



Primary Industries Levies and Charges Disbursement Act 2024

No. 59, 2024

**An Act relating to disbursing amounts equal to
levies and charges collected under the *Primary
Industries Levies and Charges Collection Act 2024*
and disbursing certain other amounts, and for
related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

Part 1—Preliminary	2
1 Short title.....	2
2 Commencement	2
3 Simplified outline of this Act.....	3
4 General definitions.....	4
5 Declared fishery	11
6 Designated primary industry sectors for declared recipient bodies	11
7 Definition of <i>relevant animal health body</i>	12
8 Definition of <i>relevant plant health body</i>	13
9 Definition of <i>research and development activity</i>	13
10 Definition of <i>research and development</i>	14
11 Act binds Crown	15
12 Extension of this Act to external Territories.....	15
13 Extra-territorial application of this Act.....	15
Part 2—Funding for recipient bodies	16
Division 1—Simplified outline of this Part	16
14 Simplified outline of this Part.....	16
Division 2—Levy or charge payments	17
Subdivision A—Commonwealth to make levy or charge payments	17
15 Commonwealth to make levy or charge payments.....	17
16 Payment of Commonwealth costs.....	17
17 Effect of refunds	18
Subdivision B—Spending requirements for declared recipient bodies	19
18 Spending of amounts equal to marketing collected amounts	19
19 Spending of amounts equal to research and development collected amounts	21
20 Spending of amounts equal to general collected amounts.....	22
Subdivision C—Spending requirements for statutory recipient bodies	23
21 Spending of amounts equal to marketing collected amounts	23
22 Spending of amounts equal to research and development collected amounts	25

Division 3—Matching payments	28
Subdivision A—Commonwealth to make matching payments to most recipient bodies	28
23 Commonwealth to make matching payments.....	28
24 Definition of <i>qualifying expenditure amount</i>	29
25 Definition of <i>average gross value of production amount</i>	31
Subdivision B—Commonwealth to make matching payments to Fisheries Research and Development Corporation	33
26 Commonwealth to make matching payments in relation to the fishing industry (except declared fisheries).....	33
27 Commonwealth to make matching payments in relation to a declared fishery.....	41
28 Scope of Fisheries Research and Development Corporation's expenditure amounts.....	46
29 Definition of <i>average total main fishing industry GVP amount</i>	46
30 Definition of <i>average Commonwealth main fishing industry GVP amount</i>	47
31 Definition of <i>average State/Territory main fishing industry GVP amount</i>	48
32 Definition of <i>average declared fishery GVP amount</i>	49
Subdivision C—Spending requirements for declared recipient bodies	50
33 Spending of matching payments.....	50
Subdivision D—Spending requirements for statutory recipient bodies	51
34 Spending of matching payments—statutory recipient bodies except the Fisheries Research and Development Corporation.....	51
35 Spending of matching payments—Fisheries Research and Development Corporation.....	53
Division 4—Other payments to the Fisheries Research and Development Corporation	55
36 Commonwealth to make other payments to the Fisheries Research and Development Corporation.....	55
Division 5—Appropriation	57
37 Appropriation.....	57
Division 6—Funding agreements and recipient bodies	58
Subdivision A—Funding agreements and declared recipient bodies	58
38 Funding agreements with companies.....	58

39	Minister may declare bodies to be recipient bodies.....	59
40	Minister may revoke declaration of a body as a recipient body	60
41	Minister may give directions to declared recipient bodies	63
	Subdivision B—Funding agreements with statutory recipient bodies	64
42	Funding agreements with statutory recipient bodies	64
	Part 3—Funding for Animal Health Australia	66
	Division 1—Simplified outline of this Part	66
43	Simplified outline of this Part.....	66
	Division 2—Funding for Animal Health Australia	67
	Subdivision A—Payments relating to biosecurity activity	67
44	Commonwealth to make payments—collected amounts relating to biosecurity activity	67
45	Application of money	67
46	Effect of refunds	68
47	Recoverable payments—payment of debt.....	70
	Subdivision B—Payments relating to biosecurity response	70
48	Commonwealth to make payments—collected amounts relating to biosecurity response	70
49	Application of money	71
50	Effect of refunds	72
51	Recoverable payments—payment of debt.....	73
	Subdivision C—Appropriation	74
52	Appropriation.....	74
	Part 4—Funding for Plant Health Australia	75
	Division 1—Simplified outline of this Part	75
53	Simplified outline of this Part.....	75
	Division 2—Funding for Plant Health Australia	76
	Subdivision A—Payments relating to biosecurity activity	76
54	Commonwealth to make payments—collected amounts relating to biosecurity activity	76
55	Application of money	76
56	Effect of refunds	77
57	Recoverable payments—payment of debt.....	79

Subdivision B—Payments relating to biosecurity response	79
58 Commonwealth to make payments—collected amounts relating to biosecurity response	79
59 Application of money	80
60 Effect of refunds	82
61 Recoverable payments—payment of debt	83
Subdivision C—Appropriation	83
62 Appropriation.....	83
Part 5—Funding and information management for the National Residue Survey	84
Division 1—Simplified outline of this Part	84
63 Simplified outline of this Part.....	84
Division 2—Funding for National Residue Survey	85
64 National Residue Survey Special Account	85
65 Credits to the National Residue Survey Special Account.....	85
66 Purposes of the National Residue Survey Special Account	86
67 Report about National Residue Survey Special Account	87
Division 3—Information management	88
Subdivision A—Authorised uses and disclosures of relevant NRS information	88
68 Use or disclosure for National Residue Survey activities etc.	88
69 Use or disclosure for the purposes of other Acts	88
70 Disclosure to authorities of the Commonwealth, a State or Territory	88
71 Disclosure to foreign governments etc. for export, trade and other purposes	89
72 Disclosure to persons holding an approval	89
73 Disclosure for the purposes of law enforcement	90
74 Disclosure to a court, tribunal etc.	91
75 Use or disclosure of statistics.....	91
76 Use or disclosure of publicly available information.....	92
77 Disclosure to person to whom information relates	92
78 Use or disclosure with consent	92
79 Disclosure to person who provided information.....	92
80 Use or disclosure authorised by rules	92
Subdivision B—Protected information	93
81 Offence and civil penalty—use or disclosure of protected information.....	93
82 Enforcement of civil penalty provisions.....	95

Part 6—Other matters	97
Division 1—Simplified outline of this Part	97
83 Simplified outline of this Part.....	97
Division 2—Reconsideration and review of decisions	98
84 Internal reconsideration of decisions	98
85 Administrative Appeals Tribunal review of decisions	100
Division 3—Recoverable payments	101
86 Recoverable payments	101
87 Report about recoverable payments.....	101
Division 4—Administrative provisions	103
88 Delegation by Minister	103
89 Delegation by Secretary.....	103
90 Rules	103



Primary Industries Levies and Charges Disbursement Act 2024

No. 59, 2024

**An Act relating to disbursing amounts equal to
levies and charges collected under the *Primary
Industries Levies and Charges Collection Act 2024*
and disbursing certain other amounts, and for
related purposes**

[Assented to 9 July 2024]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act is the *Primary Industries Levies and Charges Disbursement 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 37	1 January 2025.	1 January 2025
3. Section 38	The day after this Act receives the Royal Assent.	10 July 2024
4. Sections 39 to 41	1 January 2025.	1 January 2025
5. Section 42	The day after this Act receives the Royal Assent.	10 July 2024
6. Sections 43 to 90	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

General

This Act provides for payments to declared recipient bodies, statutory recipient bodies, Animal Health Australia and Plant Health Australia and for crediting of amounts to the National Residue Survey Special Account.

Payments to declared recipient bodies and statutory recipient bodies

The Commonwealth must pay to declared recipient bodies and statutory recipient bodies amounts connected with various levies and charges collected under rules made under the Collection Act.

The bodies must spend the payments on various activities, including research and development activities and marketing activities for the benefit of primary industries.

The Commonwealth must also make matching payments to the bodies, based on amounts of expenditure on research and development activities or certain other activities by the bodies and on gross value of production amounts.

The bodies must spend the matching payments on various activities, including research and development activities for the benefit of primary industries.

Payments to Animal Health Australia and Plant Health Australia

The Commonwealth must pay to Animal Health Australia and Plant Health Australia amounts connected with various levies and charges collected under rules made under the Collection Act.

Section 4

Animal Health Australia and Plant Health Australia must spend the payments on various activities, including activities relating to the promotion or maintenance of the health of plants, animals, fungi or algae.

National Residue Survey Special Account

There is a National Residue Survey Special Account.

There is credited to the Account amounts connected with various levies and charges collected under rules made under the Collection Act.

The main purpose of the Account is making payments for purposes relating to the following activities:

- (a) the monitoring, testing and reporting of the level of contaminants in NRS products or the environment;
- (b) the prevention of contamination in, and the management of risks associated with contamination of, NRS products.

4 General definitions

(1) In this Act:

agricultural statistics body means:

- (a) the part of the Department known as the Australian Bureau of Agricultural and Resource Economics and Sciences, unless paragraph (b) applies; or
- (b) if the rules prescribe a body for the purposes of this paragraph—that body.

AHA commodity/service means the following:

- (a) an animal product;
- (b) a plant product, a fungus product or an algal product prescribed by the rules for the purposes of this paragraph;
- (c) goods that are of a kind consumed by, or used in the maintenance or treatment of, animals;
- (d) a service that facilitates the production of an animal product.

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 Health Australia means Australian Animal Health Council Limited (ACN 071 890 956).

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.

average Commonwealth main fishing industry GVP amount has the meaning given by section 30.

average declared fishery GVP amount has the meaning given by section 32.

average gross value of production amount has the meaning given by section 25.

average State/Territory main fishing industry GVP amount has the meaning given by section 31.

average total main fishing industry GVP amount has the meaning given by section 29.

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

Section 4

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

Collection Act means the *Primary Industries Levies and Charges Collection Act 2024*.

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

Commonwealth main fishing industry GVP amount has the meaning given by section 30.

constitutional trade or commerce means trade or commerce:

- (a) between Australia and a place outside Australia; or
- (b) among the States; or
- (c) between a State and a Territory; or
- (d) between 2 Territories; or
- (e) within a Territory.

declared fishery means a part of the fishing industry that is the subject of a declaration that is referred to in section 5 and is in force.

declared fishery expenditure amount has the meaning given by section 27.

declared fishery GVP amount has the meaning given by section 32.

declared fishery levy or charge, in relation to a declared fishery, is a levy or charge prescribed by the rules in relation to that fishery.

declared livestock export body has the meaning prescribed by the rules.

declared meat processor body has the meaning prescribed by the rules.

declared recipient body means a body that is the subject of a declaration in force under subsection 39(1).

designated primary industry sector, in relation to a declared recipient body or a statutory recipient body, means the following:

- (a) each primary industry prescribed by the rules in relation to the body;
- (b) each part of a primary industry, being a part prescribed by the rules in relation to the body.

Note: See also section 6 in relation to declared recipient bodies.

emergency animal biosecurity response deed means the following as in force from time to time:

- (a) the government and livestock industry cost sharing deed in respect of emergency animal disease responses made by the Commonwealth and other parties, and executed by the Commonwealth in March 2002;
- (b) a deed:
 - (i) that relates to an emergency biosecurity response; and
 - (ii) that is prescribed by the rules for the purposes of this subparagraph.

emergency plant biosecurity response deed means the following as in force from time to time:

- (a) the Government and Plant Industry Cost Sharing Deed in respect of Emergency Plant Pest Responses, executed by the Commonwealth on 26 May 2005;
- (b) a deed:
 - (i) that relates to an emergency biosecurity response; and
 - (ii) that is prescribed by the rules for the purposes of this subparagraph.

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 and who is covered by an authorisation in force under subsection (2);
- (e) any other person who is:

Section 4

- (i) employed or engaged by the Commonwealth or a body corporate that is established by a law of the Commonwealth; and
- (ii) in a class of persons prescribed by the rules for the purposes of this subparagraph.

fishing industry has the meaning prescribed by the rules.

funding agreement means an agreement in force under section 38 or 42.

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.

general collected amounts means amounts prescribed by the rules for the purposes of this definition.

gross value of production amount has the meaning given by section 25.

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*.

main fishing industry has the meaning prescribed by the rules.

marketing activities, in relation to a declared recipient body or a statutory recipient body, means the following:

- (a) the marketing, advertising or promotion of:
 - (i) a designated primary industry sector in relation to that body; or
 - (ii) goods that are the produce, or that are derived from the produce, of a designated primary industry sector in relation to that body;

- (b) activities incidental to such marketing, advertising or promotion.

marketing collected amounts means amounts prescribed by the rules for the purposes of this definition.

NRS products means:

- (a) food products; or
- (b) products that result from any of the following:
 - (i) agriculture or the cultivation of land;
 - (ii) the maintenance of animals for commercial purposes;
 - (iii) fishing or aquaculture;
 - (iv) hunting or trapping;
 - (v) horticulture;
 - (vi) any other primary industry activity; or
- (c) any other products that are of a kind used as inputs to the production of products covered by paragraph (a) or (b);

whether or not the products have been subjected to any operation (including harvesting, chilling, freezing, drying, bottling, packing, canning and preserving).

nursery products includes trees, shrubs, plants, seeds, bulbs, corms, tubers, propagating material and plant tissue cultures, grown for ornamental purposes or for producing fruits, vegetables, nuts or cut flowers and foliage.

PHA commodity/service means the following:

- (a) a plant product, a fungus product or an algal product;
- (b) an animal product prescribed by the rules for the purposes of this paragraph;
- (c) goods that are of a kind consumed by, or used in the maintenance or treatment of, plants, fungi or algae;
- (d) goods that are for use in the production or preparation of nursery products;
- (e) a service that facilitates the production of a plant product, a fungus product or an algal product.

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

Section 4

Plant Health Australia means Plant Health Australia Limited (ACN 092 607 997).

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.

primary industry has the meaning prescribed by the rules.

qualifying expenditure amount has the meaning given by section 24.

recipient body means a declared recipient body or a statutory recipient body.

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

relevant animal health body, for an AHA commodity/service, has the meaning given by section 7.

relevant fishing expenditure amount has the meaning given by section 26.

relevant NRS information means:

- (a) information obtained or generated by a person in the course of, or for the purposes of, carrying out activities covered by paragraph 66(1)(a) and paid for with amounts debited from the National Residue Survey Special Account; or
- (b) information obtained or generated by a person in the course of or for the purposes of:
 - (i) administering Part 5; or
 - (ii) assisting another person to administer Part 5.

relevant plant health body, for a PHA commodity/service, has the meaning given by section 8.

research and development has the meaning given by section 10.

research and development activity has the meaning given by section 9.

research and development collected amounts means amounts prescribed by the rules for the purposes of this definition.

rules means the rules made by the Minister under section 90.

Secretary means Secretary of the Department.

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

State/Territory main fishing industry GVP amount has the meaning given by section 31.

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

total main fishing industry GVP amount has the meaning given by section 29.

- (2) The Secretary may, in writing, authorise a person for the purposes of paragraph (d) of the definition of **entrusted person** in subsection (1).

5 Declared fishery

The rules may declare part of the fishing industry, whether managed in whole or in part by or on behalf of the Commonwealth or a State or Territory, to be a declared fishery.

6 Designated primary industry sectors for declared recipient bodies

- (1) The rules may:
-

Section 7

- (a) prescribe a primary industry in relation to a declared recipient body only if the primary industry is a nationally significant one; or
 - (b) prescribe a part of a primary industry in relation to a declared recipient body only if that part is a nationally significant one.
- (2) The following matters are relevant to whether a primary industry, or a part of a primary industry, is a nationally significant one:
 - (a) the national presence of the primary industry or part, including the geographical factors affecting the extent of that presence;
 - (b) the economic significance of the primary industry or part to the Australian economy;
 - (c) the historical significance of the primary industry or part.
- (3) Subsection (2) does not limit the matters relevant to whether a primary industry, or a part of a primary industry, is a nationally significant one.

7 Definition of *relevant animal health body*

- (1) For the purposes of this Act, ***relevant animal health body***, for an AHA commodity/service, means a body determined in an instrument under subsection (2) in relation to the AHA commodity/service.
- (2) The Secretary may, by notifiable instrument, determine one or more bodies in relation to one or more specified AHA commodities/services.
- (3) The Secretary must not determine a body in relation to an AHA commodity/service unless:
 - (a) the body is a member of Animal Health Australia; and
 - (b) the Secretary is satisfied that the body represents an industry in relation to the AHA commodity/service.

8 Definition of *relevant plant health body*

- (1) For the purposes of this Act, *relevant plant health body*, for a PHA commodity/service, means a body determined in an instrument under subsection (2) in relation to the PHA commodity/service.
- (2) The Secretary may, by notifiable instrument, determine one or more bodies in relation to one or more specified PHA commodities/services.
- (3) The Secretary must not determine a body in relation to a PHA commodity/service unless:
 - (a) the body is a member of Plant Health Australia; and
 - (b) the Secretary is satisfied that the body represents an industry in relation to the PHA commodity/service.

9 Definition of *research and development activity*

Research and development projects

- (1) A *research and development activity*, for a designated primary industry sector in relation to a declared recipient body or a statutory recipient body, is a project for research and development for that sector.

Note: For *research and development*, see section 10.

Extension

- (2) Another *research and development activity*, for a designated primary industry sector in relation to a declared recipient body or a statutory recipient body, is educating, informing or providing assistance to persons or bodies if:
 - (a) the persons or bodies are engaged in aspects of that sector (including producing, processing, storing, transporting or marketing goods that are the produce, or that are derived from the produce, of that sector); and
 - (b) that educating, informing or providing of assistance is to encourage or develop the capacity of the persons or bodies to adopt technical developments, innovations or technology

Section 10

arising from research and development in relation to that sector to improve those aspects.

Development of persons

- (3) Another **research and development activity**, for a designated primary industry sector in relation to a declared recipient body or a statutory recipient body, is the development of persons to carry out or adopt research and development in relation to that sector.

Communication or publication

- (4) Another **research and development activity**, for a designated primary industry sector in relation to a declared recipient body or a statutory recipient body, is the communication or publication, in any form, of information that is related to research and development in relation to that sector.

Incidental activities

- (5) Another **research and development activity**, for a designated primary industry sector in relation to a declared recipient body or a statutory recipient body, is an activity incidental to an activity covered by subsection (1), (2), (3) or (4).

10 Definition of *research and development*

- (1) **Research and development**, for a designated primary industry sector in relation to a declared recipient body or a statutory recipient body, is the systematic experimentation or analysis in any field of science, technology, economics or business carried out with the object of:
- (a) acquiring knowledge that may be of use in achieving or furthering an objective of that sector; or
 - (b) applying such knowledge for the purpose of achieving or furthering an objective of that sector.
- (2) Without limiting subsection (1), the systematic experimentation or analysis in a field referred to in that subsection includes the study of the social or environmental consequences of adopting technical developments, innovations or technology.
-

- (3) Without limiting paragraph (1)(a) or (b), an objective of a sector is improving:
- (a) the productivity of that sector; or
 - (b) any aspect of the production, processing, storage, transport or marketing of goods that are the produce, or that are derived from the produce, of that sector.

11 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.

12 Extension of this Act to external Territories

This Act extends to every external Territory.

13 Extra-territorial application of this Act

This Act extends to acts, omissions, matters and things outside Australia.

Part 2—Funding for recipient bodies

Division 1—Simplified outline of this Part

14 Simplified outline of this Part

The Commonwealth must pay to declared recipient bodies and statutory recipient bodies amounts connected with various levies and charges collected under rules made under the Collection Act.

The bodies must spend the payments on various activities, including research and development activities and marketing activities for the benefit of primary industries.

The Commonwealth must also make matching payments to the bodies, based on amounts of expenditure on research and development activities or certain other activities by the bodies and on gross value of production amounts.

The bodies must spend the matching payments on various activities, including research and development activities for the benefit of primary industries.

The Minister may enter into funding agreements with the bodies.

Division 2—Levy or charge payments

Subdivision A—Commonwealth to make levy or charge payments

15 Commonwealth to make levy or charge payments

- (1) The Commonwealth must pay to a recipient body amounts equal to the following amounts that are received by or on behalf of the Commonwealth:
 - (a) amounts of a levy or charge imposed by a provision prescribed by the rules in relation to that body, to the extent that those amounts are equal to the components of the rate of that levy or charge prescribed by the rules;
 - (b) in relation to that levy or charge—amounts paid by a person under rules made for the purposes of paragraph 10(1)(a) of the Collection Act, to the extent that those amounts are equal to those components;
 - (c) amounts by way of penalty under section 9 or 11 of the Collection Act, to the extent that those amounts are attributable to the non-payment of those components or of amounts equal to those components.
- (2) For the purposes of paragraph (1)(a), a provision prescribed by the rules must be a provision of regulations made under:
 - (a) the *Primary Industries (Excise) Levies Act 2024*; or
 - (b) the *Primary Industries (Customs) Charges Act 2024*; or
 - (c) the *Primary Industries (Services) Levies Act 2024*.

16 Payment of Commonwealth costs

Payment of Commonwealth costs

- (1) A recipient body that is paid amounts under section 15 must pay to the Commonwealth amounts equal to the Commonwealth's costs in:
 - (a) collecting or recovering the amounts covered by paragraphs 15(1)(a), (b) and (c); and

Section 17

- (b) administering section 15 in relation to the making of the payments to the body under that section.
- (2) The Secretary must give the recipient body written notice of:
 - (a) the amount of those costs; and
 - (b) the period within which the body must pay the amount under subsection (1).

Debt

- (3) If an amount payable by a recipient body under subsection (1) remains unpaid at the end of that period, the amount:
 - (a) is a debt due to the Commonwealth; and
 - (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

17 Effect of refunds

Set-off

- (1) If:
 - (a) an amount (the **received amount**) covered by paragraph 15(1)(a), (b) or (c) is received by or on behalf of the Commonwealth; and
 - (b) the Commonwealth pays to a recipient body under section 15 an amount equal to the received amount; and
 - (c) the Commonwealth, after making that payment, refunds an amount equal to the whole or a part of the received amount;the Commonwealth may set off an amount equal to the refund against a payment the Commonwealth must make under section 15 to the body.

Note: The Commonwealth might refund an amount because a person paid too much levy or charge.

Notice requiring recipient body to pay amount to Commonwealth

- (2) If the Commonwealth is not able to do so, the Secretary may give the recipient body a written notice:

- (a) specifying the amount the Commonwealth is not able to set off; and
- (b) requiring the body to pay to the Commonwealth the amount specified in the notice; and
- (c) specifying the period within which the body must pay the amount specified in the notice.

Debt

- (3) If the recipient body is required by a notice under subsection (2) to pay an amount to the Commonwealth and an amount payable by the body remains unpaid at the end of the period specified in the notice, the amount unpaid:
 - (a) is a debt due to the Commonwealth; and
 - (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

Subdivision B—Spending requirements for declared recipient bodies

18 Spending of amounts equal to marketing collected amounts

- (1) If a declared recipient body is paid amounts under section 15, then so much of those amounts as are equal to marketing collected amounts may be spent by the body only on matters covered by this section.

Marketing activities

- (2) A matter is marketing activities, in relation to the body, where expenditure on those activities is:
 - (a) for the benefit of a designated primary industry sector in relation to the body; and
 - (b) in accordance with the body's funding agreement; and
 - (c) in accordance with the rules (if any).
- (3) Without limiting paragraph (2)(c), the rules may require expenditure by the body, of a part of the amounts equal to the

Section 18

marketing collected amounts, to be for the benefit of the designated primary industry sector prescribed by the rules.

Commonwealth's costs

- (4) A matter is making a payment to the Commonwealth under section 16 to the extent that the payment relates to:
- (a) meeting the Commonwealth's costs in collecting or recovering the marketing collected amounts; or
 - (b) meeting the Commonwealth's costs in administering section 15 in relation to paying the amounts equal to the marketing collected amounts.

Note: Section 16 requires the body to pay to the Commonwealth amounts equal to those costs.

Refunds

- (5) A matter is making a payment to the Commonwealth under section 17 to the extent that the payment is attributable to a refund of an amount equal to the whole or a part of a marketing collected amount.

Note: Section 17 may require the body to pay to the Commonwealth amounts equal to certain refunds made by the Commonwealth.

Debts

- (6) A matter is making a payment of a debt (if any) mentioned in subsection 86(2), to the extent that the debt arose because of a purported payment under section 15 to the body of amounts equal to marketing collected amounts.

Matters prescribed by the rules

- (7) A matter is any matter that is prescribed by the rules for the purposes of this subsection in relation to:
- (a) the body; and
 - (b) a designated primary industry sector in relation to the body.
- The rules may provide that expenditure by the body on the matter is subject to any conditions prescribed by the rules.

19 Spending of amounts equal to research and development collected amounts

- (1) If a declared recipient body is paid amounts under section 15, then so much of those amounts as are equal to research and development collected amounts may be spent by the body only on matters covered by this section.

Research and development activities

- (2) A matter is research and development activities, for a designated primary industry sector in relation to the body, where expenditure on those activities is:
- (a) for the benefit of that sector; and
 - (b) in accordance with the body's funding agreement; and
 - (c) in accordance with the rules (if any).
- (3) Without limiting paragraph (2)(c), the rules may require expenditure by the body, of a part of the amounts equal to the research and development collected amounts, to be for the benefit of the designated primary industry sector prescribed by the rules.

Commonwealth's costs

- (4) A matter is making a payment to the Commonwealth under section 16 to the extent that the payment relates to:
- (a) meeting the Commonwealth's costs in collecting or recovering the research and development collected amounts;
 - or
 - (b) meeting the Commonwealth's costs in administering section 15 in relation to paying the amounts equal to the research and development collected amounts.

Note: Section 16 requires the body to pay to the Commonwealth amounts equal to those costs.

Refunds

- (5) A matter is making a payment to the Commonwealth under section 17 to the extent that the payment is attributable to a refund

Section 20

of an amount equal to the whole or a part of a research and development collected amount.

Note: Section 17 may require the body to pay to the Commonwealth amounts equal to certain refunds made by the Commonwealth.

Debts

- (6) A matter is making a payment of a debt (if any) mentioned in subsection 86(2), to the extent that the debt arose because of a purported payment under section 15 to the body of amounts equal to research and development collected amounts.

Matters prescribed by the rules

- (7) A matter is any matter that is prescribed by the rules for the purposes of this subsection in relation to:
- (a) the body; and
 - (b) a designated primary industry sector in relation to the body.
- The rules may provide that expenditure by the body on the matter is subject to any conditions prescribed by the rules.

20 Spending of amounts equal to general collected amounts

- (1) If a declared recipient body is paid amounts under section 15, then so much of those amounts as are equal to general collected amounts may be spent by the body only on matters covered by this section.

Matters prescribed by the rules

- (2) A matter is any matter that is prescribed by the rules for the purposes of this subsection in relation to:
- (a) the body; and
 - (b) a designated primary industry sector in relation to the body.
- The rules may provide that expenditure by the body on the matter is subject to any conditions prescribed by the rules.

Commonwealth's costs

- (3) A matter is making a payment to the Commonwealth under section 16 to the extent that the payment relates to:
- (a) meeting the Commonwealth's costs in collecting or recovering the general collected amounts; or
 - (b) meeting the Commonwealth's costs in administering section 15 in relation to paying the amounts equal to the general collected amounts.

Note: Section 16 requires the body to pay to the Commonwealth amounts equal to those costs.

Refunds

- (4) A matter is making a payment to the Commonwealth under section 17 to the extent that the payment is attributable to a refund of an amount equal to the whole or a part of a general collected amount.

Note: Section 17 may require the body to pay to the Commonwealth amounts equal to certain refunds made by the Commonwealth.

Debts

- (5) A matter is making a payment of a debt (if any) mentioned in subsection 86(2), to the extent that the debt arose because of a purported payment under section 15 to the body of amounts equal to general collected amounts.

Subdivision C—Spending requirements for statutory recipient bodies

21 Spending of amounts equal to marketing collected amounts

- (1) If a statutory recipient body is paid amounts under section 15, then so much of those amounts as are equal to marketing collected amounts may be spent by the body only on matters covered by this section.

Section 21

Marketing activities

- (2) A matter is marketing activities, in relation to the body, where expenditure on those activities is:
- (a) for the benefit of a designated primary industry sector in relation to the body; and
 - (b) in accordance with the body's funding agreement; and
 - (c) in accordance with the rules (if any).
- (3) Without limiting paragraph (2)(c), the rules may require expenditure by the body, of a part of the amounts equal to the marketing collected amounts, to be for the benefit of the designated primary industry sector prescribed by the rules.

Commonwealth's costs

- (4) A matter is making a payment to the Commonwealth under section 16 to the extent that the payment relates to:
- (a) meeting the Commonwealth's costs in collecting or recovering the marketing collected amounts; or
 - (b) meeting the Commonwealth's costs in administering section 15 in relation to paying the amounts equal to the marketing collected amounts.

Note: Section 16 requires the body to pay to the Commonwealth amounts equal to those costs.

Refunds

- (5) A matter is making a payment to the Commonwealth under section 17 to the extent that the payment is attributable to a refund of an amount equal to the whole or a part of a marketing collected amount.

Note: Section 17 may require the body to pay to the Commonwealth amounts equal to certain refunds made by the Commonwealth.

Debts

- (6) A matter is making a payment of a debt (if any) mentioned in subsection 86(2), to the extent that the debt arose because of a

purported payment under section 15 to the body of amounts equal to marketing collected amounts.

General payments

- (7) A matter is doing the following:
- (a) paying or discharging expenses, charges, obligations and liabilities incurred by the body in the performance of its functions or the exercise of its powers;
 - (b) paying remuneration, allowances, fees or expenses payable under the *Primary Industries Research and Development Act 1989* or the *Wine Australia Act 2013*.
- (8) Paragraph (7)(a) does not apply to a matter covered by subsection 22(2), (4), (5) or (6).

Matters prescribed by the rules

- (9) A matter is any matter that is prescribed by the rules for the purposes of this subsection in relation to the body. The rules may provide that expenditure by the body on the matter is subject to any conditions prescribed by the rules.

22 Spending of amounts equal to research and development collected amounts

- (1) If a statutory recipient body is paid amounts under section 15, then so much of those amounts as are equal to research and development collected amounts may be spent by the body only on matters covered by this section.

Research and development activities

- (2) A matter is research and development activities, for a designated primary industry sector in relation to the body, where expenditure on those activities is:
- (a) for the benefit of that sector; and
 - (b) in accordance with the body's funding agreement and annual operational plan; and
 - (c) in accordance with the rules (if any).

Section 22

- (3) Without limiting paragraph (2)(c), the rules may require expenditure by the body, of a part of the amounts equal to the research and development collected amounts, to be for the benefit of the designated primary industry sector prescribed by the rules.

Commonwealth's costs

- (4) A matter is making a payment to the Commonwealth under section 16 to the extent that the payment relates to:
- (a) meeting the Commonwealth's costs in collecting or recovering the research and development collected amounts; or
 - (b) meeting the Commonwealth's costs in administering section 15 in relation to paying the amounts equal to the research and development collected amounts.

Note: Section 16 requires the body to pay to the Commonwealth amounts equal to those costs.

Refunds

- (5) A matter is making a payment to the Commonwealth under section 17 to the extent that the payment is attributable to a refund of an amount equal to the whole or a part of a research and development collected amount.

Note: Section 17 may require the body to pay to the Commonwealth amounts equal to certain refunds made by the Commonwealth.

Debts

- (6) A matter is making a payment of a debt (if any) mentioned in subsection 86(2), to the extent that the debt arose because of a purported payment under section 15 to the body of amounts equal to research and development collected amounts.

General payments for some statutory recipient bodies

- (7) For a statutory recipient body (except Wine Australia), a matter is doing the following:

- (a) paying or discharging expenses, charges, obligations and liabilities incurred by the body in the performance of its functions or the exercise of its powers;
 - (b) paying remuneration, allowances, fees or expenses payable under the *Primary Industries Research and Development Act 1989*.
- (8) Paragraph (7)(a) does not apply to a matter covered by subsection 21(2), (4), (5) or (6).

Matters prescribed by the rules

- (9) A matter is any matter that is prescribed by the rules for the purposes of this subsection in relation to the body. The rules may provide that expenditure by the body on the matter is subject to any conditions prescribed by the rules.

Division 3—Matching payments

Subdivision A—Commonwealth to make matching payments to most recipient bodies

23 Commonwealth to make matching payments

- (1) The Commonwealth must pay to a recipient body, in relation to a financial year (the *relevant financial year*), amounts that in total are equal to the lesser of the following:
 - (a) the amount (the *expenditure limit*) equal to 50% of the body's qualifying expenditure amount for the relevant financial year;
 - (b) the amount (the *GVP limit*) equal to 0.5% of the average gross value of production amount, in relation to the body, for the relevant financial year.

Note 1: For *qualifying expenditure amount*, see section 24 and for *average gross value of production amount*, see section 25.

Note 2: For spending requirements for amounts paid under subsection (1), see sections 33 and 34.

Example 1: Assume for the 2025-26 financial year a recipient body's qualifying expenditure amount is \$2 million. The expenditure limit is \$1 million. Assume the GVP limit is \$1.2 million.

Since the expenditure limit is less than the GVP limit, for the 2025-26 financial year the Commonwealth must pay the body \$1 million.

Example 2: Assume for the 2025-26 financial year a recipient body's qualifying expenditure amount is \$2 million. The expenditure limit is \$1 million. Assume the GVP limit is \$800,000.

Since the GVP limit is less than the expenditure limit, for the 2025-26 financial year the Commonwealth must pay the body \$800,000, but there is a carry-over amount for the 2026-27 financial year under subsection (5).

- (2) Subsection (1) does not apply to the following:
 - (a) the Fisheries Research and Development Corporation;
 - (b) the declared livestock export body, unless the rules prescribe that subsection (1) does apply to that body;
 - (c) the declared meat processor body, unless the rules prescribe that subsection (1) does apply to that body.

Note: See Subdivision B for matching payments to the Fisheries Research and Development Corporation.

- (3) An amount worked out under paragraph (1)(a) or (b) must be rounded to the nearest whole cent and rounding up in the case of 0.5 cents.

Making payments

- (4) The Commonwealth must make the payments under subsection (1) in the amounts, and at the times, that the Commonwealth determines. Those times may be after the end of the relevant financial year.

Carry-over amounts

- (5) If, for the relevant financial year, the expenditure limit exceeds the GVP limit, an amount equal to the excess is a carry-over amount for the body for the next financial year after the relevant financial year.

Note: An amount equal to the carry-over amount multiplied by 2 is a component of the body's qualifying expenditure amount for the next financial year: see paragraph 24(1)(b).

Example: To continue example 2 in subsection (1), since the expenditure limit for the 2025-26 financial year exceeds the GVP limit for the 2025-26 financial year by \$200,000, there is a carry-over amount of \$200,000 for the body for the 2026-27 financial year.

24 Definition of *qualifying expenditure amount*

- (1) A recipient body's ***qualifying expenditure amount*** for a financial year is the sum of the following:
- (a) expenditure the body incurs during that year on research and development activities for a designated primary industry sector in relation to the body, where expenditure on those activities:
 - (i) is for the benefit of that sector and the Australian community generally; and
 - (ii) is in accordance with the body's funding agreement; and
 - (iii) if the body is a statutory recipient body—is in accordance with the body's annual operational plan;
-

Section 24

- (b) any carry-over amount for the body for that year under subsection 23(5), multiplied by 2;
- (c) if applicable—the amount covered by subsection (2) of this section for that year.

Note 1: For *research and development activity*, see section 9.

Note 2: Paragraphs (a) and (c) cover expenditure the body incurs, regardless of the source of the money that is being spent. Examples of sources of money are payments by the Commonwealth under Division 2, payments by a State or Territory or an authority of a State or Territory under a contract with the recipient body and voluntary industry contributions.

Note 3: If there is more than one designated primary industry sector in relation to the body, paragraph (a) covers expenditure the body incurs during the financial year on research and development activities for each of those sectors.

Example: To continue the example in subsection 23(5), assume for the 2026-27 financial year the total of the amounts covered by paragraph (a) for the body is \$1.5 million.

There is a carry-over amount of \$200,000 for the body for the 2026-27 financial year, so the amount covered by paragraph (b) is \$400,000.

Assume paragraph (c) is not applicable.

The body's qualifying expenditure amount for the 2026-27 financial year is \$1.9 million.

Additional amount for some statutory recipient bodies

- (2) For a statutory recipient body (except Wine Australia), the amount for the purposes of paragraph (1)(c) is expenditure the body incurs during that year in doing the following:
 - (a) paying or discharging expenses, charges, obligations and liabilities incurred by the body in the performance of its functions or the exercise of its powers;
 - (b) paying remuneration, allowances, fees or expenses payable under the *Primary Industries Research and Development Act 1989*.
- (3) Paragraph (2)(a) does not apply to expenditure on a matter covered by subsection 21(2), (4), (5) or (6).

Exclusion

- (4) Paragraphs (1)(a) and (c) do not apply to expenditure of the following kinds:
- (a) a payment by the recipient body to the Commonwealth under section 16 or 17;
 - (b) a payment by the recipient body to the Commonwealth that is a payment of a debt as mentioned in subsection 86(2);
 - (c) expenditure of a kind prescribed by the rules for the purposes of this paragraph.

25 Definition of *average gross value of production amount*

- (1) The ***average gross value of production amount***, in relation to a recipient body to which subsection 23(1) applies, for a financial year (the ***relevant financial year***) is the amount determined under subsection (2) of this section in relation to the recipient body for the relevant financial year.

Note: See subsections (8) to (12) for an exception to subsection (1).

- (2) For the purposes of subsection (1), the Secretary must, by notifiable instrument, determine an amount in relation to the recipient body for the relevant financial year. The Secretary must do so as soon as practicable after the start of that year.

Calculation is to be an average

- (3) That amount is to be the average of the gross value of production amounts, in relation to the body, for each of the last 3 financial years before the relevant financial year.
- (4) The Secretary must specify in the instrument under subsection (2) each gross value of production amount the Secretary used to determine that average.
- (5) The ***gross value of production amount***, in relation to the body, for a financial year is the amount provided to the Secretary by the head of the agricultural statistics body as being the sum of the following:
- (a) the gross value of production in that year of all of the goods prescribed by the rules in relation to the body;

Section 25

- (b) the gross value in that year of all of the services (if any) prescribed by the rules in relation to the body and provided in that year.

Note: For *agricultural statistics body*, see section 4.

- (6) Without limiting paragraph (5)(a), the rules may prescribe goods by reference to:
 - (a) the production of specified goods; or
 - (b) goods produced by a specified primary industry or goods that are the produce of a specified primary industry.

Effect of substituted gross value of production amounts

- (7) Once the Secretary has determined an amount under subsection (2) in relation to a recipient body for the relevant financial year:
 - (a) the Secretary must, for the relevant financial year, disregard any amount provided to the Secretary by the head of the agricultural statistics body in substitution for a gross value of production amount in relation to the body; and
 - (b) the Secretary must take the substituted amount into account in determining an amount under subsection (2) in relation to the body for each of the next 2 financial years after the relevant financial year.

Alternative average gross value of production amount

- (8) The Secretary may, by notifiable instrument, determine that subsection (1) does not apply in relation to a specified recipient body and a specified financial year (the *relevant financial year*). The determination has effect accordingly.
- (9) The Secretary may make a determination under subsection (8) only if the Secretary is satisfied that the head of the agricultural statistics body is unable to provide the Secretary with the gross value of production amount, in relation to the body, for one or more of the last 3 financial years before the relevant financial year.
- (10) If the Secretary makes a determination under subsection (8), the Secretary must specify in that determination:

- (a) an amount that is the average gross value of production amount, in relation to the body, for the relevant financial year; and
 - (b) the basis on which the Secretary specified that amount.
- (11) The amount covered by paragraph (10)(a) is the **average gross value of production amount**, in relation to the body, for the relevant financial year.
- (12) Without limiting paragraph (10)(b), the basis for specifying an amount in a determination may be one of the following:
- (a) the amount is the average of the gross value of production amounts, in relation to the body, for any 2 of the last 3 financial years before the relevant financial year;
 - (b) the amount is the gross value of production amount, in relation to the body, for any of the last 3 financial years before the relevant financial year;
 - (c) the amount is equal to an amount published in a publicly available document specified in the determination;
 - (d) the amount is equal to an amount provided to the Secretary by a person or body specified in the determination.

Subdivision B—Commonwealth to make matching payments to Fisheries Research and Development Corporation

26 Commonwealth to make matching payments in relation to the fishing industry (except declared fisheries)

- (1) The Commonwealth must pay to the Fisheries Research and Development Corporation, in relation to a financial year (the **relevant financial year**), amounts that in total are equal to the sum of payable amounts worked out under this section (rounded to the nearest whole cent and rounding up in the case of 0.5 cents).

Note: For spending requirements for amounts paid under subsection (1), see section 35.

- (2) A payable amount is the lesser of the following:
- (a) the Corporation's relevant fishing expenditure amount for the relevant financial year;

Section 26

- (b) the amount equal to 0.5% of the average total main fishing industry GVP amount for the relevant financial year.

Note: For *average total main fishing industry GVP amount*, see section 29.

Example: Assume for the 2025-26 financial year the Fisheries Research and Development Corporation's relevant fishing expenditure amount is \$14 million.

Assume the average total main fishing industry GVP amount for the 2025-26 financial year is \$3.2 billion. 0.5% of that amount is \$16 million.

As the relevant fishing expenditure amount is less than \$16 million, a payable amount is \$14 million.

- (3) The Corporation's *relevant fishing expenditure amount* for a financial year is the sum of the following:
- (a) the expenditure the Corporation incurs during that year on research and development activities for the fishing industry (except any declared fishery), where expenditure on those activities is:
- (i) for the benefit of the fishing industry (except any declared fishery); and
 - (ii) for the benefit of the Australian community generally; and
 - (iii) in accordance with the Corporation's funding agreement; and
 - (iv) in accordance with the Corporation's annual operational plan;
- (b) the expenditure the Corporation incurs during that year in doing the following (except in relation to any declared fishery):
- (i) paying or discharging expenses, charges, obligations and liabilities incurred by the Corporation in the performance of its functions or the exercise of its powers;
 - (ii) paying remuneration, allowances, fees or expenses payable under the *Primary Industries Research and Development Act 1989*.

Note 1: For *research and development activity*, see section 9.

Section 26

Note 2: Paragraphs (a) and (b) cover expenditure the Corporation incurs, regardless of the source of the money that is being spent. Examples of sources of money are payments by the Commonwealth under Division 2, payments by a State or Territory or an authority of a State or Territory and voluntary industry contributions.

Note 3: For expenditure to which paragraphs (a) and (b) do not apply, see section 28.

- (4) Subparagraph (3)(b)(i) does not apply to expenditure on a matter covered by subsection 21(2), (4), (5) or (6).

Payable amounts worked out using the average Commonwealth main fishing industry GVP amount

- (5) If the relevant fishing expenditure amount is 1% or more of the average total main fishing industry GVP amount for the relevant financial year, a payable amount is the amount worked out as follows:

Method statement

- Step 1. Work out the amount equal to 0.25% of the average Commonwealth main fishing industry GVP amount for the relevant financial year.
- Step 2. Work out the sum of the following:
- (a) so much of the amounts paid to the Corporation under section 15 during the relevant financial year as are equal to research and development collected amounts, less any refunds that are attributable to payment of those research and development collected amounts;
 - (b) the total amount paid to the Corporation under subsection 36(1) during the relevant financial year.
- Step 3. If the amount at step 1 is less than or equal to the amount at step 2, the amount at step 1 is a payable amount.

Section 26

Step 4. If the amount at step 1 exceeds the amount at step 2, the amount at step 2 is a payable amount.

Note 1: For *average total main fishing industry GVP amount*, see section 29 and for *average Commonwealth main fishing industry GVP amount*, see section 30.

Note 2: Paragraph (a) of step 2 does not apply in relation to certain levies or charges: see subsection (11).

Example: Assume for the 2025-26 financial year the Fisheries Research and Development Corporation's relevant fishing expenditure amount is \$33 million.

Assume the average total main fishing industry GVP amount for the 2025-26 financial year is \$3.2 billion. 1% of that amount is \$32 million.

Assume the average Commonwealth main fishing industry GVP amount for the 2025-26 financial year is \$500 million. 0.25% of that amount is \$1.25 million (the amount at step 1).

Assume the amount at step 2 is \$1.1 million.

As the amount at step 1 exceeds the amount at step 2, under step 4 a payable amount is \$1.1 million.

- (6) If the relevant fishing expenditure amount is more than 0.5%, but less than 1%, of the average total main fishing industry GVP amount for the relevant financial year, a payable amount is the amount worked out as follows:

Method statement

Step 1. Work out the amount equal to 0.5% of the average total main fishing industry GVP amount for the relevant financial year.

Step 2. Subtract the amount at step 1 from the relevant fishing expenditure amount.

Step 3. Express the amount at step 2 as a percentage of the average total main fishing industry GVP amount for the relevant financial year.

- Step 4. Multiply the percentage at step 3 by the average Commonwealth main fishing industry GVP amount for the relevant financial year.
- Step 5. Work out half of the amount at step 4.
- Step 6. Work out the sum of the following:
- (a) so much of the amounts paid to the Corporation under section 15 during the relevant financial year as are equal to research and development collected amounts, less any refunds that are attributable to payment of those research and development collected amounts;
 - (b) the total amount paid to the Corporation under subsection 36(1) during the relevant financial year.
- Step 7. If the amount at step 5 is less than or equal to the amount at step 6, the amount at step 5 is a payable amount.
- Step 8. If the amount at step 5 exceeds the amount at step 6, the amount at step 6 is a payable amount.

Note 1: For *average total main fishing industry GVP amount*, see section 29 and for *average Commonwealth main fishing industry GVP amount*, see section 30.

Note 2: Paragraph (a) of step 6 does not apply in relation to certain levies or charges: see subsection (11).

Example: Assume for the 2025-26 financial year the Fisheries Research and Development Corporation's relevant fishing expenditure amount is \$20 million.

Assume the average total main fishing industry GVP amount for the 2025-26 financial year is \$3.2 billion. 1% of that amount is \$32 million and 0.5% of that amount is \$16 million.

Assume the average Commonwealth main fishing industry GVP amount for the 2025-26 financial year is \$500 million.

Working through the method statement as follows:

(a) the amount at step 1 is 0.5% of \$3.2 billion, which is \$16 million;

Part 2 Funding for recipient bodies

Division 3 Matching payments

Section 26

- (b) the amount at step 2 is \$20 million minus \$16 million, which is \$4 million;
- (c) the percentage at step 3 is \$4 million divided by \$3.2 billion, which is 0.125%;
- (d) the amount at step 4 is \$500 million multiplied by 0.125%, which is \$625,000;
- (e) the amount at step 5 is \$312,500;
- (f) assume the amount at step 6 is \$1.1 million;
- (g) as the amount at step 5 is less than the amount at step 6, under step 7 a payable amount is \$312,500.

Payable amounts where State or Territory makes fishing payments

(7) If:

- (a) the relevant fishing expenditure amount is 1% or more of the average total main fishing industry GVP amount for the relevant financial year; and
- (b) a State or Territory makes one or more payments in the relevant financial year to the Corporation, or to the Commonwealth, for research and development in relation to the main fishing industry;

a payable amount is the amount worked out as follows:

Method statement

- Step 1. Work out the amount equal to 0.25% of the average State/Territory main fishing industry GVP amount for the relevant financial year and the State or Territory.
- Step 2. If the amount at step 1 is less than or equal to the total of the payments made by the State or Territory, the amount at step 1 is a payable amount.
- Step 3. If the amount at step 1 exceeds the total of the payments made by the State or Territory, the total of the payments made by the State or Territory is a payable amount.

Note: For *average total main fishing industry GVP amount*, see section 29 and for *average State/Territory main fishing industry GVP amount*, see section 31.

Section 26

Example: Assume for the 2025-26 financial year the Fisheries Research and Development Corporation's relevant fishing expenditure amount is \$33 million.

Assume the average total main fishing industry GVP amount for the 2025-26 financial year is \$3.2 billion. 1% of that amount is \$32 million.

Assume a State makes a \$750,000 payment in the 2025-26 financial year to the Corporation for research and development in relation to the main fishing industry.

Assume the average State/Territory main fishing industry GVP amount for the 2025-26 financial year and the State is \$500 million. 0.25% of that average is \$1.25 million (the amount at step 1).

As the amount at step 1 exceeds the amount of the payment made by the State, under step 3 a payable amount is \$750,000.

(8) If:

- (a) the relevant fishing expenditure amount is more than 0.5%, but less than 1%, of the average total main fishing industry GVP amount for the relevant financial year; and
- (b) a State or Territory makes one or more payments in the relevant financial year to the Corporation, or to the Commonwealth, for research and development in relation to the main fishing industry;

a payable amount is the amount worked out as follows:

Method statement

- Step 1. Work out the amount equal to 0.5% of the average total main fishing industry GVP amount for the relevant financial year.
- Step 2. Subtract the amount at step 1 from the relevant fishing expenditure amount.
- Step 3. Express the amount at step 2 as a percentage of the average total main fishing industry GVP amount for the relevant financial year.

Section 26

- Step 4. Multiply the percentage at step 3 by the average State/Territory main fishing industry GVP amount for the relevant financial year and the State or Territory.
- Step 5. Work out half of the amount at step 4.
- Step 6. If the amount at step 5 is less than or equal to the total payments made by the State or Territory, the amount at step 5 is a payable amount.
- Step 7. If the amount at step 5 exceeds the total payments made by the State or Territory, the total payments made by the State or Territory is a payable amount.

Note: For *average total main fishing industry GVP amount*, see section 29 and for *average State/Territory main fishing industry GVP amount*, see section 31.

Example: Assume for the 2025-26 financial year the Fisheries Research and Development Corporation's relevant fishing expenditure amount is \$20 million.

Assume the average total main fishing industry GVP amount for the 2025-26 financial year is \$3.2 billion. 1% of that amount is \$32 million and 0.5% of that amount is \$16 million.

Assume a State makes a \$750,000 payment in the 2025-26 financial year to the Corporation for research and development in relation to the main fishing industry.

Assume the average State/Territory main fishing industry GVP amount for the 2025-26 financial year for the State is \$500 million.

Working through the method statement as follows:

- (a) the amount at step 1 is 0.5% of \$3.2 billion, which is \$16 million;
- (b) the amount at step 2 is \$20 million minus \$16 million, which is \$4 million;
- (c) the percentage at step 3 is \$4 million divided by \$3.2 billion, which is 0.125%;
- (d) the amount at step 4 is \$500 million multiplied by 0.125%, which is \$625,000;
- (e) the amount at step 5 is \$312,500;
- (f) as the amount at step 5 is less than the \$750,000 payment made by the State, under step 6 a payable amount is \$312,500.

Overall limit

- (9) Despite subsections (2) to (8), the total of the amounts paid by the Commonwealth to the Corporation in relation to the relevant financial year must not exceed 0.75% of the average total main fishing industry GVP amount for the relevant financial year.

Note: For *average total main fishing industry GVP amount*, see section 29.

Making payments

- (10) The Commonwealth must make the payments under subsection (1) in the amounts, and at the times, that the Commonwealth determines. Those times may be after the end of the relevant financial year.

Other rules

- (11) Paragraph (a) of step 2 of the method statement in subsection (5), and paragraph (a) of step 6 of the method statement in subsection (6), do not apply in relation to a declared fishery levy or charge in relation to a declared fishery.
- (12) Subsections (7) and (8) apply separately in relation to each State or Territory that makes a payment in the relevant financial year to the Corporation, or to the Commonwealth, for research and development in relation to the main fishing industry.

27 Commonwealth to make matching payments in relation to a declared fishery

- (1) If there is a declared fishery in a financial year (the *relevant financial year*), the Commonwealth must pay to the Fisheries Research and Development Corporation, in relation to the relevant financial year, amounts that in total are equal to the sum of payable amounts worked out under this section (rounded to the nearest whole cent and rounding up in the case of 0.5 cents).

Note: For spending requirements for amounts paid under subsection (1), see section 35.

- (2) A payable amount is the lesser of the following:

Section 27

- (a) the Corporation's declared fishery expenditure amount for the relevant financial year;
- (b) the amount equal to 0.5% of the average declared fishery GVP amount for the relevant financial year and the declared fishery.

Note 1: For *average declared fishery GVP amount*, see section 32.

Example: Assume for the 2025-26 financial year the Fisheries Research and Development Corporation's declared fishery expenditure amount is \$2 million.

Assume the average declared fishery GVP amount for the 2025-26 financial year and the declared fishery is \$600 million. 0.5% of that amount is \$3 million.

As the declared fishery expenditure amount is less than \$3 million, a payable amount is \$2 million.

- (3) The Corporation's *declared fishery expenditure amount* for a financial year is the sum of the following:
 - (a) the expenditure the Corporation incurs during that year on research and development activities for the declared fishery, where expenditure on those activities is:
 - (i) for the benefit of the declared fishery; and
 - (ii) for the benefit of the Australian community generally; and
 - (iii) in accordance with the Corporation's funding agreement; and
 - (iv) in accordance with the Corporation's annual operational plan;
 - (b) the expenditure the Corporation incurs during that year in doing the following in relation to the declared fishery:
 - (i) paying or discharging expenses, charges, obligations and liabilities incurred by the Corporation in the performance of its functions or the exercise of its powers;
 - (ii) paying remuneration, allowances, fees or expenses payable under the *Primary Industries Research and Development Act 1989*.

Note 1: For *research and development activity*, see section 9.

Section 27

Note 2: Paragraphs (a) and (b) cover expenditure the Corporation incurs, regardless of the source of the money that is being spent. Examples of sources of money are payments by the Commonwealth under Division 2, payments by a State or Territory or an authority of a State or Territory and voluntary industry contributions.

Note 3: For expenditure to which paragraphs (a) and (b) do not apply, see section 28.

- (4) Subparagraph (3)(b)(i) does not apply to expenditure on a matter covered by subsection 21(2), (4), (5) or (6).

Payable amounts worked out using the average declared fishery GVP amount

- (5) If the declared fishery expenditure amount is 1% or more of the average declared fishery GVP amount for the relevant financial year and the declared fishery, a payable amount is the amount worked out as follows:

Method statement

Step 1. Work out the amount equal to 0.25% of the average declared fishery GVP amount for the relevant financial year and the declared fishery.

Step 2. For each declared fishery levy or charge, in relation to the declared fishery, work out so much of the amounts paid to the Corporation under section 15 during the relevant financial year as are equal to research and development collected amounts, less any refunds that are attributable to payment of those research and development collected amounts.

Step 3. Work out the sum of the amounts at step 2.

Step 4. If the amount at step 1 is less than or equal to the amount at step 3, the amount at step 1 is a payable amount.

Step 5. If the amount at step 1 exceeds the amount at step 3, the amount at step 3 is a payable amount.

Part 2 Funding for recipient bodies

Division 3 Matching payments

Section 27

Note: For *average declared fishery GVP amount*, see section 32.

Example: Assume for the 2025-26 financial year the Fisheries Research and Development Corporation's declared fishery expenditure amount is \$4 million.

Assume the average declared fishery GVP amount for the 2025-26 financial year and the declared fishery is \$300 million. 1% of that amount is \$3 million. 0.25% of that amount is \$750,000 (the amount at step 1).

Assume the amount at step 3 is \$500,000.

As the amount at step 1 exceeds the amount at step 3, under step 5 a payable amount is \$500,000.

- (6) If the declared fishery expenditure amount is more than 0.5%, but less than 1%, of the average declared fishery GVP amount for the relevant financial year and the declared fishery, a payable amount is the amount worked out as follows:

Method statement

- Step 1. Work out the amount equal to 0.5% of the average declared fishery GVP amount for the relevant financial year and the declared fishery.
- Step 2. Subtract the amount at step 1 from the declared fishery expenditure amount.
- Step 3. Work out half of the amount at step 2.
- Step 4. For each declared fishery levy or charge, in relation to the declared fishery, work out so much of the amounts paid to the Corporation under section 15 during the relevant financial year as are equal to research and development collected amounts, less any refunds that are attributable to payment of those research and development collected amounts.
- Step 5. Work out the sum of the amounts at step 4.
- Step 6. If the amount at step 3 is less than or equal to the amount at step 5, the amount at step 3 is a payable amount.

Step 7. If the amount at step 3 exceeds the amount at step 5, the amount at step 5 is a payable amount.

Note: For *average declared fishery GVP amount*, see section 32.

Example: Assume for the 2025-26 financial year the Fisheries Research and Development Corporation's declared fishery expenditure amount is \$2.1 million.

Assume the average declared fishery GVP amount for the 2025-26 financial year and the declared fishery is \$300 million. 1% of that amount is \$3 million and 0.5% of that amount is \$1.5 million.

Working through the method statement as follows:

- (a) the amount at step 1 is 0.5% of \$300 million, which is \$1.5 million;
- (b) the amount at step 2 is \$2.1 million minus \$1.5 million, which is \$600,000;
- (c) the amount at step 3 is \$300,000;
- (d) assume the amount at step 5 is \$500,000;
- (e) as the amount at step 3 is less than the amount at step 5, under step 6 a payable amount is \$300,000.

Overall limit

- (7) Despite subsections (2) to (6), the total of the amounts paid by the Commonwealth to the Corporation in relation to the relevant financial year must not exceed 0.75% of the average declared fishery GVP amount for the relevant financial year and the declared fishery.

Note: For *average declared fishery GVP amount*, see section 32.

Making payments

- (8) The Commonwealth must make the payments under subsection (1) in the amounts, and at the times, that the Commonwealth determines. Those times may be after the end of the relevant financial year.

Separate applications of section

- (9) This section applies separately in relation to each declared fishery.

Section 28

28 Scope of Fisheries Research and Development Corporation's expenditure amounts

Paragraphs 26(3)(a) and (b) and 27(3)(a) and (b) do not apply to expenditure of the following kinds:

- (a) a payment by the Fisheries Research and Development Corporation to the Commonwealth under section 16 or 17;
- (b) a payment by the Fisheries Research and Development Corporation to the Commonwealth that is a payment of a debt as mentioned in subsection 86(2);
- (c) expenditure of a kind prescribed by the rules for the purposes of this paragraph.

29 Definition of average total main fishing industry GVP amount

- (1) The *average total main fishing industry GVP amount*, for a financial year (the *relevant financial year*), is the amount determined under subsection (2) for the relevant financial year.
- (2) For the purposes of subsection (1), the Secretary must, by notifiable instrument, determine an amount for the relevant financial year. The Secretary must do so as soon as practicable after the start of that year.

Calculation is to be an average

- (3) That amount is to be the average of the total main fishing industry GVP amounts for each of the last 3 financial years before the relevant financial year.
- (4) The Secretary must specify in the instrument under subsection (2) each total main fishing industry GVP amount the Secretary used to determine that average.
- (5) The *total main fishing industry GVP amount*, for a financial year, is the amount provided to the Secretary by the head of the agricultural statistics body as being the gross value of production in that year of all of the goods that:
 - (a) are prescribed by the rules for the purposes of this paragraph;and

- (b) are the produce of the main fishing industry, whether it is managed by or on behalf of the Commonwealth, a State or a Territory.

Note: For *agricultural statistics body*, see section 4.

Effect of substituted amounts

- (6) Once the Secretary has determined an amount under subsection (2) for the relevant financial year:
 - (a) the Secretary must, for the relevant financial year, disregard any amount provided to the Secretary by the head of the agricultural statistics body in substitution for a total main fishing industry GVP amount; and
 - (b) the Secretary must take the substituted amount into account in determining an amount under subsection (2) for each of the next 2 financial years after the relevant financial year.

30 Definition of average Commonwealth main fishing industry GVP amount

- (1) The *average Commonwealth main fishing industry GVP amount*, for a financial year (the *relevant financial year*), is the amount determined under subsection (2) for the relevant financial year.
- (2) For the purposes of subsection (1), the Secretary must, by notifiable instrument, determine an amount for the relevant financial year. The Secretary must do so as soon as practicable after the start of that year.

Calculation is to be an average

- (3) That amount is to be the average of the Commonwealth main fishing industry GVP amounts for each of the last 3 financial years before the relevant financial year.
- (4) The Secretary must specify in the instrument under subsection (2) each Commonwealth main fishing industry GVP amount the Secretary used to determine that average.

Section 31

- (5) The ***Commonwealth main fishing industry GVP amount***, for a financial year, is the amount provided to the Secretary by the head of the agricultural statistics body as being the gross value of production in that year of all of the goods that:
- (a) are prescribed by the rules for the purposes of this paragraph; and
 - (b) are the produce of the main fishing industry so far as it is managed by or on behalf of the Commonwealth.

Note: For ***agricultural statistics body***, see section 4.

Effect of substituted amounts

- (6) Once the Secretary has determined an amount under subsection (2) for the relevant financial year:
- (a) the Secretary must, for the relevant financial year, disregard any amount provided to the Secretary by the head of the agricultural statistics body in substitution for a Commonwealth main fishing industry GVP amount; and
 - (b) the Secretary must take the substituted amount into account in determining an amount under subsection (2) for each of the next 2 financial years after the relevant financial year.

31 Definition of *average State/Territory main fishing industry GVP amount*

- (1) The ***average State/Territory main fishing industry GVP amount***, for a financial year (the ***relevant financial year***) and a State or Territory, is the amount determined under subsection (2) for the relevant financial year and the State or Territory.
- (2) For the purposes of subsection (1), the Secretary must, by notifiable instrument, determine an amount for the relevant financial year and the State or Territory. The Secretary must do so as soon as practicable after the start of that year.

Calculation is to be an average

- (3) That amount is to be the average of the State/Territory main fishing industry GVP amounts for the State or Territory and for each of the last 3 financial years before the relevant financial year.

- (4) The Secretary must specify in the instrument under subsection (2) each State/Territory main fishing industry GVP amount the Secretary used to determine that average.
- (5) The ***State/Territory main fishing industry GVP amount***, for a State or Territory and a financial year, is the amount provided to the Secretary by the head of the agricultural statistics body as being the gross value of production in that year of all of the goods that:
- (a) are prescribed by the rules for the purposes of this paragraph; and
 - (b) are the produce of the main fishing industry so far as it is managed by or on behalf of the State or Territory.

Note: For ***agricultural statistics body***, see section 4.

Effect of substituted amounts

- (6) Once the Secretary has determined an amount under subsection (2) for the relevant financial year and a State or Territory:
- (a) the Secretary must, for the relevant financial year, disregard any amount provided to the Secretary by the head of the agricultural statistics body in substitution for a State/Territory main fishing industry GVP amount for a State or Territory; and
 - (b) the Secretary must take the substituted amount into account in determining an amount under subsection (2) for each of the next 2 financial years after the relevant financial year and for the State or Territory.

32 Definition of average declared fishery GVP amount

- (1) The ***average declared fishery GVP amount***, for a financial year (the ***relevant financial year***) and a declared fishery, is the amount determined under subsection (2) for the relevant financial year and the declared fishery.
- (2) For the purposes of subsection (1), the Secretary must, by notifiable instrument, determine an amount for the relevant financial year and the declared fishery. The Secretary must do so as soon as practicable after the start of that year.

Section 33

Calculation is to be an average

- (3) That amount is to be the average of the declared fishery GVP amounts for the declared fishery and for each of the last 3 financial years before the relevant financial year.
- (4) The Secretary must specify in the instrument under subsection (2) each declared fishery GVP amount the Secretary used to determine that average.
- (5) The ***declared fishery GVP amount***, for a declared fishery and a financial year, is the amount provided to the Secretary by the head of the agricultural statistics body as being the gross value of production in that year of all of the goods that are the produce of the declared fishery.

Note: For ***agricultural statistics body***, see section 4.

Effect of substituted amounts

- (6) Once the Secretary has determined an amount under subsection (2) for the relevant financial year and a declared fishery:
 - (a) the Secretary must, for the relevant financial year, disregard any amount provided to the Secretary by the head of the agricultural statistics body in substitution for a declared fishery GVP amount for the declared fishery; and
 - (b) the Secretary must take the substituted amount into account in determining an amount under subsection (2) for each of the next 2 financial years after the relevant financial year and for the declared fishery.

Subdivision C—Spending requirements for declared recipient bodies

33 Spending of matching payments

- (1) If a declared recipient body is paid an amount under subsection 23(1), then the amount may be spent by the body only on matters covered by this section.

Research and development activities

- (2) A matter is research and development activities, for a designated primary industry sector in relation to the body, where expenditure on those activities is:
- (a) for the benefit of that sector and the Australian community generally; and
 - (b) in accordance with the body's funding agreement; and
 - (c) in accordance with the rules (if any).

Debt

- (3) A matter is making a payment of a debt (if any) mentioned in subsection 86(2), to the extent that the debt arose because of a purported payment under subsection 23(1) to the body.

Matters prescribed by the rules

- (4) A matter is any matter that is prescribed by the rules for the purposes of this subsection in relation to:
- (a) the body; and
 - (b) a designated primary industry sector in relation to the body.
- The rules may provide that expenditure by the body on the matter is subject to any conditions prescribed by the rules.

Subdivision D—Spending requirements for statutory recipient bodies

34 Spending of matching payments—statutory recipient bodies except the Fisheries Research and Development Corporation

- (1) If a statutory recipient body is paid an amount under subsection 23(1), then the amount may be spent by the body only on matters covered by this section.

Section 34

Research and development activities

- (2) A matter is research and development activities, for a designated primary industry sector in relation to the body, where expenditure on those activities is:
- (a) for the benefit of that sector and the Australian community generally; and
 - (b) in accordance with the body's funding agreement and annual operational plan; and
 - (c) in accordance with the rules (if any).

Debt

- (3) A matter is making a payment of a debt (if any) mentioned in subsection 86(2), to the extent that the debt arose because of a purported payment under subsection 23(1) to the body.

General payments for some statutory recipient bodies

- (4) For a statutory recipient body (except Wine Australia), a matter is doing the following:
- (a) paying or discharging expenses, charges, obligations and liabilities incurred by the body in the performance of its functions or the exercise of its powers;
 - (b) paying remuneration, allowances, fees or expenses payable under the *Primary Industries Research and Development Act 1989*.
- (5) Paragraph (4)(a) does not apply to a matter covered by subsection 21(2), (4), (5) or (6).

Matters prescribed by the rules

- (6) A matter is any matter that is prescribed by the rules for the purposes of this subsection in relation to the body. The rules may provide that expenditure by the body on the matter is subject to any conditions prescribed by the rules.

35 Spending of matching payments—Fisheries Research and Development Corporation

- (1) If the Fisheries Research and Development Corporation is paid an amount under subsection 26(1) or 27(1), then the amount may be spent by the body only on matters covered by this section.

Research and development activities

- (2) For an amount paid under subsection 26(1), a matter is research and development activities for the fishing industry (except any declared fishery), where expenditure on those activities is:
- (a) for the benefit of the fishing industry (except any declared fishery); and
 - (b) for the benefit of the Australian community generally; and
 - (c) in accordance with the Corporation's funding agreement and annual operational plan; and
 - (d) in accordance with the rules (if any).
- (3) For an amount paid under subsection 27(1), a matter is research and development activities for the declared fishery, where expenditure on those activities is:
- (a) for the benefit of the declared fishery;
 - (b) for the benefit of the Australian community generally; and
 - (c) in accordance with the Corporation's funding agreement and annual operational plan; and
 - (d) in accordance with the rules (if any).

Debt

- (4) A matter is making a payment of a debt (if any) mentioned in subsection 86(2), to the extent that the debt arose because of a purported payment under subsection 26(1) or 27(1) to the Corporation.

General payments

- (5) For an amount paid under subsection 26(1), a matter is doing the following (except in relation to any declared fishery):

Section 35

- (a) paying or discharging expenses, charges, obligations and liabilities incurred by the body in the performance of its functions or the exercise of its powers;
 - (b) paying remuneration, allowances, fees or expenses payable under the *Primary Industries Research and Development Act 1989*.
- (6) For an amount paid under subsection 27(1), a matter is doing the following in relation to the declared fishery:
 - (a) paying or discharging expenses, charges, obligations and liabilities incurred by the body in the performance of its functions or the exercise of its powers;
 - (b) paying remuneration, allowances, fees or expenses payable under the *Primary Industries Research and Development Act 1989*.
- (7) Paragraph (5)(a) or (6)(a) does not apply to a matter covered by subsection 21(2), (4), (5) or (6).

Matters prescribed by the rules

- (8) A matter is any matter that is prescribed by the rules for the purposes of this subsection in relation to the Corporation. The rules may provide that expenditure by the Corporation on the matter is subject to any conditions prescribed by the rules.

Division 4—Other payments to the Fisheries Research and Development Corporation

36 Commonwealth to make other payments to the Fisheries Research and Development Corporation

Fishing levy

- (1) The Commonwealth must pay to the Fisheries Research and Development Corporation amounts equal to the following amounts that are received by the Commonwealth:
 - (a) amounts of levy imposed by section 5 of the *Fishing Levy Act 1991* to the extent that those amounts consist of the component of the levy worked out in accordance with the rules;
 - (b) amounts by way of penalty under section 112 of the *Fisheries Management Act 1991*, to the extent that those amounts are attributable to the non-payment of that component.

White spot disease repayment levy and white spot disease repayment export charge

- (2) In relation to levy or charge imposed on farmed prawns by a provision prescribed by the rules for the purposes of this subsection, the Commonwealth must pay to the Fisheries Research and Development Corporation amounts equal to the amounts prescribed by the rules for the purposes of this subsection.

Spending rule

- (3) If the Fisheries Research and Development Corporation is paid amounts under subsection (1) or (2), those amounts may be spent by the Corporation only on matters covered by subsection (4), (6) or (8).

Research and development activities

- (4) A matter is research and development activities, for a designated primary industry sector in relation to the Corporation, where expenditure on those activities is:

Section 36

- (a) for the benefit of that sector; and
 - (b) in accordance with the Corporation's funding agreement and annual operational plan; and
 - (c) in accordance with the rules (if any).
- (5) Without limiting paragraph (4)(c), the rules may require expenditure by the Corporation, of a part of the amounts paid under subsection (1) or (2), to be for the benefit of the designated primary industry sector prescribed by the rules.

General payments

- (6) A matter is doing the following:
- (a) paying or discharging expenses, charges, obligations and liabilities incurred by the Corporation in the performance of its functions or the exercise of its powers;
 - (b) paying remuneration, allowances, fees or expenses payable under the *Primary Industries Research and Development Act 1989*.
- (7) Paragraph (6)(a) does not apply to a matter covered by subsection 21(2), (4), (5) or (6).

Matters prescribed by the rules

- (8) A matter is any matter that is prescribed by the rules for the purposes of this subsection in relation to the Corporation. The rules may provide that expenditure by the Corporation on the matter is subject to any conditions prescribed by the rules.

Division 5—Appropriation

37 Appropriation

The Consolidated Revenue Fund is appropriated for the purposes of payments by the Commonwealth under subsection 15(1), 23(1), 26(1), 27(1) or 36(1) or (2).

Division 6—Funding agreements and recipient bodies

Subdivision A—Funding agreements and declared recipient bodies

38 Funding agreements with companies

- (1) In relation to the operation of this Act, the Minister may, on behalf of the Commonwealth, enter into, or vary, an agreement with a body that is registered as a company under the *Corporations Act 2001*.
- (2) Without limiting subsection (1), the agreement may contain terms and conditions dealing with the following matters:
 - (a) the management of any payments to the body under this Act, if the body is or becomes a declared recipient body;
 - (b) any other matter in connection with the making of payments to the body under this Act, or the spending of those payments, if the body is or becomes a declared recipient body;
 - (c) the monitoring of the body's compliance with its obligations under this Act or the agreement, if the body is or becomes a declared recipient body;
 - (d) the provision of information by the body to the Commonwealth about a matter covered by paragraph (a), (b) or (c).
- (3) The body must comply with the terms and conditions specified in the agreement.
- (4) The rules may make provision in relation to the entry into, or the variation of, funding agreements.

Publishing requirements

- (5) If:
 - (a) the Minister, on behalf of the Commonwealth, enters into a funding agreement with a body under this section; and

- (b) the body is not a declared recipient body at the time of entry into the agreement; and
 - (c) the body later becomes a declared recipient body;
- then the body must publish a copy of the agreement on its website.
- (6) If:
- (a) the Minister, on behalf of the Commonwealth, enters into, or varies, a funding agreement with a body under this section; and
 - (b) the body is a declared recipient body at the time of the entry into the agreement or of the variation;
- then the body must publish a copy of the agreement, or of the agreement as varied, on its website as soon as reasonably practicable after the day on which the agreement was entered into or the variation occurred.

Note: An agreement entered into as mentioned in paragraph (6)(a) may replace an earlier agreement with the body.

39 Minister may declare bodies to be recipient bodies

- (1) The Minister may, by writing, declare a body to be a recipient body. The recipient body must be one that is prescribed by the rules for the purposes of this subsection.
- (2) The rules may make provision in relation to the declaration of bodies as recipient bodies.
- (3) The Minister must not make a declaration under subsection (1) in relation to a body unless:
 - (a) the body is registered as a company under the *Corporations Act 2001*; and
 - (b) there is a funding agreement in force between the Commonwealth and the body; and
 - (c) the Minister is satisfied that, if the body is so declared, the body will comply with its obligations under:
 - (i) that funding agreement; and
 - (ii) this Act; and

Section 40

- (d) the Minister is satisfied that any other requirements prescribed by the rules for the purposes of this paragraph are satisfied.

When declaration takes effect

- (4) A declaration under subsection (1) takes effect on the day specified in the declaration, which must not be earlier than the day the declaration is made.

Copy of declaration to be given to body

- (5) The Minister must give a body covered by a declaration under subsection (1) a copy of the declaration.

Publication

- (6) The Minister must cause a copy of a declaration under subsection (1) to be published on the Department's website.

Tabling in Parliament

- (7) The Minister must cause a copy of a declaration under subsection (1) to be tabled in each House of the Parliament within 5 sitting days of that House after the day on which the declaration is made.

Declaration not a legislative instrument

- (8) A declaration under subsection (1) is not a legislative instrument.

List of declared recipient bodies

- (9) The Minister must, by notifiable instrument, publish a list of the declared recipient bodies.

40 Minister may revoke declaration of a body as a recipient body

- (1) The Minister may, by writing, revoke a declaration under subsection 39(1) in relation to a body if:

- (a) the body requests the Minister in writing to revoke the declaration; or
- (b) the Minister reasonably believes that the body has contravened this Act or the funding agreement with the body; or
- (c) a funding agreement with the body has ceased to be in force and the Minister is satisfied that no further funding agreement will be entered into with the body; or
- (d) the Minister reasonably believes that:
 - (i) the body's constitution is no longer appropriate for a body performing the functions of a recipient body; or
 - (ii) the body has failed to comply with its constitution; or
- (e) an administrator of the body is appointed; or
- (f) the body starts to be wound up or ceases to carry on business; or
- (g) a receiver, or a receiver and manager, of property of the body is appointed (by a court or otherwise); or
- (h) the body enters into a compromise or arrangement with some or all of its creditors.

Note 1: For paragraph (b): an example of a contravention of this Act is a failure to comply with a direction under section 41.

Note 2: For review of a revocation decision, see section 85.

When revocation takes effect

- (2) A revocation of a declaration takes effect on the day specified in the revocation, which must not be earlier than the day the revocation is made.

Copy of revocation to be given to body

- (3) The Minister must give a body covered by a revocation under subsection (1) a copy of the revocation.

Publication

- (4) The Minister must cause a copy of a revocation under subsection (1) to be published on the Department's website.

Section 40

Tabling in Parliament

- (5) The Minister must cause a copy of a revocation under subsection (1) to be tabled in each House of the Parliament within 5 sitting days of that House after the day on which the revocation is made.

Repayment of funds

- (6) If the Minister revokes a declaration under subsection 39(1) in relation to a body, the Minister may, in writing, direct the body:
- (a) to pay to the Commonwealth any amounts paid to the body under this Act that are held by the body at the time the revocation takes effect; and
 - (b) to make the payment within the period specified in the direction (which must be at least 28 days after the direction is given).
- (7) Subsection (6) does not apply to amounts required to meet the body's liabilities incurred, in connection with this Act or a funding agreement, before the time the revocation takes effect.
- (8) The body must comply with the direction.
- (9) If an amount payable by a body because of a direction under subsection (6) remains unpaid at the end of the period specified in the direction, the amount:
- (a) is a debt due to the Commonwealth; and
 - (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

Instruments are not legislative instruments

- (10) Neither of the following is a legislative instrument:
- (a) a revocation under subsection (1);
 - (b) a direction under subsection (6).

41 Minister may give directions to declared recipient bodies

- (1) The Minister may give a written direction to a declared recipient body if:
 - (a) the Minister is satisfied that the direction is in Australia's national interest because of exceptional and urgent circumstances; and
 - (b) the Minister is satisfied that the direction would not require the body to incur expenses greater than the sum of the amounts previously paid to the body under this Act that have not been spent or committed and the amounts the body will receive under this Act during the period to which the direction relates; and
 - (c) the Minister has given the body's directors an adequate opportunity to discuss with the Minister the need for the proposed direction and the impact of compliance with subsections (3) to (5) on the body's commercial activities.
- (2) The body must comply with the direction.

Publication of direction

- (3) The Minister must cause a copy of the direction to be published on the Department's website as soon as practicable after giving the direction.

Tabling of direction

- (4) The Minister must cause a copy of the direction to be tabled in each House of the Parliament within 5 sitting days of that House after giving the direction.

Body to include details in annual report

- (5) The body's annual report for each period to which the direction relates must include:
 - (a) particulars of the direction; and
 - (b) an assessment of the impact of the direction on the body's operations during the period.

Section 42

Exception

- (6) The Minister may make a written determination that subsections (3) to (5) do not apply in relation to a direction given to a declared recipient body if:
- (a) the body has recommended to the Minister that the Minister make the determination and the Minister is satisfied that compliance with those subsections would, or would be likely to, prejudice the body's commercial activities; or
 - (b) the Minister is satisfied that compliance with those subsections would be contrary to the public interest.
- The Minister must give a copy of the determination to the body.

Minister not a director of body

- (7) The Minister is not a director of the body for the purposes of the *Corporations Act 2001* merely because of the Minister's power under subsection (1).

Commonwealth does not exercise control over body

- (8) The Commonwealth is not in a position to exercise control over the body merely because of the Minister's power under subsection (1).

Instruments are not legislative instruments

- (9) Neither of the following is a legislative instrument:
- (a) a direction under subsection (1);
 - (b) a determination under subsection (6).

Subdivision B—Funding agreements with statutory recipient bodies

42 Funding agreements with statutory recipient bodies

- (1) The Minister must, on behalf of the Commonwealth, enter into an agreement with a statutory recipient body.

- (2) If the Minister has entered into a funding agreement with a statutory recipient body under this section, the Minister may, on behalf of the Commonwealth:
 - (a) vary the funding agreement; or
 - (b) enter into another funding agreement with the body.
- (3) Without limiting subsection (1) or (2), the agreement may contain terms and conditions dealing with the following matters:
 - (a) the management of any payments to the body under this Act;
 - (b) any other matter in connection with the making of payments to the body under this Act or the spending of those payments;
 - (c) the monitoring of the body's compliance with its obligations under this Act or the agreement;
 - (d) the provision of information by the body to the Commonwealth about a matter covered by paragraph (a), (b) or (c);
 - (e) the management of any payments to the body by the Commonwealth other than under this Act.
- (4) The body must comply with the terms and conditions specified in the agreement.

Publishing requirement

- (5) If the Minister, on behalf of the Commonwealth, enters into, or varies, a funding agreement with a statutory recipient body under this section, that body must publish a copy of the agreement, or of the agreement as varied, on its website as soon as reasonably practicable after the day on which the agreement was entered into or the variation occurred.

Part 3 Funding for Animal Health Australia

Division 1 Simplified outline of this Part

Section 43

Part 3—Funding for Animal Health Australia

Division 1—Simplified outline of this Part

43 Simplified outline of this Part

The Commonwealth must pay to Animal Health Australia amounts connected with various levies and charges collected under rules made under the Collection Act.

Animal Health Australia must spend the payments on various activities, including activities relating to the promotion or maintenance of the health of animals, plants, fungi or algae.

Division 2—Funding for Animal Health Australia

Subdivision A—Payments relating to biosecurity activity

44 Commonwealth to make payments—collected amounts relating to biosecurity activity

- (1) The Commonwealth must pay to Animal Health Australia amounts equal to the sum of the following amounts that are received by or on behalf of the Commonwealth in relation to an AHA commodity/service:
 - (a) amounts of a levy or charge imposed by a provision prescribed by the rules in relation to Animal Health Australia, to the extent that those amounts are equal to the components of the rate of that levy or charge prescribed by the rules;
 - (b) in relation to that levy or charge—amounts paid by a person under rules made for the purposes of paragraph 10(1)(a) of the Collection Act, to the extent that those amounts are equal to those components;
 - (c) amounts by way of penalty under section 9 or 11 of the Collection Act, to the extent that those amounts are attributable to the non-payment of those components or of amounts equal to those components.
- (2) For the purposes of paragraph (1)(a), a provision prescribed by the rules must be a provision of regulations made under:
 - (a) the *Primary Industries (Excise) Levies Act 2024*; or
 - (b) the *Primary Industries (Customs) Charges Act 2024*; or
 - (c) the *Primary Industries (Services) Levies Act 2024*.

45 Application of money

Payment of Commonwealth costs

- (1) If Animal Health Australia receives payments under section 44, Animal Health Australia must apply the payments in making a payment to the Commonwealth of amounts equal to the Commonwealth's costs in:

Section 46

- (a) collecting or recovering the amounts covered by paragraphs 44(1)(a), (b) and (c); and
 - (b) administering section 44 in relation to the making of the payments to Animal Health Australia under that section.
- (2) The Secretary must give Animal Health Australia written notice of:
- (a) the amount of those costs; and
 - (b) the period within which Animal Health Australia must pay the amount under subsection (1).

Debt

- (3) If an amount payable by Animal Health Australia under subsection (1) remains unpaid at the end of that period, the amount:
- (a) is a debt due to the Commonwealth; and
 - (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

Activities promoting or maintaining health of animals, plants, fungi or algae

- (4) If Animal Health Australia receives payments under section 44, Animal Health Australia may apply the payments, consistent with its constitution, on:
- (a) activities, including biosecurity activities, relating to the promotion or maintenance of the health of animals, plants, fungi or algae; or
 - (b) activities incidental to activities covered by paragraph (a).

46 Effect of refunds

Set-off

- (1) If:
- (a) an amount (the **received amount**) covered by paragraph 44(1)(a), (b) or (c) is received by or on behalf of the Commonwealth in relation to an AHA commodity/service; and

- (b) the Commonwealth pays to Animal Health Australia under section 44 an amount equal to the received amount; and
- (c) the Commonwealth, after making that payment, refunds an amount equal to the whole or a part of the received amount; the Commonwealth may set off an amount equal to the refund against a payment the Commonwealth must make under section 44 in relation to the AHA commodity/service.

Note: The Commonwealth might refund an amount because a person paid too much levy or charge.

Notice requiring Animal Health Australia to pay amount to Commonwealth

- (2) If the Commonwealth is not able to do so, the Secretary may give Animal Health Australia a written notice:
 - (a) specifying the amount the Commonwealth is not able to set off; and
 - (b) requiring Animal Health Australia to pay to the Commonwealth the amount specified in the notice; and
 - (c) specifying the period within which Animal Health Australia must pay the amount specified in the notice.
- (3) Animal Health Australia must pay the amount under subsection (2) before applying payments made to Animal Health Australia under section 44 in accordance with subsection 45(4).

Debt

- (4) If Animal Health Australia is required by a notice under subsection (2) to pay an amount to the Commonwealth and an amount payable by Animal Health Australia remains unpaid at the end of the period specified in the notice, the amount unpaid:
 - (a) is a debt due to the Commonwealth; and
 - (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

Section 47

47 Recoverable payments—payment of debt

- (1) If Animal Health Australia receives payments under section 44, Animal Health Australia must apply the payments in making a payment of a debt (if any) mentioned in subsection 86(2), to the extent that the debt arose because of a purported payment under section 44 to Animal Health Australia.
- (2) Animal Health Australia must do so before applying the payments under section 44 in accordance with subsection 45(4).

Subdivision B—Payments relating to biosecurity response

48 Commonwealth to make payments—collected amounts relating to biosecurity response

- (1) The Commonwealth must pay to Animal Health Australia amounts equal to the sum of the following amounts that are received by or on behalf of the Commonwealth in relation to an AHA commodity/service:
 - (a) amounts of a levy or charge imposed by a provision prescribed by the rules in relation to Animal Health Australia, to the extent that those amounts are equal to the components of the rate of that levy or charge prescribed by the rules;
 - (b) in relation to that levy or charge—amounts paid by a person under rules made for the purposes of paragraph 10(1)(a) of the Collection Act, to the extent that those amounts are equal to those components;
 - (c) amounts by way of penalty under section 9 or 11 of the Collection Act, to the extent that those amounts are attributable to the non-payment of those components or of amounts equal to those components.
- (2) For the purposes of paragraph (1)(a), a provision prescribed by the rules must be a provision of regulations made under:
 - (a) the *Primary Industries (Excise) Levies Act 2024*; or
 - (b) the *Primary Industries (Customs) Charges Act 2024*; or
 - (c) the *Primary Industries (Services) Levies Act 2024*.

49 Application of money

- (1) A payment made under section 48 in relation to an AHA commodity/service is subject to the condition that Animal Health Australia must apply the payment in accordance with the priorities in this section.

Payment of Commonwealth costs

- (2) The first priority is to apply the payment in making a payment to the Commonwealth of amounts equal to the Commonwealth's costs in:
 - (a) collecting or recovering the amounts covered by paragraphs 48(1)(a), (b) and (c); and
 - (b) administering section 48 in relation to the making of the payments under that section.

Note: For further rules about these costs, see subsections (7) and (8).

Reimbursing Animal Health Australia

- (3) The second priority is to apply the payment in meeting, or reimbursing Animal Health Australia for meeting, costs Animal Health Australia incurs:
 - (a) in receiving and applying the payment in accordance with the priorities in this section; and
 - (b) before or in the financial year in which the payment is made.

Discharging liability under emergency animal biosecurity response deed

- (4) The third priority is to apply the payment in making a payment to the Commonwealth if the payment to the Commonwealth is:
 - (a) on behalf of a relevant animal health body for the AHA commodity/service; and
 - (b) for the purpose of discharging a liability of that body to the Commonwealth under an emergency animal biosecurity response deed relating to the AHA commodity/service.

Section 50

Promotion or maintenance of health of animals, plants, fungi or algae and research and development

- (5) The fourth priority is to apply the payment, in accordance with a request by a relevant animal health body for the AHA commodity/service, in:
- (a) taking measures relating to the promotion or maintenance of the health of animals, plants, fungi or algae to which the AHA commodity/service relates; or
 - (b) making a payment to an organisation that is concerned with research and development in relation to the AHA commodity/service.

When payment can be applied in accordance with lower priority

- (6) Animal Health Australia does not contravene the condition in subsection (1) by applying the payment in accordance with a lower priority if Animal Health Australia cannot apply the payment in accordance with a higher priority. For this purpose, a priority in a later subsection is lower than a priority in an earlier subsection.

Recovery of Commonwealth costs

- (7) The Secretary must give Animal Health Australia written notice of:
- (a) the amount of the costs referred to in subsection (2); and
 - (b) the period within which Animal Health Australia must pay the amount under subsection (2).
- (8) If an amount payable by Animal Health Australia under subsection (2) remains unpaid at the end of that period, the amount:
- (a) is a debt due to the Commonwealth; and
 - (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

50 Effect of refunds

Set-off

- (1) If:
-

- (a) an amount (the *received amount*) covered by paragraph 48(1)(a), (b) or (c) is received by or on behalf of the Commonwealth in relation to an AHA commodity/service; and
 - (b) the Commonwealth pays to Animal Health Australia under section 48 an amount equal to the received amount; and
 - (c) the Commonwealth, after making that payment, refunds an amount equal to the whole or a part of the received amount;
- the Commonwealth may set off an amount equal to the refund against a payment the Commonwealth must make under section 48 in relation to the AHA commodity/service.

Note: The Commonwealth might refund an amount because a person paid too much levy or charge.

Notice requiring Animal Health Australia to pay amount to Commonwealth

- (2) If the Commonwealth is not able to do so, the Secretary may give Animal Health Australia a written notice specifying the amount the Commonwealth is not able to set off.

Payment by Animal Health Australia to Commonwealth

- (3) If:
 - (a) the Secretary gives Animal Health Australia a notice under subsection (2); and
 - (b) Animal Health Australia is yet to fully apply one or more payments under section 48 relating to the AHA commodity/service;

Animal Health Australia must, before applying those payments in accordance with the fourth priority in section 49, apply those payments in paying the Commonwealth as much as possible of the amount specified in the notice.

51 Recoverable payments—payment of debt

- (1) If Animal Health Australia receives payments under section 48, Animal Health Australia must apply the payments in making a payment of a debt (if any) mentioned in subsection 86(2), to the

Section 52

extent that the debt arose because of a purported payment under section 48 to Animal Health Australia.

- (2) Animal Health Australia must do so before applying the payments under section 48 in accordance with the fourth priority in section 49.

Subdivision C—Appropriation

52 Appropriation

The Consolidated Revenue Fund is appropriated for the purposes of payments by the Commonwealth under subsection 44(1) or 48(1).

Part 4—Funding for Plant Health Australia

Division 1—Simplified outline of this Part

53 Simplified outline of this Part

The Commonwealth must pay to Plant Health Australia amounts connected with various levies and charges collected under rules made under the Collection Act.

Plant Health Australia must spend the payments on various activities, including activities relating to the promotion or maintenance of the health of plants, animals, fungi or algae.

Division 2—Funding for Plant Health Australia

Subdivision A—Payments relating to biosecurity activity

54 Commonwealth to make payments—collected amounts relating to biosecurity activity

- (1) The Commonwealth must pay to Plant Health Australia amounts equal to the sum of the following amounts that are received by or on behalf of the Commonwealth in relation to a PHA commodity/service:
 - (a) amounts of a levy or charge imposed by a provision prescribed by the rules in relation to Plant Health Australia, to the extent that those amounts are equal to the components of the rate of that levy or charge prescribed by the rules;
 - (b) in relation to that levy or charge—amounts paid by a person under rules made for the purposes of paragraph 10(1)(a) of the Collection Act, to the extent that those amounts are equal to those components;
 - (c) amounts by way of penalty under section 9 or 11 of the Collection Act, to the extent that those amounts are attributable to the non-payment of those components or of amounts equal to those components.
- (2) For the purposes of paragraph (1)(a), a provision prescribed by the rules must be a provision of regulations made under:
 - (a) the *Primary Industries (Excise) Levies Act 2024*; or
 - (b) the *Primary Industries (Customs) Charges Act 2024*; or
 - (c) the *Primary Industries (Services) Levies Act 2024*.

55 Application of money

Payment of Commonwealth costs

- (1) If Plant Health Australia receives payments under section 54, Plant Health Australia must apply the payments in making a payment to the Commonwealth of amounts equal to the Commonwealth's costs in:

- (a) collecting or recovering the amounts covered by paragraphs 54(1)(a), (b) and (c); and
 - (b) administering section 54 in relation to the making of the payments to Plant Health Australia under that section.
- (2) The Secretary must give Plant Health Australia written notice of:
- (a) the amount of those costs; and
 - (b) the period within which Plant Health Australia must pay the amount under subsection (1).

Debt

- (3) If an amount payable by Plant Health Australia under subsection (1) remains unpaid at the end of that period, the amount:
- (a) is a debt due to the Commonwealth; and
 - (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

Activities promoting or maintaining health of plants, animals, fungi or algae

- (4) If Plant Health Australia receives payments under section 54, Plant Health Australia may apply the payments, consistent with its constitution, on:
- (a) activities, including biosecurity activities, relating to the promotion or maintenance of the health of plants, animals, fungi or algae; or
 - (b) activities incidental to activities covered by paragraph (a).

56 Effect of refunds

Set-off

- (1) If:
- (a) an amount (the **received amount**) covered by paragraph 54(1)(a), (b) or (c) is received by or on behalf of the Commonwealth in relation to a PHA commodity/service; and

Section 56

- (b) the Commonwealth pays to Plant Health Australia under section 54 an amount equal to the received amount; and
- (c) the Commonwealth, after making that payment, refunds an amount equal to the whole or a part of the received amount; the Commonwealth may set off an amount equal to the refund against a payment the Commonwealth must make under section 54 in relation to the PHA commodity/service.

Note: The Commonwealth might refund an amount because a person paid too much levy or charge.

Notice requiring Plant Health Australia to pay amount to Commonwealth

- (2) If the Commonwealth is not able to do so, the Secretary may give Plant Health Australia a written notice:
 - (a) specifying the amount the Commonwealth is not able to set off; and
 - (b) requiring Plant Health Australia to pay to the Commonwealth the amount specified in the notice; and
 - (c) specifying the period within which Plant Health Australia must pay the amount specified in the notice.
- (3) Plant Health Australia must pay the amount under subsection (2) before applying payments made to Plant Health Australia under section 54 in accordance with subsection 55(4).

Debt

- (4) If Plant Health Australia is required by a notice under subsection (2) to pay an amount to the Commonwealth and an amount payable by Plant Health Australia remains unpaid at the end of the period specified in the notice, the amount unpaid:
 - (a) is a debt due to the Commonwealth; and
 - (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

57 Recoverable payments—payment of debt

- (1) If Plant Health Australia receives payments under section 54, Plant Health Australia must apply the payments in making a payment of a debt (if any) mentioned in subsection 86(2), to the extent that the debt arose because of a purported payment under section 54 to Plant Health Australia.
- (2) Plant Health Australia must do so before applying the payments under section 54 in accordance with subsection 55(4).

Subdivision B—Payments relating to biosecurity response

58 Commonwealth to make payments—collected amounts relating to biosecurity response

- (1) The Commonwealth must pay to Plant Health Australia amounts equal to the sum of the following amounts that are received by or on behalf of the Commonwealth in relation to a PHA commodity/service:
 - (a) amounts of a levy or charge imposed by a provision prescribed by the rules in relation to Plant Health Australia, to the extent that those amounts are equal to the components of the rate of that levy or charge prescribed by the rules;
 - (b) in relation to that levy or charge—amounts paid by a person under rules made for the purposes of paragraph 10(1)(a) of the Collection Act, to the extent that those amounts are equal to those components;
 - (c) amounts by way of penalty under section 9 or 11 of the Collection Act, to the extent that those amounts are attributable to the non-payment of those components or of amounts equal to those components.
- (2) For the purposes of paragraph (1)(a), a provision prescribed by the rules must be a provision of regulations made under:
 - (a) the *Primary Industries (Excise) Levies Act 2024*; or
 - (b) the *Primary Industries (Customs) Charges Act 2024*; or
 - (c) the *Primary Industries (Services) Levies Act 2024*.

Section 59

59 Application of money

- (1) A payment made under section 58 in relation to a PHA commodity/service is subject to the condition that Plant Health Australia must apply the payment in accordance with the priorities in this section.

Payment of Commonwealth costs

- (2) The first priority is to apply the payment in making a payment to the Commonwealth of amounts equal to the Commonwealth's costs in:
- (a) collecting or recovering the amounts covered by paragraphs 58(1)(a), (b) and (c); and
 - (b) administering section 58 in relation to the making of the payments under that section.

Note: For further rules about these costs, see subsections (9) and (10).

Reimbursing Plant Health Australia

- (3) The second priority is to apply the payment in meeting, or reimbursing Plant Health Australia for meeting, costs Plant Health Australia incurs:
- (a) in receiving and applying the payment in accordance with the priorities in this section; and
 - (b) before or in the financial year in which the payment is made.

Discharging liability under emergency plant biosecurity response deed

- (4) The third priority is to apply the payment in making a payment to the Commonwealth if the payment to the Commonwealth is:
- (a) on behalf of a relevant plant health body for the PHA commodity/service referred to in subsection (1); and
 - (b) for the purpose of discharging a liability of that body to the Commonwealth under an emergency plant biosecurity response deed relating to the PHA commodity/service.
- (5) The fourth priority is to apply the payment in making a payment to the Commonwealth if the payment to the Commonwealth is:
-

- (a) on behalf of, and at the request of, a relevant plant health body for the PHA commodity/service referred to in subsection (1); and
 - (b) for the purpose of discharging any liability of that body to the Commonwealth under an emergency plant biosecurity response deed relating to any other PHA commodity/service for which that body is a relevant plant health body.
- (6) If a body has a liability to the Commonwealth under an emergency plant biosecurity response deed relating to 2 or more PHA commodities/services for which the body is a relevant plant health body:
- (a) the body must determine a proportionate amount of the total liability for each of the PHA commodities/services; and
 - (b) for subsections (4) and (5), the amount of the body's liability in relation to each PHA commodity/service is the determined proportionate amount for that PHA commodity/service.

Promotion or maintenance of health of plants, animals, fungi or algae

- (7) The fifth priority is to make payments to any person, in accordance with a request by a body that is a relevant plant health body for the PHA commodity/service referred to in subsection (1), for any purpose relating to the promotion or maintenance of the health of:
- (a) plants, animals, fungi or algae to which that PHA commodity/service relates; or
 - (b) if the body is a relevant plant health body for any other PHA commodity/service—plants, animals, fungi or algae to which that other PHA commodity/service relates.

When payment can be applied in accordance with lower priority

- (8) Plant Health Australia does not contravene the condition in subsection (1) by applying the payment in accordance with a lower priority if Plant Health Australia cannot apply the payment in accordance with a higher priority. For this purpose, a priority in a later subsection is lower than a priority in an earlier subsection.

Section 60

Recovery of Commonwealth costs

- (9) The Secretary must give Plant Health Australia written notice of:
- (a) the amount of the costs referred to in subsection (2); and
 - (b) the period within which Plant Health Australia must pay the amount under subsection (2).
- (10) If an amount payable by Plant Health Australia under subsection (2) remains unpaid at the end of that period, the amount:
- (a) is a debt due to the Commonwealth; and
 - (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

60 Effect of refunds

Set-off

- (1) If:
- (a) an amount (the **received amount**) covered by paragraph 58(1)(a), (b) or (c) is received by or on behalf of the Commonwealth in relation to a PHA commodity/service; and
 - (b) the Commonwealth pays to Plant Health Australia under section 58 an amount equal to the received amount; and
 - (c) the Commonwealth, after making that payment, refunds an amount equal to the whole or a part of the received amount;
- the Commonwealth may set off an amount equal to the refund against a payment the Commonwealth must make under section 58 in relation to the PHA commodity/service.

Note: The Commonwealth might refund an amount because a person paid too much levy or charge.

Notice requiring Plant Health Australia to pay amount to Commonwealth

- (2) If the Commonwealth is not able to do so, the Secretary may give Plant Health Australia a written notice:

- (a) specifying the amount the Commonwealth is not able to set off; and
 - (b) requiring Plant Health Australia to pay to the Commonwealth the amount specified in the notice; and
 - (c) specifying the period within which Plant Health Australia must pay the amount specified in the notice.
- (3) Plant Health Australia must pay the amount under subsection (2) before applying payments made to Plant Health Australia under section 58 in accordance with the fifth priority in section 59.

Debt

- (4) If Plant Health Australia is required by a notice under subsection (2) to pay an amount to the Commonwealth and an amount payable by Plant Health Australia remains unpaid at the end of the period specified in the notice, the amount unpaid:
- (a) is a debt due to the Commonwealth; and
 - (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

61 Recoverable payments—payment of debt

- (1) If Plant Health Australia receives payments under section 58, Plant Health Australia must apply the payments in making a payment of a debt (if any) mentioned in subsection 86(2), to the extent that the debt arose because of a purported payment under section 58 to Plant Health Australia.
- (2) Plant Health Australia must do so before applying the payments under section 58 in accordance with the fifth priority in section 59.

Subdivision C—Appropriation

62 Appropriation

The Consolidated Revenue Fund is appropriated for the purposes of payments by the Commonwealth under subsection 54(1) or 58(1).

Part 5—Funding and information management for the National Residue Survey

Division 1—Simplified outline of this Part

63 Simplified outline of this Part

There is a National Residue Survey Special Account.

There is credited to the Account amounts connected with various levies and charges collected under rules made under the Collection Act.

The main purpose of the Account is making payments for purposes relating to the following activities:

- (a) the monitoring, testing and reporting of the level of contaminants in NRS products or the environment;
- (b) the prevention of contamination in, and the management of risks associated with contamination of, NRS products.

Entrusted persons can use or disclose information (referred to as relevant NRS 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—Funding for National Residue Survey

64 National Residue Survey Special Account

- (1) The National Residue Survey Account is continued in existence with the new name National Residue Survey Special Account.

Note: The Account was continued in existence under the former *National Residue Survey Administration Act 1992*.

- (2) The National Residue Survey Special Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

65 Credits to the National Residue Survey Special Account

- (1) There must be credited to the National Residue Survey Special Account amounts equal to the following amounts that are received by or on behalf of the Commonwealth:

- (a) amounts of a levy or charge imposed by a provision prescribed by the rules, to the extent that those amounts are equal to the components of the rate of that levy or charge prescribed by the rules;
- (b) in relation to that levy or charge—amounts paid by a person under rules made for the purposes of paragraph 10(1)(a) of the Collection Act, to the extent that those amounts are equal to those components;
- (c) amounts by way of penalty under section 9 or 11 of the Collection Act, to the extent that those amounts are attributable to the non-payment of those components or of amounts equal to those components.

Note: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a special account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the special account), then amounts may be debited against the appropriation for that item and credited to that special account.

- (2) There must also be credited to the National Residue Survey Special Account amounts equal to the following:
 - (a) amounts paid to the Commonwealth for the purposes of the National Residue Survey or the Account;

Section 66

- (b) income derived by the Commonwealth from the investment of an amount standing to the credit of the Account.
- (3) For the purposes of paragraph (1)(a), a provision prescribed by the rules must be a provision of regulations made under:
 - (a) the *Primary Industries (Excise) Levies Act 2024*; or
 - (b) the *Primary Industries (Customs) Charges Act 2024*; or
 - (c) the *Primary Industries (Services) Levies Act 2024*.

66 Purposes of the National Residue Survey Special Account

- (1) The purposes of the National Residue Survey Special Account are as follows:
 - (a) to make payments for purposes related to the following activities (each of which is a *main activity*):
 - (i) the monitoring and reporting of the level of contaminants in NRS products;
 - (ii) the testing, either on a random basis or in specific cases, of NRS products or the environment for the purpose of tracing the sources of contaminants and determining the causes of contamination;
 - (iii) the testing and reporting of the level of contaminants in NRS products or the environment, and any associated activities, for the purpose of investigating the potential sources, and determining the potential causes, of such contaminants;
 - (iv) the prevention of contamination in, and the management of risks associated with contamination of, NRS products;
 - (b) meeting or reimbursing the Commonwealth's costs in relation to:
 - (i) collecting or recovering the amounts covered by paragraphs 65(1)(a), (b) and (c); or
 - (ii) administering paragraphs 65(1)(a), (b) and (c); or
 - (iii) the carrying out of a main activity; or
 - (iv) the carrying out of an activity that facilitates a main activity or that is incidental or ancillary to a main activity;

- (c) if an amount is credited to the Account because a person or body has paid an amount to the Commonwealth for a particular purpose but an amount less than the amount paid has been spent for that purpose—to make a payment to the person or body equal to the unspent amount;
- (d) if an amount is credited to the Account under subsection 65(1) but the amount received by or on behalf of the Commonwealth was overpaid—refunding an amount equal to the overpayment.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

- (2) Without limiting paragraph (1)(b), that paragraph covers the following:
 - (a) remuneration and allowances paid to persons who are APS employees in the Department performing work, or other persons employed or engaged by the Commonwealth to provide services to the Commonwealth, in connection with the National Residue Survey;
 - (b) other expenditure incurred in relation to the provision of those persons or the provision of the services of those persons;
 - (c) expenditure incurred in relation to surveys conducted for the purpose of monitoring the level of contaminants;
 - (d) expenditure incurred in relation to the provision of accommodation or administrative support.

67 Report about National Residue Survey Special Account

The Secretary must cause the following information to be included in the Department's annual report for a financial year:

- (a) amounts credited to the National Residue Survey Special Account during that year;
- (b) amounts debited from the Account during that year;
- (c) financial statements relating to the Account for that year;
- (d) a description of activities undertaken in relation to the National Residue Survey during that year.

Division 3—Information management

Subdivision A—Authorised uses and disclosures of relevant NRS information

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

68 Use or disclosure for National Residue Survey activities etc.

An entrusted person may use or disclose relevant NRS information in the course of or for the purposes of:

- (a) carrying out activities covered by paragraph 66(1)(a) and paid for with amounts debited from the National Residue Survey Special Account; or
- (b) administering this Part; or
- (c) assisting another person to administer this Part.

69 Use or disclosure for the purposes of other Acts

An entrusted person may use or disclose relevant NRS information if the use or disclosure is for the purposes of the administration of an Act (other than this Act) that is administered by the Minister.

70 Disclosure to authorities of the Commonwealth, a State or Territory

An entrusted person may disclose relevant NRS information to an authority of the Commonwealth, a State or a Territory if:

- (a) the authority is responsible for the monitoring or regulation of agricultural or veterinary chemical residues and contaminants in NRS products or in the environment; and
- (b) the disclosure is for the purpose of such monitoring or regulation or the management of associated risks.

71 Disclosure to foreign governments etc. for export, trade and other purposes

An entrusted person may disclose relevant NRS information to a foreign government, an authority or agency of a foreign government or an international body of an intergovernmental character, for the purposes of:

- (a) the export of goods; or
- (b) managing Australia's international relations in respect of trade; or
- (c) giving effect to Australia's international obligations.

72 Disclosure to persons holding an approval

- (1) An entrusted person may disclose relevant NRS information to a person who holds an approval in force under this section.

Approvals

- (2) A person may, in writing, make a request to the Secretary for an approval under this section.
- (3) The Secretary must, in writing, grant the person an approval or refuse to grant the person an approval.
- (4) The Secretary may grant the person an approval only if the Secretary is satisfied that the person requires relevant NRS information to enable the person to monitor, regulate or manage agricultural or veterinary chemical residues or contaminants in NRS products or the environment.
- (5) An approval must specify the purposes for which the person may use or disclose relevant NRS information that the person receives under subsection (1).
- (6) If the Secretary grants the person an approval, the Secretary must give the person written notice of the approval and of the purposes covered by subsection (5).

Section 73

(7) If the Secretary refuses to grant the person an approval, the Secretary must give the person written notice of the refusal and of the reasons for the refusal.

(8) An approval under subsection (3) is not a legislative instrument.

Secondary use or disclosure offence

(9) A person commits an offence if:

- (a) while the person holds an approval in force under this section, the person receives relevant NRS information under subsection (1); and
- (b) the information is of a kind covered by subsection (10); and
- (c) the person uses or discloses that information; and
- (d) the use or disclosure is not in accordance with the approval.

Penalty: Imprisonment for 12 months.

Protected information

(10) For the purposes of subsection (9), this subsection covers the following kinds of information:

- (a) 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;
- (b) information the disclosure of which could reasonably be expected to prejudice constitutional trade or commerce.

73 Disclosure for the purposes of law enforcement

(1) An entrusted person may disclose relevant NRS 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.

74 Disclosure to a court, tribunal etc.

- (1) An entrusted person may disclose relevant NRS information to a court exercising federal jurisdiction.
- (2) An entrusted person may disclose relevant NRS 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.

75 Use or disclosure of statistics

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

Section 76

76 Use or disclosure of publicly available information

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

77 Disclosure to person to whom information relates

An entrusted person may disclose relevant NRS information to the person to whom the information relates.

78 Use or disclosure with consent

An entrusted person may use or disclose relevant NRS 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.

79 Disclosure to person who provided information

An entrusted person may disclose relevant NRS information to the person who provided the information.

80 Use or disclosure authorised by rules

- (1) A person may use relevant NRS 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 NRS 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—Protected information

81 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) carrying out activities covered by paragraph 66(1)(a) and paid for with amounts debited from the National Residue Survey Special Account; or
 - (ii) administering this Part; or
 - (iii) assisting another person to administer this Part; and
 - (c) the information is of a kind covered by subsection (3) of this section; and
 - (d) the person uses or discloses the information.

Penalty: Imprisonment for 12 months.

Civil penalty

- (2) A person contravenes this subsection if:

Section 81

- (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) carrying out activities covered by paragraph 66(1)(a) and paid for with amounts debited from the National Residue Survey Special Account; or
 - (ii) administering this Part; or
 - (iii) assisting another person to administer this Part; and
- (c) the information is of a kind covered by subsection (3) of this section; and
- (d) the person uses or discloses the information.

Civil penalty: 60 penalty units.

Protected information

- (3) For the purposes of subsections (1) and (2), this subsection covers the following kinds of information:
 - (a) 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;
 - (b) information the disclosure of which could reasonably be expected to prejudice constitutional trade or commerce.

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 carrying out of activities covered by paragraph 66(1)(a) and paid for with amounts debited from the National Residue Survey Special Account; or
 - (b) in the purported administering of this Part; or
 - (c) in assisting another person in the purported administering of this Part.

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).

82 Enforcement of 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.

Section 82

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).

Extension to external Territories

- (6) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the civil penalty provisions of this Act, extends to every external Territory.

Part 6—Other matters

Division 1—Simplified outline of this Part

83 Simplified outline of this Part

There is reconsideration and review of certain decisions under this Act.

Payments made purportedly under this Act that were not actually payable may be recovered from the recipient, and must be reported.

This Part also deals with delegation by the Minister and Secretary and the making of rules by the Minister.

Division 2—Reconsideration and review of decisions

84 Internal reconsideration of decisions

- (1) A person (the *aggrieved person*) whose interests are affected by a decision of the Secretary under subsection 72(3) to refuse to grant a person an approval may request the Secretary to reconsider the decision.
- (2) Subsection (1) does not apply to a decision that is made by the Secretary personally.

Form and timing of request

- (3) The aggrieved person must make the request in writing before the end of:
 - (a) the period of 28 days beginning on the day on which that person is notified of the decision, unless paragraph (b) applies; or
 - (b) if the Secretary allows a longer period for making the request—that longer period.

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 decision personally; or
 - (b) cause the 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; 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 decision; and
 - (b) if the Secretary or the internal reviewer sets aside the 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.

Note: Section 27A of the *Administrative Appeals Tribunal Act 1975* 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).

Section 85

85 Administrative Appeals Tribunal review of decisions

- (1) Applications may be made to the Administrative Appeals Tribunal for review of the following decisions:
 - (a) a decision under subsection 40(1) that is made by the Minister, except if the decision is made because of paragraph 40(1)(a);
 - (b) a decision under subsection 72(3) to refuse to grant a person an approval that is made by the Secretary personally;
 - (c) a decision under subsection 84(6) that is made, or a decision under subsection 84(10) that is taken to have been made, by the Secretary or internal reviewer.
- (2) An application under subsection (1) in relation to a decision covered by paragraph (1)(a) may be made only by the body covered by the revocation.
- (3) Subsection (2) has effect despite subsection 27(1) of the *Administrative Appeals Tribunal Act 1975*.

Division 3—Recoverable payments

86 Recoverable payments

- (1) If, apart from this subsection, the Commonwealth does not have power under this Act to pay an amount (the *relevant amount*) to a body purportedly as a payment under subsection 15(1), 23(1), 26(1), 27(1), 44(1), 48(1), 54(1) or 58(1), then the Commonwealth may pay the relevant amount to the body.

Debt

- (2) If a payment is made under subsection (1) to the body, the relevant amount:
- (a) is a debt due to the Commonwealth by the body; and
 - (b) may be recovered by the Minister, on behalf of the Commonwealth, by action in a court of competent jurisdiction.

Set-off

- (3) The Commonwealth may set off the whole or a part of the relevant amount against a later payment the Commonwealth must make under this Act to the body.
- (4) The debt under subsection (2) is reduced by the amount of the set-off.

Appropriation

- (5) The Consolidated Revenue Fund is appropriated for the purposes of making payments under subsection (1).

87 Report about recoverable payments

- (1) The Secretary must cause the following information to be included in the Department's annual report for a financial year:
- (a) the number of payments under subsection 86(1) that APS employees in the Department are aware of that were made during that financial year;

Part 6 Other matters

Division 3 Recoverable payments

Section 87

- (b) the total amount of the payments referred to in paragraph (a);
 - (c) the number of payments under subsection 86(1) that APS employees in the Department became aware of during that financial year that were made during an earlier financial year;
 - (d) the total amount of the payments referred to in paragraph (c);
 - (e) for each payment referred to in paragraph (c)—the financial year in which the payment was made.
- (2) Information is not required in the Department's annual report if no APS employee in the Department is aware of any payments referred to in paragraph (1)(a) or (c).

Division 4—Administrative provisions

88 Delegation by Minister

- (1) The Minister may, by writing, delegate any or all of the Minister's powers or functions under this Act (except section 41 or 90) or the rules to:
 - (a) the Secretary; or
 - (b) an SES employee, or acting SES employee, in the Department.
- (2) A delegate must comply with any written directions of the Minister.

89 Delegation by Secretary

- (1) The Secretary may, by writing, delegate any or all of the Secretary's powers or functions under this Act or the rules to an SES employee, or acting SES employee, in the Department.
- (2) A delegate must comply with any written directions of the Secretary.

90 Rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters:
 - (a) required or permitted by this Act to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Instruments

- (2) 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.

Section 90

Incorporation of other instruments

- (3) 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.

No limit on subsection (1)

- (4) Subsections (2) and (3) do not limit subsection (1).

Limitation

- (5) 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) directly amend the text of this Act.

[*Minister's second reading speech made in—
House of Representatives on 18 October 2023
Senate on 16 November 2023*]

(125/23)