

**PRIMARY INDUSTRIES AND ENERGY LEGISLATION AMENDMENT ACT (No. 2) 1996**  
**No. 59, 1996**

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LONG TITLE

An Act to amend the law relating to primary industries and energy, to repeal certain Acts, and for related purposes

1 Short title

This Act may be cited as the Primary Industries and Energy Legislation Amendment Act (No. 2) 1996.

(Minister's second reading speech made in-  
House of Representatives on 27 June 1996  
Senate on 18 September 1996)

2 Commencement

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Schedule 1 commences immediately after the commencement of section 3.

(3) Schedule 3 is taken to have commenced on 15 March 1995.

### 3 Closure of accounts and fund

#### Fishing Industry Act 1956

(1) The Fisheries Development Trust Account established under subsection 4(1) of the Fishing Industry Act 1956 is closed.

#### Fishing Industry Research Act 1969

(2) The Fishing Industry Research Trust Account established under subsection 6(1) of the Fishing Industry Research Act 1969 is closed.

#### Fishing Industry Research and Development Act 1987

(3) The Fishing Industry Research and Development Trust Fund established under subsection 30(1) of the Fishing Industry Research and Development Act 1987 is closed.

### 4 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## SCHEDULE 1

### Schedule 1-Repeal of Acts

#### 1 Repeal of Acts

The Acts specified in this Schedule are repealed.

Apple and Pear Export Underwriting Act 1981

Beef Industry (Incentive Payments) Act 1977

Coal Production (War-time) Act Repeal Act 1948

Dairy Industry Stabilization Act 1977

Dairy Industry Stabilization Levy Act 1977

Drought Assistance (Primary Producers) Act 1982

Fishing Industry Act 1956

Fishing Industry Research Act 1969

Fishing Industry Research and Development Act 1987

International Sugar Agreement Act 1978

Rural Industries Research Act 1985

Wheat Tax Act 1957

Wheat Tax Act 1979

Wheat Tax (Permit) Act 1984

## Wheat Tax (Permit) Collection Act 1984

## SCHEDULE 2

## Schedule 2-Amendment of the Agricultural and Veterinary Chemicals (Administration) Act 1992

## 1 Section 9A

Repeal the section, substitute:

9A NRA to comply with policies of Governments of Commonwealth, States and participating Territories

If there is an agreement in force between the Government of the Commonwealth and the Governments of all or any of the States and participating Territories for the purposes of this Act and the Agvet Codes, the NRA must, in the performance of its functions and the exercise of its powers, comply with any policies of those Governments determined under the agreement.

## 2 Paragraph 10(2)(a)

Omit "of the Governments of the Commonwealth, the States and the participating Territories that are determined under an agreement".

## 3 Paragraph 58(2)(a)

After "Commonwealth", insert "under this Act,".

## 4 Subsection 69C(1)

After "agreement", insert "or arrangement".

## 5 Paragraph 69C(2)(a)

Omit "the NRA" (first occurring), substitute "a relevant agency".

## 6 Subparagraph 69C(2)(a)(i)

After "agreement", insert "or arrangement".

## 7 Subparagraph 69C(2)(a)(iii)

Omit "NRA", substitute "agency".

## 8 Subsection 69C(3)

Omit "The NRA", substitute "A relevant agency".

## 9 Subsection 69C(4)

Omit "The NRA may", substitute "A relevant agency may".

## 10 Subsection 69C(4)

Omit "NRA" (second occurring), substitute "agency".

## 11 Paragraph 69C(4)(a)

Repeal the paragraph, substitute:

(a) the terms of the relevant international agreement or arrangement; and

## 12 Subsection 69C(5)

Omit "for a contravention of this subsection".

## 13 At the end of section 69C Add:

(6) In this section:

relevant agency means the Department or NRA.

Note: The heading to section 69C is altered by omitting "International obligations" and substituting "Reporting".

## 14 Subsection 69D(1)

After "foreign country", insert "and upon payment of the prescribed fee (if any)".

## 15 After subsection 69D(1)

Insert:

(1A) If the NRA refuses to give a certificate under subsection (1), it must:

- (a) give written notice of its refusal to the person who applied for the certificate; and
- (b) include in the notice brief particulars of the reasons for the refusal.

(1B) Application may be made to the Administrative Appeals Tribunal for review of a decision of the NRA refusing to give a certificate under subsection (1).

(1C) A notice given under subsection (1A) must include a statement to the effect that:

(a) subject to the Administrative Appeals Tribunal Act 1975, application may be made by or on behalf of a person whose interests are affected by the decision to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and

(b) unless subsection 28(4) of that Act applies, application may be made in accordance with section 28 of that Act by or on behalf of a person whose interests are affected by the decision for a statement in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.

(1D) A failure to comply with subsection (1C) in relation to a decision does not affect the validity of the decision.

16 At the end of section 69E Add:

(3) From the returns given to the NRA in relation to a year ending on 30 June, the NRA must prepare a statement or statements setting out the total quantities of each active constituent that were imported into, manufactured in, or exported from, Australia by all persons during the year and give the statement or statements to the Department.

### SCHEDULE 3

#### Schedule 3-Amendment of the Agricultural and Veterinary Chemicals Code Act 1994

1 Paragraph 32(2)(b)

Repeal the paragraph, substitute:

(b) requiring the person, within a period stated in the notice that ends not earlier than 28 days after the day on which the notice is given, to give to the NRA:

(i) any information of a kind stated in the notice of which the person is aware and which is relevant to the reconsideration; or

(ii) any information of which the person is aware that is relevant to the reconsideration; and

2 Subsection 59(1)

Omit "under section 33 or", substitute "under paragraph 32(2)(b) or section 33 or made under section 159".

3 Subsection 103(1)

After "that batch", insert "in this jurisdiction".

4 Section 156

Repeal the section, substitute:

156 The making of single applications or the giving of single notices under the Agvet Codes of all jurisdictions

(1) This section facilitates the administration, on a national basis, of the Agvet Codes of all jurisdictions by permitting the making of a single application, or the giving or publication of a single notice, under the Agvet Codes of all jurisdictions.

(2) If an application is expressed to be made under the Agvet Codes (rather than under the Agvet Code of a particular jurisdiction), it has effect as an application under the relevant provision of the Agvet Code of this jurisdiction in addition to any effect that it may have under the Agvet Code of any other jurisdiction.

(3) If a notice is expressed to be given or published by the NRA under the Agvet Codes (rather than under the Agvet Code of a particular jurisdiction), it has effect as a notice given or published under the relevant provision of the Agvet Code of this jurisdiction in addition to any effect that it may have under the Agvet Code of any other jurisdiction.

5 After paragraph 180(c) Insert:

(ca) any information (other than particulars of trials or laboratory experiments) given to the NRA by the person to whom the notice was given is taken to have been given by the person to the NRA under subsection 32(2) of that Code;

6 Paragraph 180(d)  
Omit "or other information".

#### SCHEDULE 4

##### Schedule 4-Amendment of the Fisheries Management Act 1991

1 After section 167 Insert:

167A Compensation for acquisition of property

(1) If, apart from this section, the operation of this Act would result in the acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay reasonable compensation to the person.

(2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may apply to the Federal Court to determine a reasonable amount of compensation.

(3) The jurisdiction of the Federal Court is exclusive of the jurisdiction of all other courts except that of the High Court.

(4) Any damages or compensation recovered, or other remedy given, in a proceeding begun otherwise than under this section must be taken into account in assessing compensation payable in a proceeding begun under this section and arising out of the same event or transaction.

(5) In this section:  
acquisition of property and just terms have the same meaning as in paragraph 51(xxxi) of the Constitution.

#### SCHEDULE 5

##### Schedule 5-Amendment of the Farm Household Support Act 1992

1 Subsection 3(2) Insert:

exempt livestock proceeds means proceeds of a forced disposal of farm livestock by a person at a time when a drought exceptional circumstances certificate referred to in section 8A applied to the person, to the extent to which the proceeds are invested in:

(a) a deposit under the Loan (Income Equalization Deposits) Act 1976; or

(b) a deposit with a term of at least 3 months with a bank, building society, credit union or other institution that receives money on deposit.

2 Paragraph 8A(2)(b)

After "issued", insert ", for a specified period,".

3 At the end of section 8A

Add:

Period of effect of certificate

(3) A certificate only has effect for the period specified in it.

4 At the end of section 24A

Add:

(3) In calculating a rate referred to in subsection (1), exempt livestock proceeds are to be disregarded.

5 Application

The amendment made by item 4 applies to the proceeds of disposals that occur after the commencement of this Schedule.

6 Subsection 43(1)

After "farm household support" (first occurring), insert "or drought relief payment".

7 Subsection 43(1)

After "farm household support" (second occurring), insert "or drought relief payment (as the case requires)".

## SCHEDULE 6

### Schedule 6-Amendment of the Imported Food Control Act 1992

1 Subsection 3(1) (definition of authorised officer)

Repeal the definition, substitute:

authorised officer means:

(a) the Secretary; or

(b) an officer of AQIS appointed by the Secretary under subsection 40(1); or

(c) when used in a provision of this Act other than section 24, 25, 26, 27, 28, 29, 30 or 32-a person appointed by the Secretary under subsection 40(2).

2 Section 40

Repeal the section, substitute:

40 Authorised officers

(1) The Secretary may, by signed instrument, appoint an officer of AQIS to be an authorised officer for the purposes of this Act.

(2) The Secretary may, by signed instrument, appoint a person to be an authorised officer for the purposes of all the provisions of this Act other than sections 24, 25, 26, 27, 28, 29, 30 and 32.

## SCHEDULE 7

### Schedule 7-Amendment of the Quarantine Act 1908

1 After paragraph 87(1)(s)  
Insert:

(sa) enabling a person who is alleged to have contravened a provision of this Act or of the regulations to pay to the Commonwealth, as an alternative to prosecution, a penalty of not more than 10 penalty units;