

# PRIMARY INDUSTRIES AND ENERGY LEGISLATION AMENDMENT ACT (NO. 1) 1995

## LONG TITLE

An Act to amend various Acts administered by the Department of Primary Industries and Energy, to repeal the Livestock Diseases Act 1978, and for related purposes

## Short title

1. This Act may be cited as the Primary Industries and Energy Legislation Amendment Act (No. 1) 1995. (Minister's second reading speech made in-Senate on 7 December 1994 House of Representatives on 30 March 1995)

## Commencement

2. (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.  
(2) If the commencement of the Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994 (the "Levy Act") is later than the day on which this Act receives the Royal Assent, Part 1 of the Schedule to this Act commences immediately after the commencement of the Levy Act.  
(3) Items 15, 16 and 18 of the Schedule are taken to have commenced on 1 July 1994.  
(4) Part 5 of the Schedule is taken to have commenced on 27 January 1995.

## Amendments

3. The Acts specified in the Schedule are amended in accordance with the applicable items in the Schedule, and the other items in the Schedule have effect according to their terms.

## Repeal of the Livestock Diseases Act 1978

4. The Livestock Diseases Act 1978 is repealed.

## SCHEDULE 1

### CCHEDULE Section 3 PART 1-AGRICULTURAL AND VETERINARY CHEMICAL PRODUCTS (COLLECTION OF LEVY) ACT 1994

1. Subsection 3(1) (definition of "prescribed date for payment"):  
Omit from subparagraph (a)(ii) "1 June", substitute "31 July".
  2. Subsection 3(1) (definition of "registered"):  
Omit the definition, substitute:  
" 'registered', in relation to a jurisdiction, means registered under a registration law of the jurisdiction;  
'registration law', in relation to a jurisdiction, means:  
(a) if there is an Agvet Code of the jurisdiction that is in force-Part 2 of that Code including, to avoid doubt, that Part as it has effect because of the operation of Part 11 of that Code; or

(b) otherwise-a prescribed law of the jurisdiction;  
and also has an extended meaning as mentioned in subsections (2) and (2A);".

3. After subsection 3(2):

Insert:

"(2A) If, at any time or during any period, a permit is in force in respect of a chemical product under a prescribed law referred to in paragraph (b) of the definition of 'registration law' in subsection (1), this Act has effect as if:

(a) the product were registered under that law at that time or during that period; and

(b) a reference to the person who applied for the registration of the product were a reference to the person who applied for the permit.

"(2B) If:

(a) a chemical product was registered at a particular time or during a particular period under a law that is prescribed for the purposes of paragraph (b) of the definition of 'registration law' in subsection (1); and

(b) the product is declared by the regulations to have been, or to be, an excluded chemical product for the purposes of this Act from a time referred to in the regulations that is earlier than that particular time or earlier than the commencement of that particular period;

the product is taken, for the purposes of this Act, not to have been registered under that law at that time or during that period, as the case may be."

4. Section 6:

Omit "The NRA may", substitute "The NRA may do any one or more of the following".

5. Paragraph 6(a):

Omit "or" at the end of the paragraph.

6. Paragraph 6(b):

Omit, substitute:

"(b) by notice published in the Gazette, direct that subparagraph (a)(ii) of the definition of 'prescribed date for payment' in subsection 3(1) is to have effect, in relation to levy payable in a particular calendar year stated in the notice, as if the reference to 31 July were replaced by a reference to another date in that year (whether earlier or later than 31 July in that year) stated in the notice;

(c) by notice published in the Gazette, direct that, for the purposes of this Act, the amount of any levy that, apart from the direction, would be required to be paid by a particular date is taken to have been paid by that date if the levy is paid by instalments worked out in accordance with the notice on such dates as are stated in the notice."

7. Section 6:

Add at the end:

"(2) A determination or direction made or given under subsection (1) has effect according to its terms."

8. Subsection 14(1):

Before "chemical", insert "particular".

9. Paragraphs 14(1)(a) and (b):

Omit, substitute:

"(a) if the amount of the unpaid levy in respect of the product is not more than \$10,000-\$200; or

(b) if the amount of the unpaid levy in respect of the product is more than \$10,000-\$400."

10. Subsection 20(1):

Omit "If it appears to the NRA that levy under section 8 may be payable", substitute "For the purpose of determining whether levy under section 8 is payable".

11. Subsection 20(2):

Omit "If it appears to the NRA that levy under section 9 may be payable", substitute "For the purpose of determining whether levy under section 9 is payable".

## PART 2-AUSTRALIAN HORTICULTURAL CORPORATION ACT 1987

### Division 1-Annual reports of Corporation

12. Paragraph 31(1)(a):

After "applies" insert "for the Chairperson or another member of the Corporation (the 'nominated member')".

13. Paragraphs 31(1)(d) and (e):

Omit "the Chairperson", substitute "the Chairperson or the nominated member, as the case requires,".

14. Application

The amendments made by this Division apply in relation to an annual report of the Corporation relating to the financial year beginning on 1 July 1994 or a later financial year.

#### Division 2-Product Boards

15. Subsection 3(1) (definition of "registered levy payer"):

Omit the definition.

16. Subsection 31(2):

Omit the subsection.

17. After section 115F:

Insert:

Chairperson of Board to report to eligible industry body

"115FA. As soon as practicable after a report of a Board has been given to the Corporation under subsection 115F(1), the Chairperson of the Board must:

(a) provide copies of the report to each of the Board's eligible industry bodies; and

(b) make arrangements with each of the Board's eligible industry bodies to attend the next annual conference of the body, or a meeting of the executive of the body, for the purpose of enabling:

(i) the report to be considered; and

(ii) the Chairperson of the Board to deliver an address about:

(A) the activities of the Board in the period to which the report relates; and

(B) the intended activities of the Board in the financial year following the end of the period; and

(iii) the Chairperson of the Board to be questioned about those activities."

18. Sections 115G to 115P (inclusive):

Repeal the sections.

19. Application

Section 115FA of the Australian Horticultural Corporation Act 1987 as amended by this Act applies to an annual report of a Board given under subsection 115F(1) of that Act after the commencement of this item.

#### PART 3-FARM HOUSEHOLD SUPPORT ACT 1992

20. Subsection 3(1) (definition of "pension age"):

Omit the definition.

21. Subparagraph 7(a)(ii):

Omit "and has not reached the pension age".

22. After section 57:

Insert:

Payments to RAS authorities-reimbursement of costs of issuing drought exceptional circumstances certificates

"57A. (1) This section applies if a RAS authority incurs costs (whether before or after the commencement of this section) in connection with the issue of drought exceptional circumstances certificates.

"(2) The Secretary to the Department of Primary Industries and Energy may authorise payments to the RAS authority by way of reimbursement of those costs.

"(3) A payment under this section is to be made out of money appropriated by the Parliament for the purposes of this section.

"(4) In this section:

'drought exceptional circumstances certificate' has the same meaning as in section 8A."

23. Application

The amendments made by items 20 and 21 apply in determining a person's qualification for farm household support in respect of a period ending after the commencement of this item.

#### PART 4-HORTICULTURAL RESEARCH AND DEVELOPMENT CORPORATION ACT 1987

24. Paragraph 30(a):

After "applies" insert "for the Chairperson or another member of the Corporation (the 'nominated member')".

25. Paragraphs 30(d) and (e):

Omit "the Chairperson", substitute "the Chairperson or the nominated member, as the case requires,".

26. Application

The amendments made by this Part apply in relation to an annual report of the Corporation relating to the financial year beginning on 1 July 1994 or a later financial year.

#### PART 5-NORTHERN PRAWN FISHERY VOLUNTARY ADJUSTMENT SCHEME LOAN GUARANTEE ACT 1985

## 27. Section 3:

Omit all the words after "means the", substitute "Queensland Fisheries Management Authority constituted by the Fisheries Act 1994 of Queensland."

## 28. Transitional-change of entity that is the Authority

## (1) In this item:

"Guarantee Act" means the Northern Prawn Fishery Voluntary Adjustment Scheme Loan Guarantee Act 1985;

"new Authority" means the Queensland Fisheries Management Authority constituted by the Fisheries Act 1994 of Queensland;

"old Authority" means the Queensland Fish Management Authority constituted by the Fishing Industry Organization and Marketing Act 1982 of Queensland.

(2) The Guarantee Act, and any guarantee given under section 5 of the Guarantee Act, have effect after the commencement of this Part as if the new Authority were a continuation of the old Authority.

## PART 6-RURAL ADJUSTMENT ACT 1992

## 29. Subsection 3(1):

After "this Act" insert ", which are to be pursued on both a national basis and a regional basis,".

## 30. Paragraph 3(2)(b):

After "support" insert ", either directly or indirectly,".

## 31. Paragraph 3(2)(c):

Before "to provide" insert "in the case of direct support to farmers -".

## 32. Paragraph 3(2)(d):

After "through" insert ", but not limited to".

## 33. Subsection 3(2):

Add at the end:

"; and (f) to enable grants of money to be made to persons other than farmers for purposes relating to rural adjustment; and

(g) to enable loans of money (whether secured or unsecured) to be made to farmers or other persons for purposes relating to rural adjustment."

## 34. Section 4 (definition of "Rural Adjustment Scheme"):

Omit the definition, substitute:

" 'Rural Adjustment Scheme' means:

(a) the State component of the Rural Adjustment Scheme; and

(b) the scheme embodied in Division 1 of Part 3; and

(c) agreements and memoranda under Division 1 of Part 3;"

## 35. Section 4:

Insert:

" 'person' includes:

(a) an association, authority, body, institution or other organisation, whether incorporated or unincorporated; and

(b) a partnership;

'State component of the Rural Adjustment Scheme' means the schemes of support relating to rural adjustment that are, from time to time, in force under agreements between the Commonwealth and one or more of the States."

## 36. Paragraph 6(3)(d):

After "sustainable agriculture," insert "regional adjustment, regional development,".

## 37. After paragraph 8(b):

Insert:

"(ba) to provide to the Minister regional perspectives on the operations of the Rural Adjustment Scheme; and"

## 38. Paragraph 8(c):

After "States under the" insert "State component of the".

## 39. Paragraph 8(d):

Before "Rural Adjustment Scheme" (wherever occurring) insert "State component of the".

## 40. Part 3 (heading):

Omit the heading, substitute:

"PART 3-FINANCIAL AGREEMENTS RELATING TO RURAL ADJUSTMENT  
 "Division 1-Agreements with persons other than States".

41. Before section 21:

Insert:

Agreements with persons other than States Grants of money

"20A. (1) The Minister may, on behalf of the Commonwealth, enter into a written agreement with a person (other than a State) for the Commonwealth to make one or more grants of money to the person for purposes relating to rural adjustment. A grant is subject to such terms and conditions as are set out in the agreement.

Loans of money

"(2) The Minister may, on behalf of the Commonwealth, enter into a written agreement with a person (other than a State) for the Commonwealth to make one or more loans of money (whether secured or unsecured) to the person for purposes relating to rural adjustment. A loan is subject to such terms and conditions as are set out in the agreement.

Payments to be made out of separate appropriation

"(3) Payments by the Commonwealth under agreements made under this section are to be made out of money appropriated by the Parliament for the purposes of this section.

Performance requirements

"(4) Unless the Minister otherwise determines, an agreement under this section must include provisions relating to the following matters:

- (a) performance requirements;
- (b) outcomes and/or targets;
- (c) performance indicators;
- (d) review and evaluation.

This subsection does not, by implication, limit the generality of subsection (1) or (2).

Compliance with section 20B

"(5) This section has effect subject to section 20B.

Memorandum of understanding about section 20A powers

"20B. (1) The Commonwealth may enter into a memorandum of understanding with a State about the exercise of the powers conferred on the Minister by section 20A.

"(2) The Minister may enter into an agreement under section 20A that relates, in whole or in part, to an activity carried on, or proposed to be carried on, in a particular State only if a memorandum of understanding with that State is in force under subsection (1).

"(3) In exercising a power conferred on the Minister by section 20A, the Minister must comply with the terms of any applicable memorandum of understanding in force under subsection (1).

"(4) A memorandum of understanding under subsection (1) may be set out in the same document as an agreement under section 20E.

Delegation

"20C. The Minister may, by writing, delegate all or any of his or her powers under section 20A to an officer of the Department who holds or performs the duties of a Senior Executive Service office.

Repayment of grants and loans, payment of interest etc.

"20D. An amount payable or repayable by a person to the Commonwealth under an agreement under section 20A is a debt due by the person to the Commonwealth.

"Division 2-State component of the Rural Adjustment Scheme Agreements with States

"20E. The Commonwealth may enter into an agreement with a State relating to rural adjustment."

42. Subsection 21(1):

After "payments" insert "(including advances)".

43. Subsection 21(2):

Omit "subsection (3)", substitute "subsections (3) and (4)".

44. Subsections 21(2) and (3):

Before "Rural Adjustment Scheme" insert "State component of the".

45. Subsection 21(3):

Omit "In a case", substitute "Subject to subsection (4), in a case".

46. Section 21:

Add at the end:

"(4) The Commonwealth and a State may jointly determine that subsection (2) or (3), as the case requires, does not apply in relation to a particular matter arising under an agreement."

47. After section 21:

Insert:

Performance requirements

"21A. (1) Unless the Minister otherwise determines, an agreement under this Division must include provisions relating to the following matters:

- (a) performance requirements;
- (b) outcomes and/or targets;
- (c) performance indicators;
- (d) review and evaluation.

"(2) The Minister may, by writing, delegate all or any of his or her powers under subsection (1) to an officer of the Department who holds or performs the duties of a Senior Executive Service office.

"(3) This section does not, by implication, limit the generality of section 20E or 21.

Repayment of grants etc.

"21B. An amount repayable by a State to the Commonwealth under an agreement under this Division is a debt due by the State to the Commonwealth.

"PART 4-SUPPORT TO BE INALIENABLE".

48. Section 22:

After "Support" insert "provided directly to a farmer".

49. After section 22:

Insert:

"PART 5-OTHER PAYMENT POWERS NOT LIMITED

Other payment powers not limited

"22A. This Act does not, by implication, limit the power of the Commonwealth to make payments otherwise than under this Act.

"PART 6-REGULATIONS".

50. Transitional-Commonwealth/State agreements

- (1) This item applies to an agreement if the agreement:
  - (a) is between the Commonwealth and a State; and
  - (b) relates to rural adjustment; and
  - (c) was in force immediately before the commencement of this item.

(2) The Rural Adjustment Act 1992 (other than section 21A) has effect, after the commencement of this item, as if the agreement had been entered into under section 20E of that Act.

#### NOTE ABOUT SECTION HEADING

1. On the commencement of Part 6 of the Schedule to this Act, the heading to section 21 of the Rural Adjustment Act 1992 is altered by adding at the end "with a State".