



# **Cotton Research Act 1982**

**Act No. 146 of 1982**

This Act was prepared on 19 March 2004

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



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# An Act to provide for the collection of levy imposed by the *Cotton Levy Act 1982* and to establish a Cotton Research Trust Account

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

## Part I—Preliminary

### 1 Short title [see Note 1]

This Act may be cited as the *Cotton Research Act 1982*.

### 2 Commencement [see Note 1]

This Act shall come into operation on the day on which the *Cotton Levy Act 1982* comes into operation.

### 3 Interpretation

In this Act, unless the contrary intention appears:

***appoint*** includes re-appoint.

***authorized person*** means a person who is, by virtue of an appointment under section 28, an authorized person for the purposes of the provision in which the expression appears.

***Chairman*** means the Chairman of the Committee.

***Committee*** means the Cotton Research Committee established by this Act.

***deputy member*** means a person appointed under section 18 as the deputy of a member.

***member*** means a member of the Committee.

***month*** means a month of the year.

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***processor*** means any person, association, co-operative society, board or authority that produces leviable cotton.

***relevant Department***, in relation to a State, means the Department of that State dealing with agricultural matters.

***research*** means scientific, technical or economic research in connection with the cotton industry, and includes:

- (a) the training of persons for the purpose of any such research;
- (b) the publication of reports, periodicals, books and papers in connection with such research;
- (c) the dissemination of information and advice in connection with scientific, technical or economic matters related to the cotton industry; and
- (d) any matter incidental to a matter referred to in this definition.

***Research Account*** means the Cotton Research Trust Account established by this Act.

#### 4 Act to bind Crown

This Act binds the Crown in right of each of the States and of the Northern Territory.

## Part II—Collection of levy

### 5 Time for payment of levy

Levy on leviable cotton is due and payable upon the expiration of 28 days after the last day of the month in which the leviable cotton is produced.

### 6 Liability of processor

- (1) For the better securing of the payment of levy, the processor of any leviable cotton is liable to pay to the Commonwealth, on behalf of the grower, an amount (in this section referred to as the *relevant amount*) equal to any levy on the leviable cotton that has become payable by the grower but has not been paid to, or recovered by, the Commonwealth.
- (2) Notwithstanding any law of a State or Territory or any agreement (whether entered into before or after the coming into operation of this Act) to the contrary, the processor of any leviable cotton may, for the purpose of ensuring that he is provided with the funds necessary for the due payment, on behalf of the grower, of the relevant amount, deduct from any moneys payable by him to the grower, or received by him on behalf of the grower, in respect of that cotton an amount equal to, or that may reasonably be expected to be equal to, the relevant amount.
- (3) Where a processor deducts an amount under subsection (2), the grower is, upon the levy becoming payable, discharged from his liability to pay the levy to the extent of the amount so deducted, but the liability of the processor under subsection (1) is not affected.
- (4) Where, under subsection (1), an amount in respect of levy payable by the grower of any leviable cotton is paid to the Commonwealth by, or is recovered by the Commonwealth from, the processor:
  - (a) the grower is, to the extent of the amount so paid or recovered, discharged from so much of his liability to pay that levy as has not previously been discharged by virtue of subsection (3); and

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- (b) the processor may recover from the grower, by set-off or otherwise, an amount equal to the amount discharged by virtue of paragraph (a).

**7 Penalty for non-payment**

- (1) Where the liability of the grower of any leviable cotton to pay levy is not discharged at or before the time when the levy becomes due and payable, there is payable by him to the Commonwealth by way of penalty, in addition to the levy, an amount calculated at the rate of 10% per annum upon so much of the levy as from time to time remains unpaid, to be computed from the time when the levy becomes due and payable.
- (2) Where the processor of any leviable cotton:
  - (a) deducts an amount under subsection 6(2) in respect of levy on the cotton; and
  - (b) does not, at or before the time when the levy becomes due and payable, pay to the Commonwealth the whole or any part of the amount so deducted;there is payable by him to the Commonwealth by way of penalty, in addition to the amount payable by him under subsection 6(1), an amount calculated at the rate of 10% per annum upon so much of the amount so deducted as is not paid to the Commonwealth, to be computed from the time when the levy becomes due and payable.
- (3) The Minister or an authorized person may, in any particular case, for reasons that he in his discretion thinks sufficient, remit the whole or any part of an amount payable under this section.
- (4) The power under subsection (3) to remit the whole or any part of an amount payable under this section shall not be exercised by an authorized person in a case where that amount exceeds \$500.

**8 Recovery of levy and other amounts**

The following amounts may be recovered by the Commonwealth as debts due to the Commonwealth:

- (a) levy that is due and payable;
- (b) amounts that are payable under subsection 6(1); and
- (c) amounts that are payable under section 7.

**9 Refund of levy**

- (1) Where any amount referred to in section 8 has been overpaid, the amount overpaid shall be refunded by the Commonwealth.
- (2) Where:
  - (a) an amount is to be refunded by the Commonwealth in accordance with subsection (1); and
  - (b) the amount has been taken into account in calculating an amount to be paid into the Research Account under paragraph 11(1)(a);the amount of the refund shall be paid out of the Research Account.

## Part III—Cotton Research Trust Account

### 10 Cotton Research Trust Account

- (1) An account is hereby established to be known as the Cotton Research Trust Account.
- (2) The Research Account is a Trust Account for the purposes of section 62A of the *Audit Act 1901*.

### 11 Moneys to be paid into Research Account

- (1) There shall be paid into the Research Account amounts equal to:
  - (a) the amounts from time to time received by the Commonwealth as:
    - (i) levy;
    - (ii) amounts payable under subsection 6(1); and
    - (iii) amounts payable under section 7;
  - (b) subject to subsection (2), one-half of the amounts from time to time required for payment out of the account kept under subsection 12(1);
  - (c) amounts paid by any person to the Commonwealth for the purposes of the Research Account;
  - (d) amounts received by the Commonwealth:
    - (i) from the sale of any property paid for with moneys paid out of the Research Account;
    - (ii) from the sale of any property produced in the course of carrying out any research so paid for; or
    - (iii) in respect of any work so paid for; and
  - (e) amounts received by the Commonwealth as interest from the investment of moneys standing to the credit of the Research Account.
- (2) The sum of the amounts paid into the Research Account by virtue of paragraph (1)(b) shall not exceed the sum of the amounts paid into the Research Account by virtue of subparagraphs (1)(a)(i) and (ii) less the amount of any refunds paid under subsection 9(2) in

respect of amounts paid into the Account by virtue of those subparagraphs.

- (3) Amounts payable into the Research Account by virtue of paragraph (1)(a) or (b) are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

## **12 Separate accounts to be kept**

- (1) A separate account shall be kept of the moneys in the Research Account representing the amounts paid into the Research Account by virtue of subparagraphs 11(1)(a)(i) and (ii) and paragraph 11(1)(b).
- (2) A separate account shall be kept of the moneys in the Research Account representing the amounts paid into the Research Account by virtue of subparagraph 11(1)(a)(iii) and paragraphs 11(1)(c), (d) and (e).

## **13 Application of moneys in Research Account**

- (1) Subject to subsection (2), amounts standing to the credit of either of the accounts kept under section 12 may be paid out of that account:
  - (a) with the approval of the Minister, for the purpose of research;
  - (b) in payment of the expenses incurred by the Committee in the performance of its functions;
  - (c) in payment of remuneration, allowances and expenses payable to a member or a deputy member under section 20; and
  - (d) in payment of fees, expenses and allowances payable to persons appointed under section 23.
- (2) The Minister shall not exercise his power to approve the payment of amounts out of the Research Account for the purpose of research unless:
  - (a) he does so in accordance with the recommendations of the Committee; and
  - (b) he is satisfied that any research to be undertaken as a result of the payment would not, if the payment were not made, have been undertaken by the Department, the Commonwealth

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Scientific and Industrial Research Organization, the relevant Department of a State or a university in Australia.

**14 Agreements for carrying out research, etc.**

- (1) The Minister, or an officer of the Australian Public Service authorized by the Minister to act under this section, may, on behalf of the Commonwealth, enter into agreements for purposes of, or in connection with, any research or other matter or thing to be done or performed with moneys provided in whole or in part out of the Research Account.
- (2) Without limiting the generality of subsection (1), an agreement made with a person under that subsection in relation to moneys provided out of the Research Account may:
  - (a) provide for the moneys to which the agreement relates and any property acquired with those moneys or with moneys that include those moneys to be used only for purposes specified in the agreement and for the payment by the person to the Commonwealth for the purposes of the Research Account, in the event of any of those moneys or any of that property being used for a purpose not specified in the agreement, of an amount equal to the whole, or such part as the Minister determines, of those moneys;
  - (b) provide for the payment by the person to the Commonwealth for the purposes of the Research Account of an amount equal to the whole, or such part as the Minister determines, of any net income derived by the person from:
    - (i) property acquired with moneys to which the agreement relates or with moneys that include those moneys; or
    - (ii) patents for inventions made, or any other property acquired, in the course of carrying out research or doing any other act or thing with those moneys or with moneys that include those moneys;or for the assignment by the person to the Commonwealth of any property referred to in subparagraph (i), of any patents for inventions or other property referred to in subparagraph (ii) or of any such invention or of any interest that he may have in any such invention; and

- (c) provide for the payment by the person to the Commonwealth for the purposes of the Research Account, in the event of the disposal otherwise than to the Commonwealth of any property of a kind referred to in paragraph (b), of an amount equal to the whole, or such part as the Minister determines:
  - (i) in the case of a disposal by way of sale or assignment for value—of the net proceeds of the sale or assignment; and
  - (ii) in any other case—of the value of the property as determined by the Minister.

### **15 Cotton Research Committee**

- (1) For the purposes of this Act, there shall be a Cotton Research Committee.
- (2) The function of the Committee is to make recommendations to the Minister with respect to:
  - (a) the payment out of the Research Account of moneys standing to the credit of either of the accounts kept under section 12;
  - (b) proposed agreements under section 14; and
  - (c) the operation of this Act.

### **16 Constitution of Committee**

- (1) The Committee shall consist of 10 members, namely:
  - (a) 1 member to represent the Department;
  - (b) 1 member to represent the relevant Department of New South Wales;
  - (c) 1 member to represent the relevant Department of Queensland;
  - (d) 1 member to represent the Commonwealth Scientific and Industrial Research Organization;
  - (e) 1 member to represent Australian universities; and
  - (f) 5 members to represent the cotton growers of Australia.
- (2) A member:
  - (a) shall be appointed by the Minister; and

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- (b) holds office, subject to this Act, for such term, not exceeding 3 years, as the Minister specifies in the instrument of appointment, but is eligible for re-appointment.
- (3) A member referred to in paragraph (1)(b) or (c) shall be appointed on the nomination of the Minister of the Crown who administers the relevant Department.
- (4) A member referred to in paragraph (1)(d) or (e) shall be appointed on the nomination of the organization or organizations, as the case may be, that he is to represent.
- (5) The members referred to in paragraph (1)(f) shall be appointed from among persons whose names are included in a list of names submitted to the Minister by the growers' organization.
- (6) Where the growers' organization has submitted a list of names for the purposes of subsection (5), the Minister may, if he thinks fit, request the organization to submit to him the names of additional persons for inclusion in the list.
- (7) If the office of a member becomes vacant before the expiration of the term for which he was appointed, the Minister may appoint a person, nominated for that office in accordance with subsection (3), (4) or (5) (where applicable), to hold that office for the remainder of that term.
- (8) The appointment of a member is not invalidated and shall not be called in question by reason of a defect or irregularity in, or in connection with, his appointment.
- (9) The exercise of a power or the performance of a function by the Committee is not invalidated by reason only of there being a vacancy or vacancies in the membership of the Committee.

**17 Chairman of Committee**

The member representing the Department is the Chairman of the Committee.

**18 Deputy members**

- (1) A member may, with the approval of the Minister, appoint a person to be his deputy.
- (2) A member may revoke the appointment of a person as his deputy, but the revocation is not effective until the member has given notice of it in writing to the Minister.
- (3) The deputy of a member is entitled, in the event of the absence of the member from a meeting of the Committee, to attend that meeting and, when so attending, shall be deemed to be a member and, if he is the deputy of the Chairman, shall be deemed to be the Chairman.

**19 Removal and resignation**

- (1) The Minister may terminate the appointment of a member or deputy member for incapacity, incompetence or misbehaviour.
  - (2) The Minister may:
    - (a) terminate the appointment of a member referred to in paragraph 16(1)(b) or (c) on the request of the Minister of the Crown who administers the relevant Department; and
    - (b) terminate the appointment of a member referred to in paragraph 16(1)(d) or (e) on the request of the organization or organizations, as the case may be, that he represents.
  - (3) If a member or deputy member fails, without reasonable excuse, to comply with his obligations under section 21, the Minister shall terminate his appointment.
  - (4) A member may resign his office by writing signed by him and delivered to the Minister.
  - (5) The deputy of a member may resign his office by writing signed by him and delivered to the member.
  - (6) A member whose deputy resigns in accordance with subsection (5) shall forthwith give notice of the resignation, in writing, to the Minister.
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**20 Remuneration and allowances**

- (1) Each member or deputy member shall be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.
- (2) Each member or deputy member shall be paid such allowances as are prescribed.
- (3) Subsections (1) and (2) do not apply to a member referred to in paragraph 16(1)(a) or (d) or to the deputy of such a member.
- (4) Subsections (1) and (2) have effect subject to the *Remuneration Tribunals Act 1973*, but subsection 7(9) of that Act does not apply in relation to the remuneration or allowances payable to a member or deputy member under this Act.
- (5) If a member or deputy member is also a member of, or a candidate for election to, the Parliament of the Commonwealth or of a State or the Legislative Assembly of the Northern Territory, he shall not be paid any remuneration or allowances under this section, but he shall be reimbursed such expenses as he reasonably incurs in connection with his office as a member or deputy member of the Committee.

**21 Disclosure of interest**

- (1) A member or deputy member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Committee shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Committee.
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Committee.

**22 Meetings of Committee**

- (1) Meetings of the Committee shall be held at such times and places as the Committee from time to time determines.

- (2) The Chairman may at any time convene a meeting of the Committee.
- (3) At a meeting of the Committee, the Chairman and 5 other members constitute a quorum.
- (4) The Chairman shall preside at all meetings of the Committee.
- (5) Questions arising at a meeting of the Committee shall be determined by a majority of the members present and voting.
- (6) The Chairman has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

### **23 Appointment of advisers**

- (1) The Committee may appoint persons to advise the Committee in relation to any purpose in respect of which moneys may be paid out of the Research Account.
- (2) A person appointed under this section shall be paid such fees, expenses and allowances as are approved by the Minister.

### **24 Annual report**

- (1) The Committee shall, as soon as practicable after each 30 June, prepare and submit to the Minister a report on the operation of this Act during the 12 months ending on that date and the Minister shall cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after he received the report.
- (2) The first report under this section shall relate to the period commencing on the coming into operation of this Act and ending on 30 June 1984 and the reference in subsection (1) to a period of 12 months shall be taken to include that period.

## Part IV—Miscellaneous

### 25 Power to call for returns

An authorized person may, by notice in writing given, or sent by post, to a person, require the person to furnish to him, within such time (being not less than 14 days after receipt of the notice) as is specified in the notice, such return or information in relation to matters relevant to the operation of this Act as is specified in the notice, including a return or information verified by statutory declaration.

### 26 Access to premises

- (1) An authorized person may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the powers of an authorized person under subsection (5).
- (2) Where an authorized person has reason to believe that:
  - (a) particular premises are premises on which leviable cotton is produced, stored or processed; or
  - (b) there are on particular premises examinable documents;the authorized person may make an application to a Justice of the Peace for a warrant authorizing the authorized person to enter the premises for the purpose of exercising the powers of an authorized person under subsection (5).
- (3) If, on an application under subsection (2), the Justice of the Peace is satisfied, by information on oath or affirmation:
  - (a) that there is reasonable ground for believing that:
    - (i) the premises to which the application relates are premises on which leviable cotton is produced, stored or processed; or
    - (ii) there are on those premises any examinable documents; and
  - (b) that the issue of the warrant is reasonably required for the purposes of this Act;

the Justice of the Peace may grant a warrant authorizing the authorized person, with such assistance as the authorized person thinks necessary, to enter the premises, if necessary by force, during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, for the purpose of exercising the powers of an authorized person under subsection (5).

- (4) A warrant under subsection (3) shall specify a date after which it ceases to have effect.
- (5) Where an authorized person has entered any premises in pursuance of this section, he may:
  - (a) search for, examine and take stock of any leviable cotton; and
  - (b) search for, inspect, take extracts from and make copies of any examinable documents.
- (6) A person shall not, without reasonable excuse, obstruct or hinder an authorized person in the exercise of powers conferred on him by or under this section.

Penalty: \$1,000 or imprisonment for 6 months, or both.
- (7) In this section, *examinable documents* means:
  - (a) any books, documents or papers relating to financial dealings between growers and processors of leviable cotton; and
  - (b) any books, documents or papers relating to the production, storage, processing, sale, purchase or export of leviable cotton.

## **27 Offences in relation to returns, etc.**

- (1) A person shall not, without reasonable excuse, fail or neglect duly to furnish a return or information that he is required under this Act or the regulations to furnish.
- (2) A person shall not knowingly furnish to a person performing duties in relation to this Act or the regulations a return or information that is false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 6 months, or both.

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## 28 Appointment of authorized persons

The Minister may, by writing signed by him, appoint a person, or persons included in a class of persons, to be an authorized person or authorized persons, as the case may be, for the purposes of a specified provision of this Act.

## 29 Review of decisions

- (1) An application may be made to the Administrative Appeals Tribunal for a review of a decision made under subsection 7(3).
- (2) Where the Minister or an authorized person makes a decision under subsection 7(3) and gives to the person whose interests are affected by the decision notice in writing of the decision, that notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Administrative Appeals Tribunal for review of the decision by or on behalf of any person whose interests are affected by the decision.
- (3) Any failure to comply with the requirements of subsection (2) in relation to a decision does not affect the validity of the decision.

## 30 Regulations

The Governor-General may make regulations, not inconsistent with this Act:

- (a) prescribing matters required or permitted by this Act to be prescribed; and
  - (b) prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act;
- and, in particular:
- (c) providing for the manner of payment of levy and other moneys payable to the Commonwealth under this Act;
  - (d) requiring growers and processors of leviable cotton, and such other persons as are prescribed, to keep records in respect of leviable cotton;

- (e) requiring growers and processors of leviable cotton, and such other persons as are prescribed, to furnish returns or information for the purposes of this Act; and
- (f) prescribing penalties, not exceeding a fine of \$200, for offences against the regulations.



**Table of Acts**

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**Notes to the *Cotton Research Act 1982***

**Note 1**

Act No. 146, 1982; assented to and commenced on 31 December 1982.  
(*see s. 2*)