amounts collected; and
 - (e) the giving to the Minister of information about amounts collected and amounts paid to the Commonwealth; and

- (f) the inspection and audit of accounts and records kept about amounts collected.

Publication of agreement

- (4) The Secretary must publish in the Gazette, and on the Department's website, a copy of an agreement entered into under subsection (1) or (2) within 28 days of the making of the agreement.

Note: The Federal Register of Legislation may contain Gazette notices: see paragraph 15A(3)(c) of the *Legislation Act 2003*.

Consultation with industry body

- (5) Before the Commonwealth enters into an agreement under subsection (1) or (2), the Secretary must consult any industry body that is representative of the levy payers or charge payers, or of the collection agents, that would be affected by the agreement.

Validity of agreement

- (6) A failure to comply with subsection (4) or (5) does not affect the validity of the agreement.

Status of collected amounts

- (7) Rules made for the purposes of subsection 105(1) of the *Public Governance, Performance and Accountability Act 2013* do not apply to amounts collected under an agreement under this section.

Commonwealth not to discriminate or give preference

- (8) A power conferred by subsection (1) or (2) must not be exercised in such a way as to:
- (a) discriminate between States or parts of States within the meaning of paragraph 51(ii) of the Constitution; or
 - (b) give preference to one State or any part thereof within the meaning of section 99 of the Constitution.

Division 5—Recovery and refund of amounts

13 Debt recovery

The following amounts are debts due to the Commonwealth and may be recovered by the Commonwealth by action in a court of competent jurisdiction:

- (a) an amount of levy or charge that remains unpaid after the time when it became due and payable;
- (b) an amount that a collection agent, under the rules, is liable to pay as mentioned in paragraph 10(1)(a) and that remains unpaid after the time when it became due and payable;
- (c) an amount that a person is liable to pay by way of penalty under section 9 or 11 and that remains unpaid after the time when it became due and payable.

14 Refund of amounts

- (1) If a person overpays any of the following amounts, the Commonwealth must refund to the person an amount equal to the overpayment:
 - (a) an amount of levy or charge;
 - (b) an amount that a collection agent, under the rules, is liable to pay as mentioned in paragraph 10(1)(a);
 - (c) an amount that a person is liable to pay by way of penalty under section 9 or 11.
- (2) This section has effect subject to section 15.

15 Recovery by reduction of future liability

Levy payers or charge payers

- (1) The Commonwealth, or another entity on behalf of the Commonwealth, may reduce an amount of levy or charge that a levy payer or charge payer is liable to pay to the Commonwealth,

or to the other entity on behalf of the Commonwealth in accordance with an agreement under section 12, if:

- (a) the levy payer or charge payer has previously overpaid an amount of levy or charge to the Commonwealth or to that other entity on behalf of the Commonwealth in accordance with that agreement; and
 - (b) the overpayment has not been refunded to the levy payer or charge payer.
- (2) The amount of the reduction must not exceed the overpayment.
 - (3) The Commonwealth is not required to refund the overpayment to the levy payer or charge payer to the extent of the reduction.

Example: A levy payer is liable to pay \$100 levy to the Commonwealth.

In a previous transaction the levy payer was liable to pay \$140 levy to the Commonwealth but paid \$200. The Commonwealth has not yet refunded the \$60 overpayment to the levy payer.

The Commonwealth may reduce the \$100 levy the levy payer is liable to pay to \$40. The Commonwealth is no longer required to refund the \$60 overpayment to the levy payer.

Collection agents

- (4) The Commonwealth, or another entity on behalf of the Commonwealth, may reduce an equivalent amount that a collection agent is liable to pay to the Commonwealth, or to the other entity on behalf of the Commonwealth in accordance with an agreement under section 12, if:
 - (a) the collection agent has previously overpaid an equivalent amount to the Commonwealth or to that other entity on behalf of the Commonwealth in accordance with that agreement; and
 - (b) the overpayment has not been refunded to the collection agent.
 - (5) The amount of the reduction must not exceed the overpayment.
 - (6) The Commonwealth is not required to refund the overpayment to the collection agent to the extent of the reduction.
-

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- (7) If the equivalent amount the collection agent is liable to pay is reduced, the levy payer or charge payer for the levy or charge to which the equivalent amount relates is discharged from liability to pay the levy or charge to the extent of the reduction.

Example: A levy payer is liable to pay \$100 levy and a collection agent is liable to pay an equivalent amount equal to \$100 to the Commonwealth.

In a previous transaction the levy payer was liable to pay \$140 levy but the collection agent, on behalf of the levy payer, paid \$200 to the Commonwealth. The \$60 overpayment has not been refunded to the collection agent.

The Commonwealth may reduce the \$100 equivalent amount the collection agent is liable to pay to \$40. The Commonwealth is no longer required to refund the \$60 overpayment to the collection agent.

For the levy payer and the \$140 levy liability, the liability was fully discharged by \$140 under subsection 10(7) (assume the collection agent did not make a deduction under subsection 10(2)).

For the levy payer and the \$100 levy liability, assume the collection agent pays the reduced \$40 equivalent amount. That \$100 liability is partially discharged by \$40 under subsection 10(7) (assume the collection agent made no deduction under subsection 10(2)). The remaining \$60 liability is discharged under subsection (7) of this section.

Part 3—Giving returns or notices and making and keeping records under the rules

16 Simplified outline of this Part

There are offences and civil penalties for persons who fail to:

- (a) give a return or notice under the rules; or
- (b) make or keep records in accordance with the rules.

17 Penalties for failure to give return or notice under the rules

Failure to give returns

- (1) A person commits an offence of strict liability if:
- (a) the person is required to give a return under the rules; and
 - (b) the person fails to give the return in accordance with the rules.

Note 1: See also section 23 (about infringement notices).

Note 2: A person may commit an offence if the person gives a false or misleading return (see section 137.2 of the *Criminal Code*).

Penalty: 60 penalty units.

- (2) A person contravenes this subsection if:
- (a) the person is required to give a return under the rules; and
 - (b) the person fails to give the return in accordance with the rules.

Note 1: See also section 23 (about infringement notices).

Note 2: A person may contravene a civil penalty provision if the person gives a false or misleading return (see subsection 47(1)).

Civil penalty: 60 penalty units.

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Failure to give notices

- (3) A person commits an offence of strict liability if:
- (a) the person is required to give a written notice under rules made for the purposes of paragraph 59(2)(a) or (c); and
 - (b) the person fails to give the notice in accordance with the rules.

Note: See also section 23 (about infringement notices).

Penalty: 60 penalty units.

- (4) A person contravenes this subsection if:
- (a) the person is required to give a written notice under rules made for the purposes of paragraph 59(2)(a) or (c); and
 - (b) the person fails to give the notice in accordance with the rules.

Note: See also section 23 (about infringement notices).

Civil penalty: 60 penalty units.

18 Penalties for failure to make or keep records under the rules

- (1) A person commits an offence of strict liability if:
- (a) the person is required to make or keep records under the rules; and
 - (b) the person fails to make or keep the records in accordance with the rules.

Note: See also section 23 (about infringement notices).

Penalty: 60 penalty units.

- (2) A person contravenes this subsection if:
- (a) the person is required to make or keep records under the rules; and
 - (b) the person fails to make or keep the records in accordance with the rules.

Note: See also section 23 (about infringement notices).

Civil penalty: 60 penalty units.

Part 4—Compliance and enforcement

Division 1—Introduction

19 Simplified outline of this Part

The Regulatory Powers Act is triggered to allow a range of enforcement actions in relation to this Act.

Compliance officers may enter premises under a monitoring warrant or with consent of the occupier and exercise monitoring powers to determine whether provisions of this Act or the rules, or certain offences that relate to this Act or the rules, have been complied with.

Compliance officers may enter premises under an investigation warrant or with consent of the occupier and exercise investigation powers for the purposes of gathering material relating to contraventions of offences against this Act, certain offences that relate to this Act or the rules or civil penalty provisions of this Act.

A relevant court can order the payment of a civil penalty for a contravention of a civil penalty provision of this Act.

Infringement notices can be issued for an alleged contravention of various strict liability offences against this Act or of various civil penalty provisions of this Act.

A court can grant an injunction restraining a person from contravening a provision of this Act or the rules or requiring a person to comply with a provision of this Act or the rules.

Division 2—Monitoring

20 Monitoring powers

Provisions subject to monitoring

- (1) A provision is subject to monitoring under Part 2 of the Regulatory Powers Act if it is:
 - (a) a provision of this Act or the rules; or
 - (b) an offence against the *Crimes Act 1914* or the *Criminal Code* that relates to this Act or the rules.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether this Act or the rules have been complied with. It includes powers of entry and inspection.

Information subject to monitoring

- (2) Information given in compliance or purported compliance with a provision of this Act or the rules is subject to monitoring under Part 2 of the Regulatory Powers Act.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether the information is correct. It includes powers of entry and inspection.

Related provisions

- (3) For the purposes of Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2), there are no related provisions.

Authorised applicant and authorised person

- (4) For the purposes of Part 2 of the Regulatory Powers Act, a compliance officer is both an authorised applicant and an authorised person in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).

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Issuing officer

- (5) For the purposes of Part 2 of the Regulatory Powers Act, a magistrate is an issuing officer in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).

Relevant chief executive

- (6) For the purposes of Part 2 of the Regulatory Powers Act, the Secretary is the relevant chief executive in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).
- (7) The Secretary may, in writing, delegate to an SES employee, or acting SES employee, in the Department the Secretary's powers and functions under Part 2 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).
- (8) A person exercising powers or performing functions under a delegation under subsection (7) must comply with any directions of the Secretary.

Relevant court

- (9) For the purposes of Part 2 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2):
- (a) the Federal Court of Australia;
 - (b) the Federal Circuit and Family Court of Australia (Division 2).

Person assisting

- (10) A compliance officer may be assisted by other persons in exercising powers or performing functions or duties under Part 2 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).

Use of force in executing a monitoring warrant

- (11) In executing a monitoring warrant under Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2):
- (a) an authorised person may use such force against things as is necessary and reasonable in the circumstances; and
 - (b) a person assisting the authorised person may use such force against things as is necessary and reasonable in the circumstances.

Extension to external Territories

- (12) Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2), extends to each external Territory to which this Act extends because of rules made for the purposes of section 6 of this Act.

Division 3—Investigation

21 Investigation powers

Provisions subject to investigation

- (1) A provision is subject to investigation under Part 3 of the Regulatory Powers Act if it is:
 - (a) an offence against this Act; or
 - (b) a civil penalty provision of this Act; or
 - (c) an offence against the *Crimes Act 1914* or the *Criminal Code* that relates to this Act or the rules.

Note: Part 3 of the Regulatory Powers Act creates a framework for investigating whether a provision has been contravened. It includes powers of entry, search and seizure.

Related provisions

- (2) For the purposes of Part 3 of the Regulatory Powers Act, as that Part applies in relation to evidential material that relates to a provision mentioned in subsection (1), there are no related provisions.

Authorised applicant and authorised person

- (3) For the purposes of Part 3 of the Regulatory Powers Act, a compliance officer is both an authorised applicant and an authorised person in relation to evidential material that relates to a provision mentioned in subsection (1).

Issuing officer

- (4) For the purposes of Part 3 of the Regulatory Powers Act, a magistrate is an issuing officer in relation to evidential material that relates to a provision mentioned in subsection (1).

Relevant chief executive

- (5) For the purposes of Part 3 of the Regulatory Powers Act, the Secretary is the relevant chief executive in relation to evidential material that relates to a provision mentioned in subsection (1).
- (6) The Secretary may, in writing, delegate to an SES employee, or acting SES employee, in the Department the Secretary's powers and functions under Part 3 of the Regulatory Powers Act in relation to evidential material that relates to a provision mentioned in subsection (1).
- (7) A person exercising powers or performing functions under a delegation under subsection (6) must comply with any directions of the Secretary.

Relevant court

- (8) For the purposes of Part 3 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to evidential material that relates to a provision mentioned in subsection (1):
 - (a) the Federal Court of Australia;
 - (b) the Federal Circuit and Family Court of Australia (Division 2).

Person assisting

- (9) A compliance officer may be assisted by other persons in exercising powers or performing functions or duties under Part 3 of the Regulatory Powers Act in relation to evidential material that relates to a provision mentioned in subsection (1).

Use of force in executing an investigation warrant

- (10) In executing an investigation warrant under Part 3 of the Regulatory Powers Act, as that Part applies in relation to evidential material that relates to a provision mentioned in subsection (1):
 - (a) an authorised person may use such force against things as is necessary and reasonable in the circumstances; and

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- (b) a person assisting the authorised person may use such force against things as is necessary and reasonable in the circumstances.

Extension to external Territories

- (11) Part 3 of the Regulatory Powers Act, as that Part applies in relation to a provision mentioned in subsection (1), extends to each external Territory to which this Act extends because of rules made for the purposes of section 6 of this Act.

Division 4—Civil penalty provisions

22 Civil penalty provisions

Enforceable civil penalty provisions

- (1) Each civil penalty provision of this Act is enforceable under Part 4 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

Authorised applicant

- (2) For the purposes of Part 4 of the Regulatory Powers Act, the Secretary is an authorised applicant in relation to the civil penalty provisions of this Act.
- (3) The Secretary may, in writing, delegate to an SES employee, or acting SES employee, in the Department the Secretary's powers under Part 4 of the Regulatory Powers Act in relation to the civil penalty provisions of this Act.
- (4) A person exercising powers under a delegation under subsection (3) must comply with any directions of the Secretary.

Relevant court

- (5) For the purposes of Part 4 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the civil penalty provisions of this Act:
 - (a) the Federal Court of Australia;
 - (b) the Federal Circuit and Family Court of Australia (Division 2).

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Liability of Crown

- (6) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the civil penalty provisions of this Act, does not make the Crown liable to be subject to civil proceedings for a contravention of a civil penalty provision.

Extension to external Territories

- (7) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the civil penalty provisions of this Act, extends to each external Territory to which this Act extends because of rules made for the purposes of section 6 of this Act.

Division 5—Infringement notices

23 Infringement notices

Provisions subject to an infringement notice

- (1) The following provisions are subject to an infringement notice under Part 5 of the Regulatory Powers Act:
 - (a) subsection 17(1), (2), (3) or (4);
 - (b) subsection 18(1) or (2);
 - (c) subsection 26(4) or (5);
 - (d) subsection 47(1), (3), (5) or (8).

Note: Part 5 of the Regulatory Powers Act creates a framework for using infringement notices in relation to provisions.

Infringement officer

- (2) For the purposes of Part 5 of the Regulatory Powers Act, a compliance officer is an infringement officer in relation to the provisions mentioned in subsection (1).

Relevant chief executive

- (3) For the purposes of Part 5 of the Regulatory Powers Act, the Secretary is the relevant chief executive in relation to the provisions mentioned in subsection (1).
- (4) The Secretary may, in writing, delegate to an SES employee, or acting SES employee, in the Department the Secretary's powers and functions under Part 5 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (1).
- (5) A person exercising powers or performing functions under a delegation under subsection (4) must comply with any directions of the Secretary.

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Liability of Crown

- (6) Part 5 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), does not make the Crown liable to be given an infringement notice.

Extension to external Territories

- (7) Part 5 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), extends to each external Territory to which this Act extends because of rules made for the purposes of section 6 of this Act.

Division 6—Injunctions

24 Injunctions

Enforceable provisions

- (1) The provisions of this Act and the rules are enforceable under Part 7 of the Regulatory Powers Act.

Note: Part 7 of the Regulatory Powers Act creates a framework for using injunctions to enforce provisions.

Authorised person

- (2) For the purposes of Part 7 of the Regulatory Powers Act, the Secretary is an authorised person in relation to the provisions mentioned in subsection (1).
- (3) The Secretary may, in writing, delegate to an SES employee, or acting SES employee, in the Department the Secretary's powers under Part 7 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (1).
- (4) A person exercising powers under a delegation under subsection (3) must comply with any directions of the Secretary.

Relevant court

- (5) For the purposes of Part 7 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1):
 - (a) the Federal Court of Australia;
 - (b) the Federal Circuit and Family Court of Australia (Division 2).

Extension to external Territories

- (6) Part 7 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), extends to each

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external Territory to which this Act extends because of rules made for the purposes of section 6 of this Act.

Part 5—Information management

Division 1—Introduction

25 Simplified outline of this Part

The Secretary may require from a person information or documents relevant to the operation of this Act or the rules.

Entrusted persons can use or disclose information (referred to as relevant levy/charge information) in accordance with this Act.

Entrusted persons may commit an offence or contravene a civil penalty provision if they use or disclose protected information other than in accordance with this Act.

Division 2—Information gathering

26 Secretary may require information or documents

- (1) The Secretary may, by notice in writing given to a person, require the person, within the period and in the manner specified in the notice, to give the Secretary any information, or produce to the Secretary any documents, specified in the notice that are relevant to the operation of this Act or the rules.
- (2) The period specified in the notice must be at least 14 days after the day the notice is given.
- (3) A notice under subsection (1) must set out the effect of the following provisions:
 - (a) subsections (4) and (5) (about an offence or civil penalty for failing to comply with the notice);
 - (b) subsections 47(3) and (5) (about a civil penalty for giving false or misleading information or documents);
 - (c) section 137.1 of the *Criminal Code* (about an offence for giving false or misleading information);
 - (d) section 137.2 of the *Criminal Code* (about an offence for producing false or misleading documents).

Offence

- (4) A person commits an offence of strict liability if:
 - (a) the person is given a notice under subsection (1); and
 - (b) the person fails to comply with the notice.

Note: See also section 23 (about infringement notices).

Penalty: 60 penalty units.

Civil penalty

- (5) A person contravenes this subsection if:
 - (a) the person is given a notice under subsection (1); and

(b) the person fails to comply with the notice.

Note: See also section 23 (about infringement notices).

Civil penalty: 60 penalty units.

27 Inspection and retention of documents and provision of certified copy of documents

Secretary may inspect and copy documents

- (1) The Secretary may:
 - (a) inspect a document produced under subsection 26(1); and
 - (b) make and retain copies of the whole or a part of the document.

Secretary may retain documents

- (2) The Secretary may take possession of a document produced under subsection 26(1), and retain it for as long as is reasonably necessary.

Certified copy of documents

- (3) The person otherwise entitled to possession of a document produced under subsection 26(1) is entitled to be supplied, as soon as practicable, with a copy certified by the Secretary to be a true copy.
- (4) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (5) Until a certified copy is supplied, the Secretary must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of the document.

Division 3—Authorised uses and disclosures of information

Note: Each provision in this Division that authorises the use or disclosure of information provides an authorisation for the purposes of the *Privacy Act 1988* and other laws.

Subdivision A—Use or disclosure of relevant levy/charge information

28 Use or disclosure for administering Acts or rules or for agricultural research or policy development etc.

Administration of Acts or rules or monitoring compliance with this Act or rules

- (1) An entrusted person may use or disclose relevant levy/charge information in the course of or for the purposes of:
 - (a) administering this Act or the rules or monitoring compliance with this Act or the rules; or
 - (b) assisting another person to administer this Act or the rules or monitor compliance with this Act or the rules; or
 - (c) administering the *Primary Industries Levies and Charges Disbursement Act 2024* or the rules under that Act; or
 - (d) assisting another person to administer the *Primary Industries Levies and Charges Disbursement Act 2024* or the rules under that Act.

Agricultural research or the development of agricultural policy

- (2) An entrusted person may use or disclose relevant levy/charge information for the purposes of agricultural research or the development of agricultural policy or both.

Performing functions of ABARES

- (3) An entrusted person who is an ABARES staff member may use or disclose relevant levy/charge information in the course of or for the purposes of:

- (a) the performance of any of the functions of the part of the Department known as the Australian Bureau of Agricultural and Resource Economics and Sciences; or
- (b) assisting another person to perform any of those functions.

Exception

- (4) Subsection (2) or (3) does not apply to the disclosure of personal information.

29 Disclosure to Commonwealth entities

Staff members of the Australian Bureau of Statistics

- (1) An entrusted person may disclose relevant levy/charge information, or provide electronic access to relevant levy/charge information, to a staff member of the Australian Bureau of Statistics if the disclosure or access is for the purposes of assisting the Bureau to perform its functions or duties or exercise its powers.

Staff members of prescribed Commonwealth entities

- (2) An entrusted person may disclose relevant levy/charge information, or provide electronic access to relevant levy/charge information, to a staff member of a Commonwealth entity prescribed by the rules for the purposes of this subsection if the disclosure or access is for the purposes of assisting the entity to undertake agricultural research or develop agricultural policy or both.

30 Use or disclosure of information for the purposes of other Acts

- (1) An entrusted person may use or disclose relevant levy/charge information if the use or disclosure is for the purposes of the administration of an Act (other than this Act or the *Primary Industries Levies and Charges Disbursement Act 2024*) that is administered by the Minister.

Note: Section 28 deals with the administration of this Act or the *Primary Industries Levies and Charges Disbursement Act 2024*.

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Exception—information to be used for maintaining register of levy payers or charge payers etc.

- (2) Subsection (1) does not apply to the use or disclosure of relevant levy/charge information if that information:
- (a) is of a kind covered by paragraph 32(a), (b) or (c); and
 - (b) was obtained for the purpose of it being disclosed to, or of access to it being provided to, a declared recipient body or a statutory recipient body under section 32 for a purpose covered by subsection 42(1).

31 Disclosure of information about persons giving returns and collection agents

- (1) An entrusted person may disclose the following information, or provide electronic access to the following information, to a person or body covered by subsection (2):
- (a) the name and contact details of a person or body who has given a return under the rules;
 - (b) the name and contact details of a collection agent who, under the rules, is or was liable to pay an amount as mentioned in paragraph 10(1)(a).
- (2) This subsection covers the following:
- (a) a body that receives money under the *Primary Industries Levies and Charges Disbursement Act 2024*;
 - (b) an industry body that is representative of levy payers or charge payers or of collection agents;
 - (c) any other person or body that is specified in an approval in force under this section.

Approvals

- (3) A person or body may, in writing, make a request to the Secretary for an approval under subsection (4).

- (4) If a person or body makes a request under subsection (3), the Secretary must, in writing, grant the person or body an approval or refuse to grant the person or body an approval.
- (5) If the Secretary grants the person or body an approval, the Secretary must give the person or body a copy of the approval.
- (6) If the Secretary refuses to grant the person or body an approval, the Secretary must give the person or body written notice of the refusal and of the reasons for the refusal.
- (7) An approval under subsection (4) is not a legislative instrument.

Use of information

- (8) If a person or body receives, or is provided access to, information under subsection (1), the person or body may use the information for:
 - (a) consulting persons on possible changes to provisions of regulations made under:
 - (i) the *Primary Industries (Excise) Levies Act 2024*; or
 - (ii) the *Primary Industries (Customs) Charges Act 2024*; or
 - (iii) the *Primary Industries (Services) Levies Act 2024*; or
 - (b) consulting persons on possible changes to provisions of rules made under this Act.
- (9) In addition, if a body covered by paragraph (2)(a) receives, or is provided access to, information under subsection (1), the body may use the information for the purpose of:
 - (a) performing any of the body's functions under a law of the Commonwealth; or
 - (b) performing any of the body's obligations under a contract, deed of agreement or other agreement between the Commonwealth and the body.
- (10) In addition, if a body covered by paragraph (2)(b) receives, or is provided access to, information under subsection (1), the body may use the information for the purpose of:

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- (a) performing any of the body's functions under an Act mentioned in paragraph (8)(a); or
- (b) performing any of the body's obligations under a contract, deed of agreement or other agreement between the Commonwealth and the body.

32 Disclosure of information to be used for maintaining register of levy payers or charge payers etc.

An entrusted person may disclose the following information, or provide electronic access to the following information, to a declared recipient body or a statutory recipient body:

- (a) the name, contact details, ABN (if any) and ACN (if any) of any person who has paid, or is or was liable to pay, levy or charge in relation to a collection commodity/service;
- (b) details relating to the amount of levy or charge that the person has paid, or is or was liable to pay, in relation to that collection commodity/service;
- (c) for levy or charge in relation to an animal product, plant product, fungus product or algal product—any details prescribed by the rules for the purposes of this paragraph, being details that relate to the production or processing of that product.

Note 1: This section applies separately for each collection commodity/service in respect of which a person has paid, or is or was liable to pay, levy or charge.

Note 2: For provisions about the use or disclosure of the information by the declared recipient body or statutory recipient body, see Subdivision B.

33 Disclosure for the purposes of law enforcement

- (1) An entrusted person may disclose relevant levy/charge information to a body covered by subsection (2) if:
 - (a) the entrusted person reasonably believes that disclosing the information is necessary for:
 - (i) the enforcement of the criminal law; or

- (ii) the enforcement of a law imposing a pecuniary penalty;
or
 - (iii) the protection of public revenue; and
 - (b) the functions of the body include that enforcement or protection; and
 - (c) for a body mentioned in paragraph (2)(b) or (d)—the body has undertaken not to use or further disclose the information except in accordance with an agreement that:
 - (i) is in force between the Commonwealth and the State or Territory; and
 - (ii) applies in relation to the information; and
 - (d) for a body mentioned in paragraph (2)(b) or (d)—the entrusted person is satisfied that the information will be used or further disclosed only in accordance with the agreement.
- (2) This subsection covers the following bodies:
- (a) a Commonwealth entity;
 - (b) a State or Territory body;
 - (c) the Australian Federal Police;
 - (d) the police force or police service of a State or Territory.

34 Disclosure to State or Territory body

The Secretary may disclose relevant levy/charge information to a State or Territory body if:

- (a) the Secretary reasonably believes that disclosing the information is necessary for the purposes of the administration of a law of a State or Territory; and
- (b) the State or Territory body has undertaken not to use or further disclose the information except in accordance with an agreement that:
 - (i) is in force between the Commonwealth and the State or Territory; and
 - (ii) applies in relation to the information; and
- (c) the Secretary is satisfied that the information will be used or further disclosed only in accordance with the agreement.

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35 Disclosure to a court, tribunal etc.

- (1) An entrusted person may disclose relevant levy/charge information to a court exercising federal jurisdiction.
- (2) An entrusted person may disclose relevant levy/charge information to:
 - (a) a court; or
 - (b) a tribunal, authority or person that has the power to require the answering of questions or the production of documents; for the purposes of the enforcement of a law of the Commonwealth or to assist the court, tribunal, authority or person to make or review an administrative decision that is required or authorised to be made or reviewed under a law of the Commonwealth.

36 Use or disclosure of statistics

An entrusted person may use or disclose relevant levy/charge information if the information is statistics that are not likely to enable the identification of a person.

37 Use or disclosure of publicly available information

An entrusted person may use or disclose relevant levy/charge information if the information has already been lawfully made available to the public.

38 Disclosure to person to whom information relates

An entrusted person may disclose relevant levy/charge information to the person to whom the information relates.

39 Use or disclosure with consent

An entrusted person may use or disclose relevant levy/charge information that relates to a person if:

- (a) the person has consented to the use or disclosure; and
- (b) the use or disclosure is in accordance with that consent.

40 Disclosure to person who provided information

An entrusted person may disclose relevant levy/charge information to the person who provided the information.

41 Use or disclosure authorised by rules

- (1) A person may use relevant levy/charge information if:
 - (a) the person is included in a class of persons prescribed by rules made for the purposes of this paragraph; and
 - (b) the use is for a purpose prescribed by rules made for the purposes of this paragraph; and
 - (c) the information is of a kind prescribed by rules made for the purposes of this paragraph; and
 - (d) the use complies with any conditions prescribed by rules made for the purposes of this paragraph.
- (2) A person may disclose relevant levy/charge information if:
 - (a) the person is included in a class of persons prescribed by rules made for the purposes of this paragraph; and
 - (b) the disclosure is for a purpose prescribed by rules made for the purposes of this paragraph; and
 - (c) the information is of a kind prescribed by rules made for the purposes of this paragraph; and
 - (d) the disclosure complies with any conditions prescribed by rules made for the purposes of this paragraph.
- (3) Rules made for the purposes of this section must specify the legislative power or powers of the Parliament in respect of which the rules are made.
- (4) The other provisions of this Subdivision do not limit the rules that may be made for the purposes of this section.

Subdivision B—Secondary use or disclosure for declared recipient bodies or statutory recipient bodies

42 Secondary use of information for maintaining register of levy payers or charge payers etc.

- (1) If a declared recipient body or a statutory recipient body receives, or is provided access to, information under section 32, the body may use the information for any of the following purposes:
 - (a) to maintain a register of levy payers or charge payers;
 - (b) to maintain a register of those persons eligible to vote in any poll conducted by, or on behalf of, the body;
 - (c) in performing any of its functions under a law of the Commonwealth;
 - (d) in performing any of its obligations under a contract, deed of agreement or other agreement between the Commonwealth and the body;
 - (e) for a declared recipient body—to determine whether a person is, or remains eligible to be, a member or shareholder of the body.
- (2) A declared recipient body or a statutory recipient body commits an offence if:
 - (a) the body receives, or is provided access to, information under section 32; and
 - (b) the body uses that information; and
 - (c) the use is not a use for a purpose covered by subsection (1) of this section.

Penalty: 240 penalty units.

43 Secondary disclosure of statistics or of information to approved person or body

- (1) If a declared recipient body or a statutory recipient body receives, or is provided access to, information under section 32, the body may:
-

- (a) disclose the information to the public to the extent that the information is statistics that are not likely to enable the identification of a person; or
 - (b) disclose the information to another person or body that is specified in an approval in force under section 44.
- (2) A declared recipient body or a statutory recipient body commits an offence if:
- (a) the body receives, or is provided access to, information under section 32; and
 - (b) the body discloses that information; and
 - (c) the disclosure is not a disclosure covered by subsection (1) of this section.

Penalty: 240 penalty units.

44 Approvals for secondary disclosure by declared recipient bodies or statutory recipient bodies

- (1) A declared recipient body or a statutory recipient body may, in writing, make a request to the Secretary for an approval under subsection (3).
- (2) The declared recipient body or statutory recipient body may make a request under subsection (1) only if the request is for information to be disclosed to another person or body for the purpose of the information being used:
 - (a) for a research and development activity; or
 - (b) for marketing activities; or
 - (c) for biosecurity purposes; or
 - (d) for National Residue Survey purposes; or
 - (e) in connection with any activity carried out, or proposed to be carried out, by the declared recipient body or statutory recipient body for the benefit of levy payers or charge payers in relation to collection commodities/services of a particular kind.

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- (3) If a declared recipient body or statutory recipient body makes a request under subsection (1), the Secretary must, in writing, grant the body an approval or refuse to grant the body an approval.
- (4) An approval must specify a person or body for the purposes of paragraph 43(1)(b).
- (5) A condition of an approval is that the declared recipient body or statutory recipient body may disclose the information only to the person or body so specified and only for a purpose specified in the approval. The purpose must be one covered by subsection (2).
- (6) The Secretary may grant an approval subject to any other conditions specified in the approval.
- (7) If the Secretary grants the declared recipient body or statutory recipient body an approval, the Secretary must give that body a copy of the approval.
- (8) If the Secretary refuses to grant the declared recipient body or statutory recipient body an approval, the Secretary must give that body written notice of the refusal and of the reasons for the refusal.
- (9) An approval under subsection (3) is not a legislative instrument.

Civil penalty

- (10) A declared recipient body or a statutory recipient body contravenes this subsection if:
 - (a) an approval granted to the body under subsection (3) is in force; and
 - (b) the approval is subject to a condition; and
 - (c) the body does an act or omits to do an act; and
 - (d) the act or omission breaches the condition.

Civil penalty: 60 penalty units.

Division 4—Protected information

45 Offence and civil penalty—use or disclosure of protected information

Offence

- (1) A person commits an offence if:
- (a) the person is, or has been, an entrusted person; and
 - (b) the person has obtained or generated information in the course of or for the purposes of:
 - (i) administering this Act or the rules or monitoring compliance with this Act or the rules; or
 - (ii) assisting another person to administer this Act or the rules or monitor compliance with this Act or the rules; and
 - (c) the information is of a kind covered by subsection (3); and
 - (d) the person uses or discloses the information.

Penalty: Imprisonment for 12 months.

Civil penalty

- (2) A person contravenes this subsection if:
- (a) the person is, or has been, an entrusted person; and
 - (b) the person has obtained or generated information in the course of or for the purposes of:
 - (i) administering this Act or the rules or monitoring compliance with this Act or the rules; or
 - (ii) assisting another person to administer this Act or the rules or monitor compliance with this Act or the rules; and
 - (c) the information is of a kind covered by subsection (3); and
 - (d) the person uses or discloses the information.

Civil penalty: 60 penalty units.

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Protected information

- (3) For the purposes of subsections (1) and (2), this subsection covers information (including commercially sensitive information) the disclosure of which could reasonably be expected to found an action by a person (other than the Commonwealth) for breach of a duty of confidence.

Exception—required or authorised by law

- (4) Subsection (1) or (2) does not apply if the use or disclosure of the information is required or authorised by:
- (a) this Act or another law of the Commonwealth; or
 - (b) a law of a State or Territory prescribed by rules made for the purposes of this paragraph.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act).

Exception—good faith

- (5) Subsection (1) or (2) does not apply if the person uses or discloses the information in good faith:
- (a) in the purported administering of this Act or the rules or purported monitoring of compliance with this Act or the rules; or
 - (b) in assisting another person in the purported administering of this Act or the rules or purported monitoring of compliance with this Act or the rules.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act).

Part 6—Other matters

Division 1—Introduction

46 Simplified outline of this Part

This Part deals with various matters, such as civil penalties for false or misleading information or documents, reconsideration and review of decisions, self-incrimination, the appointment of compliance officers, delegation by the Secretary and the making of rules by the Secretary.

Division 2—Civil penalty provisions for false or misleading information or documents

47 Civil penalty provisions for false or misleading information or documents

Returns

- (1) A person contravenes this subsection if:
- (a) the person gives a return under the rules; and
 - (b) the person does so knowing that the return is false or misleading.

Note: See also section 23 (about infringement notices).

Civil penalty: 60 penalty units.

- (2) Subsection (1) does not apply if the return is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Other documents

- (3) A person contravenes this subsection if:
- (a) the person produces a document to the Secretary in compliance or purported compliance with a requirement under subsection 26(1); and
 - (b) the person does so knowing that the document is false or misleading.

Note: See also section 23 (about infringement notices).

Civil penalty: 60 penalty units.

- (4) Subsection (3) does not apply if the document is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Information

- (5) A person contravenes this subsection if:
- (a) the person gives information to the Secretary in compliance or purported compliance with a requirement under subsection 26(1); and
 - (b) the person does so knowing that the information:
 - (i) is false or misleading; or
 - (ii) omits any matter or thing without which the information is misleading.

Note: See also section 23 (about infringement notices).

Civil penalty: 60 penalty units.

- (6) Subsection (5) does not apply as a result of subparagraph (5)(b)(i) if the information is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

- (7) Subsection (5) does not apply as a result of subparagraph (5)(b)(ii) if the information did not omit any matter or thing without which the information is misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Application for return exemption

- (8) A person contravenes this subsection if:
- (a) the person makes a statement (whether orally, in a document or in any other way) in, or in connection with, an application made under rules made for the purposes of paragraph 59(2)(e); and
 - (b) the person does so knowing that the statement:
 - (i) is false or misleading; or
 - (ii) omits any matter or thing without which the statement is misleading.

Note: See also section 23 (about infringement notices).

Part 6 Other matters

Division 2 Civil penalty provisions for false or misleading information or documents

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Civil penalty: 60 penalty units.

- (9) Subsection (8) does not apply as a result of subparagraph (8)(b)(i) if the statement is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

- (10) Subsection (8) does not apply as a result of subparagraph (8)(b)(ii) if the statement did not omit any matter or thing without which the statement is misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Division 3—Reconsideration and review of decisions

48 Internal reconsideration of decisions

- (1) A person (the *aggrieved person*) whose interests are affected by a decision of the following kind may request the Secretary to reconsider the decision:
 - (a) a decision of the Secretary to refuse to remit an amount that a person is liable to pay by way of penalty under section 9 or 11;
 - (b) a decision of the Secretary under subsection 31(4) to grant, or to refuse to grant, a person or body an approval;
 - (c) a decision of the Secretary under subsection 44(3) to grant, or to refuse to grant, a body an approval;
 - (d) a decision of the Secretary to specify conditions in an approval granted under subsection 44(3);
 - (e) a decision of the Secretary under subsection 53(4);
 - (f) a decision prescribed by the rules for the purposes of this paragraph.
- (2) Subsection (1) does not apply to a reviewable decision that is made by the Secretary personally.

Form and timing of request

- (3) The aggrieved person must make the request in writing:
 - (a) for a reviewable decision covered by paragraph (1)(a), (b), (c), (d) or (e)—before the end of the period of 28 days beginning on the day on which that person is notified of the reviewable decision; or
 - (b) for a reviewable decision covered by paragraph (1)(f)—before the end of the period prescribed by the rules.

However, if the Secretary allows a longer period for making the request, that person must make the request in writing before the end of that longer period.

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Reasons for request

- (4) The aggrieved person must set out in the request the reasons for the request.

Review of decision

- (5) On receiving a request made in accordance with subsections (3) and (4), the Secretary must either:
- (a) reconsider the reviewable decision personally; or
 - (b) cause the reviewable decision to be reconsidered by a person (the *internal reviewer*):
 - (i) who was not involved in making that decision; and
 - (ii) who is an SES employee, or acting SES employee, in the Department or an APS employee in the Department who holds, or is acting in, an Executive Level 2 position; and
 - (iii) who occupies a position senior to the person who made that decision.
- (6) The Secretary or internal reviewer:
- (a) must affirm, vary or set aside the reviewable decision; and
 - (b) if the Secretary or the internal reviewer sets aside the reviewable decision—may make such other decision as the Secretary or the internal reviewer thinks appropriate.
- (7) The Secretary or internal reviewer must do so before the end of:
- (a) the period of 45 days beginning on the day the Secretary receives the request, unless paragraph (b) applies; or
 - (b) if the aggrieved person and the Secretary or internal reviewer agree on a longer period—that longer period.

Notice of decision on reconsideration

- (8) The Secretary or internal reviewer must give the aggrieved person written notice of the Secretary's or internal reviewer's decision on reconsideration and of the reasons for that decision.

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Note: Section 266 of the *Administrative Review Tribunal Act 2024* requires the person to be notified of the person's review rights.

When decision on reconsideration takes effect

- (9) The Secretary's or internal reviewer's decision on reconsideration takes effect:
- (a) on the day specified in the notice; or
 - (b) if a day is not specified—on the day on which that decision is made.

Secretary or internal reviewer may be taken to have affirmed decision

- (10) The Secretary or internal reviewer is taken to have made a decision affirming the decision under reconsideration if the Secretary or internal reviewer has not notified the aggrieved person of the Secretary's or internal reviewer's decision on reconsideration before the end of the period applicable under subsection (7).

49 Administrative Review Tribunal review of decisions

Applications may be made to the Administrative Review Tribunal for review of the following decisions:

- (a) a reviewable decision that is made by the Secretary personally;
- (b) a decision under subsection 48(6) that is made, or a decision under subsection 48(10) that is taken to have been made, by the Secretary or internal reviewer.

Division 4—Self-incrimination and court orders

50 Self-incrimination etc.

- (1) An individual is not excused from giving a return or notice under the rules, or giving information or producing a document under section 26, on the ground that giving the return or notice, or giving the information or producing the document, might tend to incriminate the individual in relation to an offence.

Note: A body corporate is not entitled to claim the privilege against self-incrimination.

- (2) However:

- (a) the return, notice or information given or document produced; and
- (b) the giving of the return, notice or information or the production of the document; and
- (c) any information, document or thing obtained as a direct or indirect consequence of the giving of the return, notice or information or the production of the document;

are not admissible in evidence against the individual in criminal proceedings, other than:

- (d) proceedings for an offence against section 17 or 26; or
 - (e) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act or the rules.
- (3) If, at general law, an individual would otherwise be able to claim the privilege against self-exposure to a penalty (other than a penalty for an offence) in relation to:
- (a) giving a return or notice under the rules; or
 - (b) giving information or producing a document under section 26;

the individual is not excused from giving the return or notice, or giving the information or producing the document, on that ground.

Note: A body corporate is not entitled to claim the privilege against self-exposure to a penalty.

51 Court orders

If a person is convicted by a court of an offence against section 17 or 26, the court may order the person to give the return, notice or information concerned, or produce the document concerned, in accordance with the order.

Division 5—Other provisions

52 Appointment of compliance officers

The Secretary may, in writing, appoint an APS employee in the Department, or each APS employee in the Department included in a specified class of APS employees in the Department, to be a compliance officer for the purposes of this Act.

Note: Compliance officers have powers and functions under the Regulatory Powers Act in relation to the enforcement of this Act: see Part 4.

53 Secretary may arrange for use of computer programs to make decisions

- (1) The Secretary may arrange for the use, under the Secretary's control, of computer programs for any purposes for which the Secretary may, under this Act or the rules, make a decision of a kind specified in the rules for the purposes of this subsection.
- (2) The Secretary must take all reasonable steps to ensure that each decision made by the operation of a computer program under an arrangement made under subsection (1) is a decision that the Secretary could validly make under this Act or the rules.

Decision made by computer taken to be Secretary's decision

- (3) For the purposes of this Act, a decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Secretary.

Secretary may substitute a decision

- (4) The Secretary may make a decision in substitution for a decision the Secretary is taken to have made under subsection (3) if the Secretary is satisfied that the decision made by the operation of the computer program is not the correct or preferable decision.

Arrangement not a legislative instrument

- (5) If an arrangement under subsection (1) is made in writing, the arrangement is not a legislative instrument.

54 Delegation by Secretary

SES employees or acting SES employees

- (1) The Secretary may, in writing, delegate to an SES employee, or acting SES employee, in the Department all or any of the Secretary's functions or powers under this Act or the rules, other than those under subsection 53(1) or (2) or section 59.

Executive Level 2 employees

- (2) The Secretary may, in writing, delegate to an APS employee in the Department who holds, or is acting in, an Executive Level 2 position all or any of the Secretary's functions or powers under this Act or the rules, other than those under section 52, 53, 55 or 59.

Other APS employees

- (3) The Secretary may, in writing, delegate to an APS employee in the Department (except one mentioned in subsection (1) or (2)) all or any of the Secretary's functions or powers under this Act or the rules, other than those under section 48, 52, 53, 55 or 59.

Directions to delegate

- (4) A delegate must comply with any directions of the Secretary in performing a function or exercising a power under a delegation.

55 Electronic system for giving returns or information

- (1) The Secretary may establish, administer and maintain an electronic system for the purpose of the giving of returns or information electronically under the rules.

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- (2) Without limiting subsection (1), the Secretary may provide for the electronic system to:
- (a) require information (including personal information) to be included in returns given electronically under the rules; and
 - (b) require different information to be included in returns given electronically under the rules in relation to different collection commodities/services or to different periods.

56 Treatment of partnerships

- (1) This Act and the rules apply to a partnership as if it were a person, but with the changes set out in this section.
- (2) An obligation that would otherwise be imposed on the partnership by this Act or the rules is imposed on each partner instead, but may be discharged by any of the partners.
- (3) If this Act or the rules would otherwise permit something to be done by the partnership, the thing may be done by one or more of the partners on behalf of the partnership.
- (4) An offence against this Act that would otherwise have been committed by the partnership is taken to have been committed by each partner in the partnership, at the time the offence was committed, who:
- (a) did the relevant act or made the relevant omission; or
 - (b) aided, abetted, counselled or procured the relevant act or omission; or
 - (c) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the partner).
- (5) A civil penalty provision of this Act that would otherwise have been contravened by the partnership is taken to have been contravened by each partner in the partnership, at the time the provision was contravened, who:
- (a) did the relevant act or made the relevant omission; or

- (b) aided, abetted, counselled or procured the relevant act or omission; or
 - (c) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the partner).
- (6) For the purposes of this Act and the rules, a change in the composition of a partnership does not affect the continuity of the partnership.

57 Treatment of trusts

- (1) This Act and the rules apply to a trust as if it were a person, but with the changes set out in this section.

Trusts with a single trustee

- (2) If the trust has a single trustee:
- (a) an obligation that would otherwise be imposed on the trust by this Act or the rules is imposed on the trustee instead; and
 - (b) if this Act or the rules would otherwise permit something to be done by the trust, the thing may be done by the trustee; and
 - (c) an offence against this Act that would otherwise have been committed by the trust is taken to have been committed by the trustee; and
 - (d) a civil penalty provision of this Act that would otherwise have been contravened by the trust is taken to have been contravened by the trustee.

Trusts with multiple trustees

- (3) If the trust has 2 or more trustees:
- (a) an obligation that would otherwise be imposed on the trust by this Act or the rules is imposed on each trustee instead, but may be discharged by any of the trustees; and

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- (b) if this Act or the rules would otherwise permit something to be done by the trust, the thing may be done by one or more of the trustees on behalf of the trust; and
- (c) an offence against this Act that would otherwise have been committed by the trust is taken to have been committed by each trustee of the trust, at the time the offence was committed, who:
 - (i) did the relevant act or made the relevant omission; or
 - (ii) aided, abetted, counselled or procured the relevant act or omission; or
 - (iii) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the trustee); and
- (d) a civil penalty provision of this Act that would otherwise have been contravened by the trust is taken to have been contravened by each trustee of the trust, at the time the provision was contravened, who:
 - (i) did the relevant act or made the relevant omission; or
 - (ii) aided, abetted, counselled or procured the relevant act or omission; or
 - (iii) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the trustee).

58 Treatment of unincorporated bodies or associations

- (1) This Act and the rules apply to an unincorporated body or association as if it were a person, but with the changes set out in this section.
- (2) An obligation that would otherwise be imposed on the body or association by this Act or the rules is imposed on each member of the body's or association's committee of management instead, but may be discharged by any of the members.
- (3) If this Act or the rules would otherwise permit something to be done by the body or association, the thing may be done by one or

more of the members of the body's or association's committee of management on behalf of the body or association.

- (4) An offence against this Act that would otherwise have been committed by the body or association is taken to have been committed by each member of the body's or association's committee of management, at the time the offence was committed, who:
- (a) did the relevant act or made the relevant omission; or
 - (b) aided, abetted, counselled or procured the relevant act or omission; or
 - (c) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the member).
- (5) A civil penalty provision of this Act that would otherwise have been contravened by the body or association is taken to have been contravened by each member of the committee of management of the body or association, at the time the provision was contravened, who:
- (a) did the relevant act or made the relevant omission; or
 - (b) aided, abetted, counselled or procured the relevant act or omission; or
 - (c) was in any way knowingly concerned in, or party to, the relevant act or omission (whether directly or indirectly and whether by any act or omission of the member).

59 Rules

Rules for better securing the payment of levy or charge

- (1) For better securing the payment of levy or charge imposed in relation to collection commodities/services, the Secretary may, by legislative instrument, make rules prescribing matters:
- (a) required or permitted by this Act to be prescribed by the rules; or

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- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The rules may make provision for and in relation to the following:
- (a) requiring levy payers, charge payers, collection agents or other persons to give returns or written notices for the purposes of this Act or the rules;
 - (b) requiring persons to make and keep records in relation to collection commodities/services;
 - (c) requiring persons to make and keep records, or to give written notices, if they consider that an exemption from levy or charge applies;
 - (d) authorising persons who are liable to pay an amount as mentioned in paragraph 10(1)(a) to request information from other persons in connection with completing a return or making records;
 - (e) authorising persons to make applications for exemptions from the requirement to give returns for particular periods.
- (3) Without limiting paragraph (2)(a), the rules may provide for returns:
- (a) to be in the approved form and to include the information required by the form; or
 - (b) to be given electronically using an approved electronic system and to include the information required by that system to be included in returns so given.

The information covered by paragraph (a) or (b) may include personal information.

Instruments

- (4) The rules may make provision in relation to a matter by conferring on the Minister or the Secretary a power to make a legislative instrument, a notifiable instrument or other written instrument.

Incorporation of other instruments

- (5) Despite subsection 14(2) of the *Legislation Act 2003*, the rules may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

Decisions of administrative character

- (6) The rules may make provision in relation to a matter by conferring on the Minister or the Secretary a power to make a decision of an administrative character.

No limit on subsection (1)

- (7) Subsections (2) to (6) do not limit subsection (1).

Limitation

- (8) To avoid doubt, the rules may not do the following:
- (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

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

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

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

Legislation history and amendment history—Endnotes 3 and 4

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

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

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

Editorial changes

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

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

Misdescribed amendments

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

Endnote 1—About the endnotes

can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

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

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Primary Industries Levies and Charges Collection Act 2024	58, 2024	9 July 2024	s 1, 2: 9 July 2024 (s 2(1) item 1) s 3–9, 11 and 13–59: 1 Jan 2025 (s 2(1) items 2, 4, 6) s 10, 12: 10 July 2024 (s 2(1) items 3, 5)	
Administrative Review Tribunal (Miscellaneous Measures) Act 2025	14, 2025	20 Feb 2025	Sch 2 (items 121–123): 21 Feb 2025 (s 2(1) item 2)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 6	
Division 3	
s 48.....	am No 14, 2025
s 49.....	am No 14, 2025
