Dairy Produce Act 1986

No. 54, 1986 as amended

Compilation start date: 1 July 2014

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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Dairy Produce Act 1986* as in force on 1 July 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 16 July 2014.

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions and amendments

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

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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An Act relating to the marketing and export of dairy produce and the collection of certain levies imposed in connection with the dairy industry, and for other purposes

Part I—Preliminary

1 Short title

This Act may be cited as the *Dairy Produce Act 1986*.

2 Commencement

(1) Except as provided by subsections (2) and (3), this Act shall come into operation on 1 July 1986.

(2) Sections 1 to 4 (inclusive), 28 to 32 (inclusive), 41 to 46 (inclusive) and 92 to 108, inclusive, shall come into operation on the day on which this Act receives the Royal Assent.

(3) Subsections 10(3) to (8), inclusive, and 53(3) shall come into operation on 1 October 1986.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

authorised person (except in Schedule 2) means a person appointed as an authorised person under section 120.

conversion time means the time when Schedule 1 to the *Dairy Industry Service Reform Act 2003* commences.

Corporation levy means Corporation levy imposed by Schedule 6 to the *Primary Industries (Excise) Levies Act 1999* (as in force before the conversion time), and includes amounts of penalty (if any) payable under the Levies and Charges Collection Act in relation to that levy.

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Council means the association by the name of the Australian Dairy Industry Council Inc. that is incorporated under the *Associations Incorporation Act 1981* of the State of Victoria.

dairy industry means industry in Australia that is concerned with the production, processing, manufacture, distribution and sale (whether for export or otherwise) of dairy produce.

dairy produce means:

(a) milk;

(b) cream; and

(c) such other products made from or containing milk or a constituent part of milk as are declared by the Minister by notice published in the *Gazette* to be dairy produce for the purposes of this Act.

dairy service levy means dairy service levy imposed by Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*.

dairy service payments means payments referred to in paragraph 5(1)(a).

Dairy Structural Adjustment Fund means the Dairy Structural Adjustment Fund established by clause 77 of Schedule 2.

eligible body means a body that is registered under the *Corporations Act 2001* as a company limited by guarantee.

funding contract means a contract under section 5.

industry services body means the body declared as the industry services body under section 7.

Levies and Charges Collection Act means the *Primary Industries Levies and Charges Collection Act 1991*.

matching payments means payments referred to in paragraph 5(1)(b).

milk means the lacteal fluid product of the dairy cow.

new dairy levy amounts means:

(a) amounts of dairy service levy received by the Commonwealth after the conversion time; and

(b) amounts received by the Commonwealth after the conversion time under section 7 of the Levies and Charges Collection Act in relation to dairy service levy; and

(c) amounts payable by way of penalty under section 15 of the Levies and Charges Collection Act in relation to dairy service levy that are received by the Commonwealth after the conversion time.

old dairy levy amounts means:

(a) amounts of Corporation levy, promotion levy or research levy received by the Commonwealth after the conversion time; and

(b) amounts received by the Commonwealth after the conversion time under section 7 of the Levies and Charges Collection Act in relation to Corporation levy, promotion levy or research levy; and

(c) amounts of Corporation levy received by the Commonwealth before the conversion time, but in respect of which a corresponding payment had not been made out of the Consolidated Revenue Fund under section 71 of this Act before the conversion time; and

(d) amounts received by the Commonwealth before the conversion time under section 7 of the Levies and Charges Collection Act in relation to Corporation levy, but in respect of which a corresponding payment had not been made out of the Consolidated Revenue Fund under section 71 of this Act before the conversion time; and

(e) amounts of promotion levy received by the Commonwealth before the conversion time, but in respect of which a corresponding payment had not been made out of the Consolidated Revenue Fund under section 90 of this Act before the conversion time; and

(f) amounts received by the Commonwealth before the conversion time under section 7 of the Levies and Charges Collection Act in relation to promotion levy, but in respect of which a corresponding payment had not been made out of the

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Consolidated Revenue Fund under section 90 of this Act before the conversion time; and

(g) amounts of research levy received by the Commonwealth before the conversion time, but in respect of which a corresponding payment had not been made out of the Consolidated Revenue Fund under section 30 of the *Primary Industries Research and Development Act 1989* before the conversion time; and

(h) amounts received by the Commonwealth before the conversion time under section 7 of the Levies and Charges Collection Act in relation to research levy, but in respect of which a corresponding payment had not been made out of the Consolidated Revenue Fund under section 30 of the *Primary Industries Research and Development Act 1989* before the conversion time; and

(i) amounts payable to the Dairy Research and Development Corporation under paragraph 30(1)(b) of the *Primary Industries Research and Development Act 1989* before the conversion time, but not paid out of the Consolidated Revenue Fund under that Act before the conversion time.

old first Levy Act means the repealed *Dairy Produce Levy (No. 1) Act 1986*.

old second Levy Act means the repealed *Dairy Produce Levy (No. 2) Act 1986*.

promotion levy means promotion levy imposed by Schedule 6 to the *Primary Industries (Excise) Levies Act 1999* (as in force before the conversion time), and includes amounts of penalty (if any) payable under the Levies and Charges Collection Act in relation to that levy.

relevant dairy produce has the same meaning as in Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*.

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research levy means research levy imposed by Schedule 6 to the *Primary Industries (Excise) Levies Act 1999* (as in force before the conversion time), and includes amounts of penalty (if any) payable under the Levies and Charges Collection Act in relation to that levy.

(3) Subject to this Act, words and expressions used in this Act have the same meaning as they have for the purposes of Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*.

4 Act to bind Crown

(1) This Act binds the Crown in right of the Commonwealth and of each of the States and Territories.

(2) Nothing in this Act renders the Crown in right of the Commonwealth or of a State or Territory liable to be prosecuted for an offence against, or arising under, this Act.

4A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Part II—Provision of services to the dairy industry

Division 1—Funding contract

5 Funding contract

(1) The Minister may, on behalf of the Commonwealth, enter into a contract with an eligible body that provides for the Commonwealth to make payments of the following kinds to the body:

(a) payments referred to as ***dairy service payments***;

(b) payments made in respect of particular financial years, referred to as ***matching payments***.

Note: After a contract has been entered into, the eligible body can be declared as the industry services body under section 7.

(2) Before entering into the contract, the Minister must be satisfied that the terms of the contract make adequate provision to ensure that:

(a) dairy service payments are spent by the body on marketing, promotion, strategic policy development, research and development activities or other activities, for the benefit of the Australian dairy industry; and

(b) matching payments are spent by the body on:

(i) research and development activities for the benefit of the Australian dairy industry and the Australian community generally; and

(ii) making payments to the Commonwealth under subsection 6(4).

(3) The contract does not have to oblige the Commonwealth to pay the full amounts that could be paid out of the money appropriated under section 6.

Note: For example, the contract may provide for payments less than the limits specified in section 6 to take account of the costs of collecting new dairy levy amounts or old dairy levy amounts and to take account of refunds and payments made in error.

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(4) The contract may include provisions relating to assets and liabilities that are transferred to the body under the *Dairy Industry Service Reform Act 2003*. This subsection does not impliedly limit the matters that may be included in the contract.

(5) This section does not impliedly limit the executive power of the Commonwealth to enter into agreements.

(6) The Minister must cause a copy of the contract to be tabled in each House of the Parliament within 14 sitting days of that House after the day on which the contract was entered into.

(7) If the contract is varied, the Minister must cause a copy of the contract as varied to be tabled in each House of the Parliament within 14 sitting days of that House after the variation occurred.

6 Appropriation for payments under funding contract etc.

(1) The Consolidated Revenue Fund is appropriated for the purposes of payments by the Commonwealth under section 5.

Overall limit for dairy service payments

(2) For dairy service payments, the total limit on the appropriation is the sum of:
  (a) the total amount of new dairy levy amounts; and
  (b) the total amount of old dairy levy amounts.

Overall limit for matching payments

(3) For matching payments, the total limit on the appropriation is the sum of:
  (a) the total amount of new dairy levy amounts; and
  (b) the total amount of old dairy levy amounts; and
  (c) amounts prescribed by the regulations.

(3A) Subsection (3) does not apply if the eligible body is prescribed by the regulations as a body to which the subsection does not apply.

Matching payments—retention limit

(4) The matching payments made to the eligible body during a particular financial year are subject to the condition that, if:

(a) before the end of 31 October next following the financial year, the Minister determines the amount of the gross value of whole milk produced in Australia in the financial year; and

(b) as at the end of 31 October next following the financial year, the sum of the matching payments that were paid to the eligible body during the financial year exceeds the lesser of:

(i) 0.5% of the amount of the gross value of whole milk produced in Australia in the financial year as determined by the Minister; and

(ii) 50% of the amount spent by the eligible body in the financial year on activities that qualify, under the funding contract, as research and development activities;

the eligible body will pay to the Commonwealth an amount equal to the excess.

Note: This ensures that the sum of the matching payments that are retained by the eligible body in relation to the financial year does not exceed the lesser of the amounts calculated under subparagraphs (b)(i) and (b)(ii).

(4A) If:

(a) before the end of 31 October next following a financial year, the Minister has not determined under subsection (4) the amount of the gross value of whole milk produced in Australia in the financial year; and

(b) the Minister has determined under subsection (4) the amount of the gross value of whole milk produced in Australia in the previous financial year;

the Minister is taken to have made, immediately before the end of that 31 October, a determination under subsection (4) that the amount of the gross value of whole milk produced in Australia in the financial year is equal to the amount of the gross value of whole milk produced in Australia determined under subsection (4) for the previous financial year.

(4B) An amount payable under subsection (4) by the eligible body:

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(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.

(4C) A determination made under subsection (4) is not a legislative instrument.

(5) For the purposes of subsection (4), the regulations may prescribe the manner in which the Minister is to determine the gross value of whole milk produced in Australia in a financial year.

Matching payments—unmatched R&D excess

(6) If there is an unmatched R&D excess for a financial year, the amount spent by the eligible body in the following financial year on activities that qualify, under the funding contract, as research and development activities is taken, for the purposes of this section (including for the purposes of this subsection and subsection (7)), to be increased by the amount of the unmatched R&D excess.

Note: This means that research and development expenditure that is not "50% matched" in one financial year because of the condition in subparagraph (4)(b)(i) can be carried forward into later years.

(7) For the purposes of subsection (6), there is an ***unmatched R&D excess*** for a financial year if:

(a) the eligible body spends a particular amount (the ***R&D spend amount***) in the financial year on activities that qualify, under the funding contract, as research and development activities; and

(b) because of the operation of subparagraph (4)(b)(i), the net matching payments for the financial year are less than 50% of the R&D spend amount;

and the amount of the unmatched R&D excess is:

$$\text{R\&D spend amount in the financial year} - \left(2 \times \text{The amount of the net matching payments for the financial year} \right)$$

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Set off

(8) If:

(a) an amount (the ***first amount***) is payable by the eligible body under subsection (4); and

(b) another amount (the ***second amount***) is payable by the Commonwealth to the eligible body under the funding contract;

the Minister may, on behalf of the Commonwealth, set off the whole or a part of the first amount against the whole or a part of the second amount.

Net matching payments

(9) For the purposes of this section, ***net matching payments*** for a financial year means the total of the matching payments made to the eligible body during the financial year, less the amount payable by the eligible body under subsection (4) as a condition of those matching payments.

Division 2—Industry services body

7 Declaration of industry services body

(1) The Minister may, in writing, declare an eligible body to be the industry services body if:

(a) the Commonwealth and the eligible body have entered into a funding contract; and

(b) the Minister is satisfied that, if the body is so declared, it will comply with its obligations under the funding contract and this Act.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* provides for the repeal, variation etc. of instruments.

Declaration takes effect immediately

(2) A declaration under this section takes effect immediately after it is made.

Tabling in Parliament

(3) The Minister must cause a copy of a declaration under this section to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which the declaration is made.

8 Use of levy information provided to the industry services body

The industry services body may use information provided to it under subsection 27(3A) of the Levies and Charges Collection Act for any of the following purposes:

(a) to determine whether a person is or remains eligible to be a member of the industry services body;

(b) to maintain a register of members of the industry services body;

(c) to maintain a register of those persons eligible to vote in a poll mentioned in section 9;

(d) to make public any information of a statistical nature;

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(e) in performing any of its functions under this Act or the funding contract.

Note: Subsection 27(3A) of the Levies and Charges Collection Act allows an authorised person under that Act to provide certain levy information to the industry services body.

Division 3—Recommendations about amount of dairy service levy

9 Recommendations about amount of dairy service levy

Recommendations

(1) The industry services body must make recommendations to the Minister in relation to the amount of the dairy service levy. The recommendations must be made by the times prescribed by the regulations.

Poll

(2) Before making each recommendation, the industry services body must conduct a poll in accordance with the regulations. The recommendation must be in accordance with the results of the poll.

Method of conducting poll

(3) Regulations for the conduct of a poll must include provisions allocating votes to each dairy service levy payer.

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Division 4—Other provisions

10 Delegation

(1) The Minister may, by writing, delegate all or any of his or her powers and functions under this Part to:
  (a) the Secretary of the Department; or
  (b) an SES employee, or acting SES employee, in the Department.

(2) In exercising powers or functions under a delegation, the delegate must comply with any directions of the Minister.

11 Declarations etc. taken to be authentic etc.

A document that appears to be a declaration or other document made or issued under this Part:
  (a) is taken to be such a declaration or other document; and
  (b) is taken to have been properly given;
unless the contrary is established.

12 Publication of declarations

(1) A copy of each declaration made by the Minister under this Part must be published in the *Gazette* not later than the 14th day after the day on which the declaration is made.

(2) Failure to comply with this section does not affect the validity of a declaration.

13 Tabling of financial reports

(1) The industry services body must, within 14 days of lodging a financial report (the ***annual report***) mentioned in section 292 of the *Corporations Act 2001*, give the Minister a copy of the report.

(2) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 14 sitting days of that House after the day on which the copy of the report was given to the Minister.

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(3) In addition to the matters mentioned in section 295 of the *Corporations Act 2001*, the annual report must include details of the following in relation to the financial year to which the report relates:

(a) the amount of dairy service payments and matching payments made to the industry services body;

(b) the amount of those payments that were spent;

(c) outcomes as measured against objectives that apply in relation to the industry services body.

14 Other reports

(1) The Minister must, as soon as practicable after the holding of each annual general meeting of the industry services body, cause to be tabled in each House of the Parliament a report in relation to the year ending on 30 June before the holding of that meeting.

(2) The report must include the following in relation to that year:

(a) a statement as to the amount of dairy service levy received by the Commonwealth;

(b) a statement as to whether the Minister is satisfied, on the basis of information provided by the industry services body, that the spending of dairy service payments and matching payments complies with the funding contract;

(c) if the Minister is not so satisfied—details of why the Minister is satisfied that the spending does not so comply.

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Part V—Export control

51 Definitions

In this Part:

export means export from Australia.

market means a place.

regulated dairy market, in relation to regulated dairy produce, means a market that is declared to be a regulated dairy market in relation to the produce under section 52.

regulated dairy produce means dairy produce that is declared to be regulated dairy produce under section 52.

52 Regulated dairy produce and regulated dairy markets

The regulations may declare that, on and after a specified day:

(a) specified dairy produce is regulated dairy produce; and

(b) a specified market is a regulated dairy market in respect of that produce.

53 Prohibitions on certain exports of regulated dairy produce to regulated dairy markets

Export where no approval to do so

(1) A person is guilty of an offence if:

(a) the person exports regulated dairy produce to a regulated dairy market in respect of that produce; and

(b) the person does not hold an approval issued in accordance with section 54 in relation to that export.

Penalty: 180 penalty units.

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Export in contravention of conditions of approval

(2) A person is guilty of an offence if:

(a) the person exports regulated dairy produce to a regulated dairy market in respect of that produce; and

(b) the person holds an approval issued in accordance with section 54 in relation to that export but the export is not in accordance with the conditions of that approval.

Penalty: 60 penalty units.

54 Approvals to export regulated dairy produce to regulated dairy markets

(1) The regulations may make provision for and in relation to the granting of approvals to persons to export regulated dairy produce to regulated dairy markets.

(2) Regulations made for the purposes of subsection (1) may make provision for and in relation to any one or more of the following:

(a) the making of an application for an approval;

(b) the payment of fees to the Commonwealth in respect of such an application;

(c) the waiver or remission of such fees;

(d) the grant of an approval;

(e) the grant of an approval subject to compliance with conditions by the holder of the approval (which may include, but are not limited to, conditions relating to matters occurring either before or after the export of the dairy produce);

(f) whether an approval is in force in relation to exports during a specified period or is in force in relation to a particular export only;

(g) the variation of an approval or of a condition of an approval;

(h) the revocation or suspension of an approval;

(i) the review of decisions made under the regulations.

(3) Regulations made for the purposes of subsection (1) may make different provision in respect of matters arising in relation to

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different regulated dairy produce and different regulated dairy markets.

(4) Subsection (3) does not, by implication, limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

60 Operation of other laws

This Part does not affect the operation of the *Customs Act 1901*, the *Commerce (Trade Descriptions) Act 1905* or the *Export Control Act 1982*, or of regulations made under any of those Acts.

Part VIII—Miscellaneous

109 Liability of industry services body for the subsidiary company

(1) For the purposes of this section, for so long as the industry services body is in a position to control the operations of Asia Dairy Industries (H.K.) Limited, a company incorporated in Hong Kong, that company is taken to be the subsidiary company.

(2) If:

(a) the subsidiary company is wound-up; and

(b) the liabilities of the subsidiary company payable on the winding-up are not able to be met in full from the assets of the subsidiary company;

the industry services body is liable to meet those liabilities, to the extent that they are not able to be met out of the assets of the subsidiary company, as if the liabilities had been incurred by the industry services body.

(3) Jurisdiction is conferred on the Federal Court and, subject to the Constitution, on the Supreme Courts of the Territories, and the Supreme Courts of the States are invested with federal jurisdiction, in respect of proceedings arising under subsection (2).

(4) The jurisdiction with which a court of a State is invested by subsection (3) is invested within the limits of the jurisdiction of that court, not being limits as to locality.

111 Power to call for returns

(1) An authorised person may, by notice in writing, require a person to furnish to that authorised person, within the time 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.

(2) In this section:

this Act does not include Schedule 2.

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111A Determination of milk fat or protein content of dairy produce

(1) If:

(a) it is necessary to determine the milk fat content of dairy produce for the purposes of a provision of:

(i) this Act; or

(ii) Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*; or

(iii) Schedule 4 to the *Primary Industries (Customs) Charges Act 1999*; or

(iv) the old first Levy Act; or

(v) the old second Levy Act; and

(b) it is not practicable to determine the milk fat content of the dairy produce;

the dairy produce is to be taken to have the prescribed milk fat content for dairy produce of that kind.

(2) If:

(a) it is necessary to determine the protein content of dairy produce for the purposes of a provision of:

(i) this Act; or

(ii) Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*; or

(iii) Schedule 4 to the *Primary Industries (Customs) Charges Act 1999*; or

(iv) the old first Levy Act; or

(v) the old second Levy Act; and

(b) it is not practicable to determine the protein content of the dairy produce;

the dairy produce is to be taken to have the prescribed protein content for dairy produce of that kind.

(3) The prescribed milk fat content for dairy produce of a particular kind is:

(a) the milk fat content prescribed in relation to that kind of dairy produce; or

(b) the milk fat content prescribed in relation to a class of dairy produce that includes the particular kind.

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(4) The prescribed protein content for dairy produce of a particular kind is:

(a) the protein content prescribed in relation to that kind of dairy produce; or

(b) the protein content prescribed in relation to a class of dairy produce that includes the particular kind.

113 Offences in relation to returns etc.

(1A) This section does not apply to:

(a) Schedule 2; or

(b) regulations made for the purposes of Schedule 2.

(1) A person shall not refuse or fail to submit a return or provide information that is required by or under this Act or the regulations to be submitted or provided.

(1B) Subsection (1) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (1B). See subsection 13.3(3) of the *Criminal Code*.

(2) A person is not excused from submitting a return or providing information that the person is required by or under this Act or the regulations to submit or provide on the ground that the return or information might tend to incriminate the person, but any return or information so submitted or provided is not admissible in evidence against the person in:

(a) criminal proceedings other than proceedings for an offence against subsection (1) or (3).

(3) A person shall not intentionally present a document, make a statement or submit a return, knowing that it is false or misleading in a material particular, to a person performing duties in relation to this Act.

Penalty:

(a) in the case of a natural person—$2,000 or imprisonment for 12 months, or both; or

(b) in the case of a body corporate—$10,000.

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116 Access to premises

(1) An authorised person may, with the consent of the occupier of any premises, enter the premises for the purpose of performing the functions of an authorised person under this section.

(2) Where an authorised person has reason to believe that:

(a) premises are premises in which dairy produce is produced or stored; or

(b) there are on those premises any examinable documents;

the authorised person may make application to a Justice of the Peace for a warrant authorising the authorised person to enter the premises for the purpose of performing the functions of an authorised person under this section.

(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 in which dairy produce is produced or stored; 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 (other than Schedule 2);

the Justice of the Peace may issue a warrant authorising the authorised person, with such assistance as the authorised person thinks necessary, to enter the premises, during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of performing the functions of an authorised person under this section.

(4) A warrant under subsection (3) shall specify a day after which the warrant ceases to have effect.

(5) Where an authorised person has entered any premises pursuant to subsection (1) or pursuant to a warrant issued under subsection (3), the authorised person may perform the functions of an authorised person under this section.

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(6) The functions of an authorised person under this section are:

(a) to search for, examine and take stock of any dairy produce; and

(b) to search for, inspect, take extracts from and make copies of any examinable documents.

(7) In this section, ***examinable documents*** means:

(a) any books, documents or papers relating to financial dealings between a manufacturer of dairy produce and persons who supply to the manufacturer the milk, cream or other substances from which that dairy produce is produced;

(b) any books, documents or papers relating to the financial dealings between a manufacturer of dairy produce and the exporter or exporters of that dairy produce; or

(c) any books, documents or papers relating to the production, storage, sale, purchase, import or export of dairy produce.

119 Secrecy

(1) This section applies to every person who is or has been an officer or an employee of the industry services body.

(2) Subject to this section, a person to whom this section applies shall not, either directly or indirectly:

(a) make a record of, or divulge or communicate to any person, any information concerning the affairs of a person acquired by that first-mentioned person by reason of that first-mentioned person's office or employment with the industry services body and acquired under or for the purposes of this Act; or

(b) produce to any person:

(i) an application or other document given to the Australian Dairy Corporation by a manufacturer of dairy produce for the purpose of obtaining a market support payment under this Act as in force before the conversion time; or

(ii) an application or other document given to that Corporation by a person for the purposes of section 99 of this Act as in force before the conversion time; or

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(iii) a return furnished to that Corporation by an exporter of dairy produce pursuant to section 110 of this Act as in force before the conversion time.

Penalty: $2,000 or imprisonment for 12 months, or both.

(2A) Paragraph (2)(a) does not apply to protected information within the meaning of clause 43 of Schedule 2.

(2B) Subsection (2) does not apply to the recording or disclosure of information, or the production of a document, for a purpose in connection with the administration of:

(a) the DSAP scheme (within the meaning of Schedule 2); or

(aa) the SDA scheme (within the meaning of Schedule 2); or

(b) Schedule 2.

(3) Subsection (2) does not apply to the disclosure of information, or the production of a document, to the Minister, or to the Secretary to the Department or an officer of the Department designated by the Secretary.

(4) Subsection (2) does not prevent the industry services body from making public at any time any information of a statistical nature.

(4A) Subsection (2) does not apply to conduct engaged in for the purposes of this Act or as otherwise required by law.

Note: The defendant bears an evidential burden in relation to the matters in subsections (2A), (2B), (3), (4) and (4A). See subsection 13.3(3) of the *Criminal Code*.

(5) A person to whom information is communicated under subsection (3) and an employee or other person under the control of that first-mentioned person are, in respect of that information, entitled to rights and privileges, and subject to obligations and liabilities, under subsection (2) as if they were persons referred to in subsection (1).

(6) An offence against subsection (2) is punishable on summary conviction.

(7) In this section, ***produce*** includes permit access to.

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120 Appointment of authorised persons

(1) The Minister may, by writing signed by the Minister, appoint a person, or a person included in a class of persons, to be an authorised person for the purposes of this Act or of a specified provision of this Act.

(2) In this section:

this Act does not include Schedule 2.

125A Dairy industry adjustment program

Schedule 2 has effect.

126 Regulations

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

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular:

(f) requiring producers, manufacturers or purchasers of dairy produce to keep records relating to the production of dairy produce by them and to the storage, sale, purchase, import or export of such dairy produce; and

(g) requiring exporters of dairy produce to keep records relating to the export of dairy produce by them from Australia and to the storage, sale, production, import or export of such dairy produce.

126A Ministerial directions

(1) The Minister may give a written direction to the industry services body if:

(a) the Minister:

(i) is satisfied that the direction is in Australia's national interest because of exceptional and urgent circumstances; and

(ii) is satisfied that the direction would not require the body to incur expenses greater than amounts paid to the body under this Act; and

(iii) has given the body's directors an adequate opportunity, in accordance with any arrangements set out in the body's funding contract, to discuss with the Minister the need for the proposed direction and the impact of compliance with subsection (3) on the body's commercial activities; and

(b) the direction is made for a purpose that is within the Commonwealth's legislative power.

(2) If the body is given a direction under subsection (1), it must comply with it.

(3) Subject to subsection (4), if the Minister gives a direction to the body under subsection (1):

(a) the Minister must cause a copy of the direction:

(i) to be published in the *Gazette* as soon as practicable after giving the direction; and

(ii) to be tabled in each House of the Parliament within 5 sitting days of that House after giving the direction; and

(b) the annual reports of the body applicable to periods in which the direction has effect must include:

(i) particulars of the direction; and

(ii) an assessment of the impact that the direction has had on the operations of the body during the period.

(4) Subsection (3) does not apply in relation to a particular direction if:

(a) the Minister, on the recommendation of the industry services body, determines, in writing, that compliance with the subsection would, or would be likely to, prejudice the commercial activities of the body; or

(b) the Minister determines, in writing, that compliance with the subsection would be contrary to the public interest.

(5) The Minister is not to be taken to be a director of the industry services body for the purposes of the *Corporations Act 2001*

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merely because of the power conferred on the Minister by this section.

(6) The Commonwealth is not to be taken to be in a position to exercise control over the industry services body merely because of the power conferred on the Minister by this section.

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Schedule 2—Dairy Industry Adjustment Program

Note: See section 125A.

Part 1—Introduction

1 Simplified outline

The following is a simplified outline of this Schedule:

- This Schedule provides a framework for the implementation of the Dairy Industry Adjustment Program.
- The main object of the Dairy Industry Adjustment Program is to help the dairy industry or dairy communities adjust to deregulation by providing for 4 types of grants, as follows:
    - (a) DSAP payments (made under this Schedule);
    - (b) SDA payments (made under this Schedule);
    - (d) payments under the Dairy Regional Assistance Programme (see clause 86).
- Generally, DSAP payments are calculated by reference to 1998-1999 milk deliveries at a rate of 46.23 cents per litre for market milk and a national average rate of 8.96 cents per litre for manufacturing milk.
- There are 3 types of SDA payment rights: basic market milk payment rights, additional market milk payment rights and discretionary payment rights.
- The Dairy Adjustment Authority will administer DSAP and SDA payment rights.

- The Dairy Industry Adjustment Program will be funded by a dairy adjustment levy on milk products.
- The levy will be paid into a Dairy Structural Adjustment Fund, and DSAP payments, SDA payments and payments under the Dairy Regional Assistance Programme will be paid out of that Fund.

2 Definitions

In this Schedule, unless the contrary intention appears:

annual means per financial year.

business day means a day that is not a Saturday, a Sunday, or a public holiday in the Australian Capital Territory.

claim means a claim for a payment right.

DAA means the Dairy Adjustment Authority established by this Schedule.

DAA Chair means the Chair of the DAA.

Note: Section 18B of the *Acts Interpretation Act 1901* deals with how chairs may be referred to.

DAA member means a member of the DAA.

dairy cattle means cattle held for use for the production of milk, or for purposes incidental to the production of milk, and includes:

(a) dairy cows; and
(b) dairy heifers; and
(c) calves that are the progeny of dairy cows; and
(d) bulls used, or held for use, for the purpose of fertilising dairy cows or dairy heifers.

dairy farm enterprise has the meaning given by clause 6.

deliver means:

(a) in relation to market milk—supply as mentioned in whichever of the following is applicable:

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(i) paragraph 5(1)(a) of the repealed *Dairy Produce Levy (No. 1) Act 1986*;

(ii) paragraph 6(1)(a) of Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*; and

(b) in relation to manufacturing milk covered by paragraph (a) of the definition of ***manufacturing milk*** in this clause—deliver as mentioned in that paragraph; and

(c) in relation to manufacturing milk covered by paragraph (b) of the definition of ***manufacturing milk*** in this clause—use as mentioned in that paragraph.

DSAP claim period has the meaning given by clause 4.

DSAP payment means a payment under the DSAP payment scheme.

DSAP payment start day has the meaning given by clause 3.

DSAP scheme means the scheme referred to in clause 10.

eligible interest in a dairy farm enterprise has the meaning given by clause 7.

engage in conduct means:

(a) do an act; or

(b) omit to perform an act.

entity has the meaning given by clause 5.

manufacturing milk means:

(a) relevant dairy produce delivered by the producer to a manufacturer during a month ending before 1 July 2000, in respect of which a domestic market support payment has been paid under section 108A of this Act as in force before the conversion time; or

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(b) relevant dairy produce produced by a manufacturer and used by the manufacturer, during a month ending before 1 July 2000, in the manufacture of dairy produce, in respect of which a domestic market support payment has been paid under section 108A of this Act as in force before the conversion time;

other than market milk.

market milk means milk on which levy was imposed by whichever of the following is applicable:

(a) paragraph 5(1)(a) of the repealed *Dairy Produce Levy (No. 1) Act 1986*;

(b) paragraph 6(1)(a) of Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*.

non-premium component, in relation to the overall enterprise amount of a dairy farm enterprise, means so much of the overall enterprise amount as does not consist of the premium component of the overall enterprise amount.

ordinary DAA member means a DAA member other than the Secretary.

overall enterprise amount, in relation to a dairy farm enterprise, means the sum of:

(a) the amount calculated at the rate of 46.23 cents per litre of market milk delivered by the enterprise in the 1998-1999 financial year; and

(b) the amount calculated at the rate of 76.03 cents per kilogram of the milk fat content of manufacturing milk delivered by the enterprise in the 1998-1999 financial year; and

(c) the amount calculated at the rate of 178.77 cents per kilogram of the protein content of manufacturing milk delivered by the enterprise in the 1998-1999 financial year.

Note 1: It is expected that the result of applying the rates mentioned in paragraphs (b) and (c) will be a national average rate of 8.96 cents per litre of manufacturing milk.

Note 2: See also clause 30 (which deals with the transfer of the whole or part of market milk delivery rights).

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Note 3: See also clause 31 (which deals with abnormal market milk pool distributions).

payment right means a payment right under the DSAP scheme or the SDA scheme.

premium component, in relation to the overall enterprise amount of a dairy farm enterprise, means so much of the overall enterprise amount as is attributable to 37.27 cents per litre of market milk delivered by the enterprise in the 1998-1999 financial year.

Note 1: See also clause 30 (which deals with the transfer of the whole or part of market milk delivery rights).

Note 2: See also clause 31 (which deals with abnormal market milk pool distributions).

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October of any year.

SDA payment means a payment under the SDA scheme.

SDA scheme means the scheme referred to in clause 37B.

Secretary means the Secretary of the Department.

trustee includes an executor and an administrator.

unit means a unit in a payment right.

3 DSAP payment start day

(1) For the purposes of this Schedule, the ***DSAP payment start day*** means a day to be fixed by Proclamation for the purposes of this subclause.

(2) The DSAP payment start day must not be earlier than 1 July 2000.

(3) If the DSAP payment start day is not fixed by a Proclamation published in the *Gazette* within the period of 6 months beginning on the day on which the *Dairy Industry Adjustment Act 2000* receives the Royal Assent, Part 2 of this Schedule is repealed on the first day after the end of that period.

(4) To avoid doubt, if:

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(a) Part 2 of this Schedule is repealed as a result of the operation of subclause (3); and

(b) an entity was granted a payment right before the repeal;

that payment right is taken never to have come into existence.

4 DSAP claim period

(1) The Minister may, by notice published in the *Gazette*, declare that a 3-month period specified in the notice is the ***DSAP claim period*** for the purposes of this Schedule.

(2) The declaration has effect accordingly.

5 Entity

(1) For the purposes of this Schedule, each of the following is an ***entity***:

(a) an individual;

(b) a body corporate;

(c) a body politic;

(d) a trustee of a particular trust estate.

(2) A person can have a number of different capacities in which the person does things. In each of those capacities, the person is taken to be a different ***entity***.

Note: For example, take the case of a person who, in addition to his or her personal capacity, is a trustee of 2 trusts. In his or her personal capacity, he or she is one entity. As a trustee of each trust, he or she is a different entity.

6 Dairy farm enterprise

(1) For the purposes of this Schedule, a ***dairy farm enterprise*** is a business in Australia that delivers market milk and/or manufacturing milk.

Eligible dairy sharefarming arrangements

(2) For the purposes of this clause, if:

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(a) under the DSAP scheme, an arrangement is taken to be an eligible dairy sharefarming arrangement; and
(b) apart from this subclause, that arrangement involves 2 or more businesses;

those businesses are to be treated as a single business.

Eligible dairy leasing arrangements

(3) For the purposes of this clause, if:
(a) under the DSAP scheme, an arrangement is taken to be an eligible dairy leasing arrangement; and
(b) apart from this subclause, that arrangement involves 2 or more businesses;

those businesses are to be treated as a single business.

Continuity of a business or dairy farm enterprise

(4) For the purposes of this Schedule, the continuity of a business or a dairy farm enterprise is not affected by:
(a) any change in the identity of the entity or entities who carry on the business or enterprise; or
(b) any change in the ownership of the business or enterprise.

7 Eligible interest in a dairy farm enterprise

(1) For the purposes of this Schedule, an entity has an ***eligible interest*** in a dairy farm enterprise if:
(a) both:
(i) under the DSAP scheme, the enterprise is not taken to be subject to an eligible dairy sharefarming arrangement or an eligible leasing arrangement; and
(ii) the entity carries on the enterprise (whether alone or together with one or more other entities); or
(b) both:
(i) under the DSAP scheme, the enterprise is taken to be subject to an eligible dairy sharefarming arrangement; and
(ii) under the DSAP scheme, the entity is taken to be a party to that arrangement; or

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(c) both:
(i) under the DSAP scheme, the enterprise is taken to be subject to an eligible dairy leasing arrangement; and
(ii) under the DSAP scheme, the entity is taken to be a party to that arrangement.

(2) For the purposes of this Schedule, if:
(a) an individual had an eligible interest in a dairy farm enterprise at 6.30 pm on 28 September 1999; and
(b) the individual dies after that time, but before making a claim for a payment right;

this Schedule has effect as if the trustee of the deceased individual's estate had held that interest at that time.

8 Application to things happening before commencement

The use of the present tense in a provision of this Part does not imply that the provision does not apply to things happening before the commencement of this Schedule.

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Part 2—DSAP payments and SDA payments

Division 1—DSAP scheme

9 Simplified outline

The following is a simplified outline of this Division:

- This Division provides a framework for the making of DSAP payments.
- The Minister is required to formulate a scheme (the ***DSAP scheme***) for the grant of payment rights to entities who held an eligible interest in a dairy farm enterprise on 28 September 1999.
- The DSAP scheme will provide for 3 types of payment rights, as follows:
    (a) standard payment rights;
    (b) exceptional events supplementary payment rights.
    (c) anomalous circumstances payment rights.
- Standard payment rights will be based on milk deliveries in 1998-1999, and will be worked out by reference to a rate of 46.23 cents per litre for market milk and a national average rate of 8.96 cents per litre for manufacturing milk.
- Exceptional events supplementary payment rights may be granted in cases where, because of exceptional events, the volume of milk deliveries in 1998-1999 is less than 70% of the average milk deliveries in the 3 previous financial years.
- Anomalous circumstances payment rights may be granted to entities who have been affected by anomalous circumstances.

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- Entities who wish to obtain a payment right under the DSAP scheme must undertake a farm business assessment.
- The total value of the payment rights granted to an entity must not exceed $350,000 unless more than 70% of the entity's total gross income consists of dairy income.
- Payment rights will be divided into units, where each unit has a face value of $32.
- A registered owner of a unit will be entitled to a quarterly payment of $1 for each of the 32 quarters in the 8-year period beginning on 1 July 2000.

10 DSAP scheme

Within 14 days after the commencement of this Schedule, the Minister must, by writing, formulate a scheme (the ***DSAP scheme***) for:

(a) the grant of payment rights to entities who:
  (i) held an eligible interest in a dairy farm enterprise at 6.30 pm on 28 September 1999; and
  (ii) satisfy such other conditions as are set out in the scheme; and
(b) the division of payment rights into units; and
(c) the registration of units; and
(d) the making of payments out of the Dairy Structural Adjustment Fund to registered owners of units.

11 General policy objectives for the DSAP scheme

The DSAP scheme must be directed towards ensuring the achievement of the policy objectives set out in clauses 12 to 23.

12 Types of payment rights

(1) This clause sets out a policy objective for the DSAP scheme.

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(2) The objective is that there are to be 3 types of payment rights, as follows:
   (a) the first type of payment rights are to be known as ***standard payment rights***;
   (b) the second type of payment rights are to be known as ***exceptional events supplementary payment rights***;
   (c) the third type of payment rights are to be known as ***anomalous circumstances payment rights***.

13 Standard payment right

(1) This clause sets out policy objectives for the DSAP scheme.

Basic eligibility criteria

(2) The first objective is that an entity is not eligible to be granted a standard payment right unless:
   (a) the entity held an eligible interest in a dairy farm enterprise at 6.30 pm on 28 September 1999; and
   (b) either or both of the following conditions are satisfied:
      (i) during the 1998-1999 financial year, the dairy farm enterprise delivered market milk;
      (ii) during the 1998-1999 financial year, the dairy farm enterprise delivered manufacturing milk.

Calculation of face value

(3) The second objective is that the calculation of the face value of an entity's standard payment right must be consistent with the following examples:
   (a) if the entity is the only entity who had an eligible interest in the dairy farm enterprise at 6.30 pm on 28 September 1999—the face value of the entity's standard payment right equals the overall enterprise amount;
   (b) if:
      (i) there are 2 or more entities who had an eligible interest in the dairy farm enterprise at 6.30 pm on 28 September 1999; and

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(ii) under the scheme, the enterprise is not taken to be subject to an eligible dairy sharefarming arrangement or an eligible dairy leasing arrangement;

the face value of the first-mentioned entity's standard payment right is that entity's share of the overall enterprise amount, worked out on a basis that corresponds to the basis on which milk revenues were shared between the entities as at 6.30 pm on 28 September 1999;

(c) if:

(i) there are 2 entities who had an eligible interest in the dairy farm enterprise at 6.30 pm on 28 September 1999; and

(ii) under the scheme, the enterprise is taken to be subject to an eligible dairy sharefarming arrangement and those entities are taken to be parties to that arrangement; and

(iii) the first-mentioned entity is an entity who, under the scheme, is taken to have provided the essential capital contribution required to achieve access to the market milk premium;

the face value of the first-mentioned entity's standard payment right is the sum of:

(iv) the premium component of the overall enterprise amount; and

(v) that entity's share of the non-premium component of the overall enterprise amount, worked out on a basis that corresponds to the basis on which milk revenues were shared between the entities as at 6.30 pm on 28 September 1999;

(d) if:

(i) there are 2 entities who had an eligible interest in the dairy farm enterprise at 6.30 pm on 28 September 1999; and

(ii) under the scheme, the enterprise is taken to be subject to an eligible dairy sharefarming arrangement and those entities are taken to be parties to that arrangement; and

(iii) the first-mentioned entity is not an entity who, under the scheme, is taken to have provided the essential capital

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contribution required to achieve access to the market milk premium;

the face value of the first-mentioned entity's standard payment right is that entity's share of the non-premium component of the overall enterprise amount, worked out on a basis that corresponds to the basis on which milk revenues were shared between the entities as at 6.30 pm on 28 September 1999;

(e) if:

(i) there are 2 entities who had an eligible interest in the dairy farm enterprise at 6.30 pm on 28 September 1999; and

(ii) under the scheme, the enterprise is taken to be subject to an eligible dairy leasing arrangement and those entities are taken to be parties to that arrangement; and

(iii) the first-mentioned entity is an entity who, under the scheme, is taken to have provided the essential capital contribution required to achieve access to the market milk premium;

the face value of the first-mentioned entity's standard payment right is the premium component of the overall enterprise amount;

(f) if:

(i) there are 2 entities who had an eligible interest in the dairy farm enterprise at 6.30 pm on 28 September 1999; and

(ii) under the scheme, the enterprise is taken to be subject to an eligible dairy leasing arrangement and those entities are taken to be parties to that arrangement; and

(iii) the first-mentioned entity is not an entity who, under the scheme, is taken to have provided the essential capital contribution required to achieve access to the market milk premium;

the face value of the first-mentioned entity's standard payment right is the non-premium component of the overall enterprise amount.

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(4) Paragraphs (3)(c), (d), (e) and (f) deal with common types of arrangements that involve 2 parties. Those paragraphs do not, by implication, limit the capacity of the DSAP scheme to deal with less common types of arrangements that involve 3 or more parties—see clause 34.

Essential capital contribution

(5) In formulating a provision of the DSAP scheme under which an entity is taken to have provided the essential capital contribution required to achieve access to the market milk premium, the Minister must not have regard to any matters other than the following:

(a) whether the entity is the owner of a quota relating to the delivery of market milk;

(b) whether the entity is the owner of the land on which the eligible dairy farm enterprise is carried on;

(c) whether the entity is the owner of a significant proportion of the livestock used in, or for purposes incidental to, the carrying on of the eligible dairy farm enterprise.

(6) For the purposes of paragraph (5)(c), the proportion of livestock owned by a partner in a partnership is taken to be the same as the proportion of the livestock owned by the partnership.

(7) For the purposes of paragraph (5)(c), a proportion of less than 25% is taken not to be a significant proportion.

14 Exceptional events supplementary payment right

(1) This clause sets out policy objectives for the DSAP scheme.

Basic eligibility criteria

(2) The first objective is that an exceptional events supplementary payment right must not be granted to an entity in respect of a particular dairy farm enterprise unless:

(a) the entity has already been granted a standard payment right in respect of the enterprise; and

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(b) the entity satisfies the DAA that, as a result of one or more events that, under the scheme, are taken to be recognised exceptional events, the volume of market milk and manufacturing milk delivered by the enterprise during the 1998-1999 financial year is less than 70% of the average annual volume of market milk and manufacturing milk delivered by the enterprise in the following 3 financial years:

(i) the 1997-1998 financial year;

(ii) the 1996-1997 financial year;

(iii) the 1995-1996 financial year.

Total face value of payment rights

(3) The second objective is that the sum of:

(a) the face value of a standard payment right granted to an entity in respect of a particular dairy farm enterprise; and

(b) the total face value of the exceptional events supplementary payment rights granted to the entity in respect of the enterprise;

must not exceed the amount that would have been the total face value of the standard payment right if:

(c) the volume of market milk delivered by the dairy farm enterprise during the 1998-1999 financial year had equalled the average annual volume of market milk delivered by the enterprise in the following 3 financial years:

(i) the 1997-1998 financial year;

(ii) the 1996-1997 financial year;

(iii) the 1995-1996 financial year; and

(d) the volume of manufacturing milk delivered by the dairy farm enterprise during the 1998-1999 financial year had equalled the average annual volume of manufacturing milk delivered by the enterprise in the following 3 financial years:

(i) the 1997-1998 financial year;

(ii) the 1996-1997 financial year;

(iii) the 1995-1996 financial year.

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Discretionary grant

(4) The third objective is that the grant of an exceptional events payment right is to be at the discretion of the DAA.

15 Anomalous circumstances payment right

(1) This clause sets out policy objectives for the DSAP scheme.

Basic eligibility criteria

(2) The first objective is that an entity is not eligible for the grant of an anomalous circumstances payment right unless:
  (a) the entity did not pass the standard DSAP test; and
  (b) the entity held an eligible interest in a dairy farm enterprise during the whole or a part of the 1998-1999 financial year; and
  (c) under the scheme, the entity is taken to have been affected by anomalous circumstances.

Standard DSAP test

(3) For the purposes of this clause, an entity ***passes the standard DSAP test*** if, and only if:
  (a) the entity held an eligible interest in a dairy farm enterprise at 6.30 pm on 28 September 1999; and
  (b) either or both of the following conditions are satisfied:
    (i) during the 1998-1999 financial year, the dairy farm enterprise delivered market milk;
    (ii) during the 1998-1999 financial year, the dairy farm enterprise delivered manufacturing milk.

Discretionary grant

(4) The second objective is that the grant of an anomalous circumstances payment right is to be at the discretion of the DAA.

16 $350,000 cap

(1) This clause sets out a policy objective for the DSAP scheme.

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(2) The objective is that the total face value of payment rights granted to an entity in respect of a particular dairy farm enterprise must not exceed $350,000 unless a person who, under the scheme, is taken to be a qualified financial adviser certifies in writing that, to the best of the adviser's knowledge and belief:

(a) the entity has given the adviser full access to the entity's accounts and financial records; and

(b) the entity passes the 70% dairy income test.

70% dairy income test

(3) For the purposes of this clause, an entity ***passes the 70% dairy income test*** if, and only if:

(a) more than 70% of the total gross income derived by the entity in the 1998-1999 financial year consisted of eligible dairy income; or

(b) more than 70% of the total gross income derived by the entity in the period comprising:

(i) the 1998-1999 financial year; and

(ii) the 1997-1998 financial year; and

(iii) the 1996-1997 financial year;

consisted of eligible dairy income.

Gross income

(4) For the purposes of subclause (3), the gross income derived by an entity is to be worked out in accordance with:

(a) generally accepted accounting principles; or

(b) if, under the scheme, the generally accepted accounting principles are taken to be modified for the purposes of the scheme—those principles as so modified.

Eligible dairy income

(5) For the purposes of this clause, ***eligible dairy income*** means:

(a) proceeds from the sale of market milk; and

(b) proceeds from the sale of manufacturing milk; and

(c) proceeds from the sale or lease of dairy cattle; and

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(d) dividends payable in respect of shares in bodies that, under the scheme, are taken to be eligible dairy cooperatives; and

(e) dividends payable in respect of shares in companies that, under the scheme, are taken to be eligible dairy companies;

(f) an amount that, under the scheme, is taken to be the income test value of a bonus share issued by a company that, under the scheme, is an eligible dairy cooperative;

(g) an amount that, under the scheme, is taken to be the income test value of a bonus share issued by a company that, under the scheme, is an eligible dairy company.

Shares issued in lieu of payment for the sale of milk

(6) For the purposes of this clause, if a share in a body or company that, under the scheme, is taken to be:

(a) an eligible dairy cooperative; or

(b) an eligible dairy company;

is issued to a shareholder in the cooperative or company in lieu of a particular payment for the sale of market milk or manufacturing milk:

(c) the shareholder is taken to have derived an amount, by way of proceeds from the sale of that milk, equal to the amount of that payment; and

(d) those proceeds are taken to be gross income according to generally accepted accounting principles.

Bonus shares

(7) For the purposes of this clause, if a bonus share in a body or company that, under the scheme, is taken to be:

(a) an eligible dairy cooperative; or

(b) an eligible dairy company;

is issued to a shareholder in the cooperative or company:

(c) the shareholder is taken to have derived an amount of income equal to the amount that, under the scheme, is the income test value of the bonus share; and

(d) that amount of income is taken to be gross income according to generally accepted accounting principles.

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False or misleading statements in certificates

(8) For the purposes of clause 50, a statement made in a certificate of a kind referred to in subclause (2) of this clause is taken to be made to a person who was exercising powers, or performing functions, under or in connection with the DSAP scheme.

Note: Clause 50 deals with false or misleading statements.

(9) For the purposes of section 136.1 of the *Criminal Code*, a statement made in a certificate of a kind referred to in subclause (2) of this clause is taken to be a statement made in connection with a claim for a payment right.

Note: Section 136.1 of the *Criminal Code* deals with false or misleading statements.

17 Farm business assessment

(1) This clause sets out policy objectives for the DSAP scheme.

(2) The first objective is that an entity is not eligible for the grant of a payment right unless:

(a) the entity has complied with such rules as are set out in the scheme in relation to the carrying out of a farm business assessment by a person who, under the scheme, is taken to be a qualified financial adviser; or

(b) a person who, under the scheme, is taken to be a qualified financial adviser has certified in writing that the entity has complied with such rules as are set out in the scheme in relation to the carrying out by the entity of a farm business assessment; or

(c) under the scheme, the entity is exempt from carrying out a farm business assessment.

Note: For example, the DSAP scheme may provide that an entity who has exited the dairy industry is exempt from carrying out a farm business assessment.

Compliance after making claim

(3) The second objective is that an entity is not to be prevented from making a claim for the grant of a payment right at a time when the

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entity has not complied with requirements mentioned in subclause (2), so long as those requirements are complied with before the time ascertained in accordance with the scheme.

False or misleading statements in certificates

(4) For the purposes of clause 50, a statement made in a certificate of a kind referred to in paragraph (2)(b) of this clause is taken to be made to a person who was exercising powers, or performing functions, under or in connection with the DSAP scheme.

Note: Clause 50 deals with false or misleading statements.

(5) For the purposes of section 136.1 of the *Criminal Code*, a statement made in a certificate of a kind referred to in paragraph (2)(b) of this clause is taken to be a statement made in connection with a claim for a payment right.

Note: Section 136.1 of the *Criminal Code* deals with false or misleading statements.

18 Units in payment rights

(1) This clause sets out policy objectives for the DSAP scheme.

(2) The first objective is that each payment right is to be divided into units, where each unit has a face value of $32.

(3) The second objective is that the number of units into which a payment right is divided is to be worked out as follows:

(a) divide the number of dollars in the face value of the payment right by 32;

(b) if the result of the division is a whole number—that number is the number of units in the payment right;

(c) if the result of the division is less than 1—there is 1 unit in the payment right;

(d) if the result of the division is greater than 1, but is not a whole number:

(i) round the result of the division up or down to the nearest whole number (rounding up in the case exactly half-way between 2 whole numbers); and

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(ii) the rounded number is the number of units in the payment right.

19 Cancellation of units

(1) This clause sets out a policy objective for the DSAP scheme.

(2) The objective is that a payment right is to be granted subject to the powers of cancellation conferred on the DAA under the authority of clauses 50, 51 and 52.

Note 1: Clause 50 deals with cancellation of units because of the making of a false statement.

Note 2: Clause 51 deals with cancellation of units because of an error made by the DAA.

Note 3: Clause 52 deals with cancellation of units because of a breach of an undertaking to dispose of the units.

20 Duration of scheme

(1) This clause sets out policy objectives for the DSAP scheme.

(2) The first objective is that a payment right relating to a particular dairy farm enterprise must not be granted to an entity unless the entity, or a person acting on behalf of the entity, makes a claim for the payment right:

(a) during the DSAP claim period; or

(b) if:

(i) one or more units in another payment right were cancelled as authorised under clause 50 or 51; and

(ii) the other payment right relates to the enterprise; and

(iii) the DAA allows the claim for the first-mentioned payment right to be made within a particular period after the end of the DSAP claim period;

within that particular period.

(3) The second objective is that DSAP payments are not to be made before the DSAP payment start day.

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(4) The third objective is that DSAP payments are not to be made in respect of a quarter that is later than the quarter ending on 30 June 2008.

(5) Subclause (2) does not prevent the DSAP scheme from making provision for the amendment of claims.

21 Register of units etc.

(1) This clause sets out policy objectives for the DSAP scheme.

Register

(2) The first objective is that the DAA is to keep a register in which the DAA includes particulars of units.

Registration of ownership

(3) The second objective is that an entity's ownership of a unit is not to be counted for the purposes of the scheme unless that ownership is entered on the register.

(4) The third objective is that the transfer of the ownership of a unit is not to be registered unless:
  (a) the transferee is an eligible entity; or
  (b) the transferee gives the DAA a written undertaking to assign the unit to an eligible entity within 60 days after the transfer is registered.

Note: For enforcement of the undertaking, see clause 52.

Registration of charges

(5) The fourth objective is that the scheme may provide for the registration of charges over units.

Inspection of register

(6) The fifth objective is that an entry on the register relating to a unit is to be open for inspection in the following circumstances:
  (a) the owner of the unit consents to the entry being open for inspection;

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(b) such circumstances as are set out in the scheme.

Form of register

(7) The sixth objective is that the DAA may keep the register in electronic form or otherwise.

No declaration of trust in respect of unit

(8) The seventh objective is that:
(a) the owner of a unit must not dispose of a unit by way of declaration of trust; and
(b) if a purported disposal contravenes the rule in paragraph (a), it is of no effect.

Beneficial interest in unit must not be transferred independently of legal interest

(9) The eighth objective is that:
(a) a beneficial interest in a unit must not be transferred independently of the legal interest in the unit; and
(b) if a purported transfer contravenes the rule in paragraph (a), it is of no effect.

Definition

(10) In this clause:

eligible entity means an entity included in a class of entities declared by the DSAP scheme to be entities who are eligible to become transferees of units.

22 Invitations to make claims for payment rights etc.

(1) This clause sets out policy objectives for the DSAP scheme.

Public information program

(2) The first objective is that the DAA is to conduct a public information program about the scheme.

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DAA to obtain and record information

(3) The second objective is that the DAA is to obtain and record information that:

(a) is likely to assist entities in making claims for payment rights; or

(b) is likely to assist the DAA in determining claims for payment rights.

Formal invitations to make claims

(4) The third objective is that:

(a) if the DAA has reasonable grounds to believe, on the basis of the information referred to in subclause (4), that it may be in the interests of an entity for the entity to make a claim for a payment right; and

(b) if the DAA were to give the entity a formal invitation to make such a claim, there would be sufficient time for the claim to be made before the end of the DSAP claim period;

the DAA must make all reasonable efforts to give the entity a formal invitation to make such a claim.

(5) The fourth objective is that an entity who does not receive a formal invitation is not to be prevented from making a claim for a payment right.

23 Making of DSAP payments

(1) This clause sets out policy objectives for the DSAP scheme.

Payment rights not to be granted within 30 days after the end of the DSAP claim period

(2) The first objective is that a payment right must not be granted before the end of the 30-day period beginning at the end of the DSAP claim period.

Initial payment day

(3) The second objective is that there is to be an ***initial payment day*** for each payment right, worked out as follows:

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(a) if, during the 28-day period beginning at the end of the 30-day period mentioned in subclause (2), the DAA does not receive a request to reconsider its decision to grant the payment right:
  (i) the initial payment day is the first day after the end of that 28-day period; or
  (ii) if that first day is earlier than the DSAP payment start day, the initial payment day is the DSAP payment start day;

(b) if, during the 28-day period beginning at the end of the 30-day period mentioned in subclause (2), the DAA receives a request to reconsider its decision to grant the payment right:
  (i) the initial payment day is the day ascertained in accordance with the scheme; or
  (ii) if that day is earlier than the DSAP payment start day, the initial payment day is the DSAP payment start day.

DSAP payments in respect of early quarters

(4) The third objective is that, if an entity is the registered owner of a unit in a payment right on the initial payment day for the payment right, the entity is entitled to be paid, out of the Dairy Structural Adjustment Fund, in relation to that unit, the sum of:
  (a) $1 in respect of the quarter in which the initial payment day occurred; and
  (b) if there is an earlier quarter in the period:
    (i) beginning on 1 July 2000; and
    (ii) ending on 30 June 2008;
  $1 in respect of that earlier quarter.

DSAP payments in respect of later quarters

(5) The fourth objective is that, if:
  (a) an entity is the registered owner of a unit in a payment right on the first day of a quarter in the period:
    (i) beginning on the DSAP payment start day; and
    (ii) ending on 30 June 2008; and

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(b) that quarter is later than the quarter in which the initial payment day for the right occurred;

the entity is entitled to be paid, out of the Dairy Structural Adjustment Fund, in relation to that unit, $1 in respect of that quarter.

When a DSAP payment becomes due to be paid

(6) The fifth objective is that, if an entity is entitled to be paid a DSAP payment, the day on which that payment is due to be paid:

(a) is to be ascertained in accordance with the scheme; and

(b) must not be later than the end of the 10th business day after:

(i) if subclause (4) applies—the initial payment day concerned; or

(ii) if subclause (5) applies—the first day of the quarter concerned.

DSAP payments are debts

(7) The sixth objective is that, if a DSAP payment is due to be paid to an entity, the payment may be recovered, as a debt due to the entity, by action in a court of competent jurisdiction.

Death of recipient of DSAP payment

(8) The seventh objective is that, if an individual is entitled to receive a DSAP payment and the payment has not been made at the date of the death of the individual, the amount of that payment is payable to the legal personal representative of the individual.

24 Scheme may confer administrative powers on the DAA

The DSAP scheme may make provision with respect to a matter by conferring on the DAA a power to make a decision of an administrative character.

25 Reconsideration and review of decisions

(1) The DSAP scheme must contain provisions under which:

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(a) an entity who is affected by a decision of the DAA under the scheme may, if dissatisfied with the decision, by notice given to the DAA within such period as is ascertained in accordance with the scheme, request the DAA to reconsider the decision; and

(b) the DAA is required to reconsider the decision and is empowered to confirm or revoke the decision or to vary the decision in such manner as the DAA thinks fit; and

(c) applications may be made to the Administrative Appeals Tribunal for review of decisions of the DAA that have been confirmed or varied as mentioned in paragraph (b).

(2) The period mentioned in paragraph (1)(a) must be 28 days after the day on which the decision first comes to the attention of the entity concerned.

(3) The DSAP scheme must provide that the reasons for making a request mentioned in paragraph (1)(a) must be set out in the request.

(4) If a request is made as mentioned in paragraph (1)(a) in respect of a decision, section 41 of the *Administrative Appeals Tribunal Act 1975* applies as if the making of the request were the making of an application to the Administrative Appeals Tribunal for a review of that decision.

(5) The DSAP scheme must provide that, if the DAA does not confirm, revoke or vary a decision before the end of the period of 60 days after the day on which the DAA received the request to reconsider the decision, the DAA is taken, at the end of that period, to have confirmed the decision.

(6) The DSAP scheme must provide that, if the DAA confirms, revokes or varies the decision before the end of the period referred to in subclause (5), the DAA must, by notice given to the applicant, inform the applicant of the result of the reconsideration of the decision and the reasons for confirming, revoking or varying the decision, as the case may be.

(7) If, because of the operation of a provision covered by subclause (5), a decision is taken to be confirmed, section 29 of the

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Administrative Appeals Tribunal Act 1975 applies as if the prescribed time for making application for review of the decision were the period:

(a) commencing on the day on which the decision is taken to have been confirmed; and

(b) ending on the 28th day after that day.

26 Statement to accompany notification of decisions

(1) The DSAP scheme must provide that, if:

(a) written notice is given to an entity affected by a decision of the DAA under the scheme; and

(b) that notice is to the effect that the decision has been made;

that notice must include a statement to the effect that:

(c) the entity may, if dissatisfied with the decision, seek a reconsideration of the decision by the DAA; and

(d) the entity may, subject to the *Administrative Appeals Tribunal Act 1975*, if dissatisfied with a decision made by the DAA upon that reconsideration confirming or varying the first-mentioned decision, make application to the Administrative Appeals Tribunal for review of the decision so confirmed or varied.

(2) The DSAP scheme must provide that, if:

(a) the DAA confirms or varies a decision as mentioned in paragraph 25(1)(b); and

(b) gives to the entity written notice of the confirmation or variation of the decision;

that notice must include a statement to the effect that the entity may, subject to the *Administrative Appeals Tribunal Act 1975*, if dissatisfied with the decision so confirmed or varied, make application to the Administrative Appeals Tribunal for review of the decision.

(3) A failure to include a statement in a notice as mentioned in subclause (1) or (2) does not affect the validity of a decision.

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27 Fees

(1) The DSAP scheme may provide for fees.

(2) The amount of a fee under the DSAP scheme must not be such as to amount to taxation.

28 Statutory declarations

The DSAP scheme may provide for statements in claims to be verified by statutory declaration.

29 Methods by which DSAP payments may be made

(1) The DSAP scheme may make provision for the methods by which DSAP payments may be made.

(2) The DSAP scheme may require that DSAP payments be made using an electronic funds transfer system.

(3) Subclause (2) does not limit subclause (1).

30 Adjustment of eligibility for payment rights—transfer of milk delivery rights

(1) The DSAP scheme may make provision for and in relation to the adjustment of eligibility for payment rights in relation to the transfer of the whole or part of market milk delivery rights.

(2) Those provisions may include (but are not limited to):

(a) treating the transferor's dairy farm enterprise, for the purposes of this Part and the scheme, as if the enterprise had delivered a particular volume of manufacturing milk during a particular financial year instead of a particular volume of market milk; and

(b) treating the transferee's dairy farm enterprise, for the purposes of this Part and the scheme, as if the enterprise had delivered a particular volume of market milk during a particular financial year.

(3) In this clause:

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this Part includes:

(a) the definition of ***overall enterprise amount*** in clause 2; and

(b) the definition of ***premium component*** in clause 2.

31 Adjustment of eligibility for payment rights—abnormal market milk pool distributions

(1) The DSAP scheme may make provision for and in relation to the adjustment of eligibility for payment rights in relation to a distribution that, under the scheme, is taken to be an abnormal market milk pool distribution.

(2) Those provisions may include (but are not limited to):

(a) treating a particular dairy farm enterprise, for the purposes of this Part and the scheme, as if the enterprise had delivered a particular volume of market milk during a particular financial year instead of a particular volume of manufacturing milk; and

(b) treating a particular dairy farm enterprise, for the purposes of this Part and the scheme, as if the enterprise had delivered a particular volume of manufacturing milk during a particular financial year instead of a particular volume of market milk.

(3) In this clause:

this Part includes:

(a) the definition of ***overall enterprise amount*** in clause 2; and

(b) the definition of ***premium component*** in clause 2.

32 Adjustment of eligibility for payment rights—death

(1) The DSAP scheme may make provision for and in relation to the adjustment of eligibility for payment rights in relation to the death of an individual who held an eligible interest in a dairy farm enterprise at 6.30 pm on 28 September 1999.

(2) Those provisions may include (but are not limited to) treating the trustee of the deceased individual's estate, for the purposes of this Part and the scheme, as if the trustee had done particular things.

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(3) In this clause:

this Part includes:

(a) the definition of ***overall enterprise amount*** in clause 2; and

(b) the definition of ***premium component*** in clause 2.

33 Ancillary or incidental provisions

The DSAP scheme may contain such ancillary or incidental provisions as the Minister considers appropriate.

34 Scheme-making power not limited

Clauses 11 to 33 (inclusive) do not, by implication, limit clause 10.

35 Variation of scheme

(1) The DSAP scheme may be varied, but not revoked, in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.

(2) Subclause (1) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* to other instruments under this Act.

(3) To avoid doubt, the DSAP scheme may be varied after the end of the period of 14 days beginning on the commencement of this Schedule.

36 Scheme to be a legislative instrument

An instrument under clause 10 is a legislative instrument.

37 Application to things happening before commencement

The use of the present tense in a provision of this Division does not imply that the provision does not apply to things happening before the commencement of this Schedule.

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Division 1A—Supplementary Dairy Assistance (SDA) scheme

37A Simplified outline

The following is a simplified outline of this Division:

- This Division provides a framework for the making of SDA payments.
- The Minister is required to formulate a scheme (the ***SDA scheme***) for the grant of the following types of payment rights to entities:
    - (aa) basic market milk payment rights;
    - (a) additional market milk payment rights;
    - (b) discretionary payment rights.
- Additional market milk payment rights will be based on market milk deliveries in 1998-1999, and will range from 0.12 cents per litre to 12 cents per litre depending on the percentage of market milk deliveries in that year.
- Discretionary payment rights may be granted to entities in the circumstances set out in clause 37G.
- Payment rights will be divided into units, where each unit has a face value of $32.
- Payments will be made to registered owners of units in accordance with the SDA scheme.

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37B Formulation of scheme

The Minister must, by writing, formulate a scheme (the ***SDA scheme***) for:

(a) the grant of payment rights to entities who satisfy the conditions set out in the scheme; and

(b) the division of payment rights into units; and

(c) the registration of units; and

(d) the making of payments out of the Dairy Structural Adjustment Fund to registered owners of units.

37C General policy objectives for the SDA scheme

The SDA scheme must be directed towards ensuring the achievement of the policy objectives set out in clauses 37D to 37P.

37D Types of payment rights

(1) It is a policy objective that there are to be 3 types of payment rights, as follows:

(aa) a type called ***basic market milk payment rights***;

(a) a type called ***additional market milk payment rights***;

(b) a type called ***discretionary payment rights***.

(2) It is a policy objective that, if an entity is eligible to be granted a basic market milk payment right and an additional market milk payment right, the entity is eligible to be granted the payment right with the higher face value and is not eligible to be granted the other payment right.

37DA Basic market milk payment rights—eligibility etc.

Basic eligibility criteria

(1) It is a policy objective that an entity is not eligible to be granted a basic market milk payment right unless:

(a) the entity has been granted a payment right under the DSAP scheme in respect of a dairy farm enterprise (the ***qualifying enterprise***); and

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(b) the entity held an interest (of a kind referred to in the SDA scheme) in that enterprise, or in any other dairy farm enterprise, at a time referred to in the SDA scheme; and

(c) the number (the ***market milk number***) worked out in accordance with the following formula is at least 25.1 (rounding to 1 decimal place and rounding up if the second decimal place is 5 or more):

$$\frac{\text{Total number of litres of market milk delivered by the qualifying enterprise in the 1998-1999 financial year}}{\text{Total number of litres of market milk delivered by that enterprise in that year} + \text{Total number of litres of manufacturing milk delivered by that enterprise in that year}} \times 100$$

Note: See also subclause (4) for how those delivery numbers are worked out.

Calculation of face value

(2) It is a policy objective that the face value of an entity's basic market milk payment right is to be a share (worked out in accordance with the SDA scheme) of the overall market milk amount for the qualifying enterprise.

Interpretation

(3) For the purposes of this clause, the ***overall market milk amount*** for the qualifying enterprise is:

(a) if the market milk number is at least 25.1 and less than 30.1—$10,000; or

(b) if the market milk number is at least 30.1—$15,000.

(4) A reference in this clause to the total number of litres of market milk, or the total number of litres of manufacturing milk, delivered by the qualifying enterprise in the 1998-1999 financial year is a reference to that number as determined by the DAA to have taken to have been delivered by that enterprise in that year.

(5) This clause is subject to clause 37V (about the effect of death on eligibility etc. for the grant of payment rights).

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37E Additional market milk payment rights—eligibility etc.

Basic eligibility criteria

(1) It is a policy objective that an entity is not eligible to be granted an additional market milk payment right unless:

(a) the entity has been granted a payment right under the DSAP scheme in respect of a dairy farm enterprise (the ***qualifying enterprise***); and

(b) the entity held an interest (of a kind referred to in the SDA scheme) in that enterprise, or in any other dairy farm enterprise, at a time referred to in the SDA scheme; and

(c) the number (the ***market milk number***) worked out in accordance with the following formula is at least 35.1 (rounding to 1 decimal place and rounding up if the second decimal place is 5 or more):

$$\frac{\text{Total number of litres of market milk delivered by the qualifying enterprise in the 1998-1999 financial year}}{\text{Total number of litres of market milk delivered by that enterprise in that year} + \text{Total number of litres of manufacturing milk delivered by that enterprise in that year}} \times 100$$

Note: See also subclause (5) for how those delivery numbers are worked out.

Calculation of face value

(2) It is a policy objective that the face value of an entity's additional market milk payment right is to be a share (worked out in accordance with the SDA scheme) of the overall market milk amount for the qualifying enterprise.

Interpretation

(3) For the purposes of this clause, the ***overall market milk amount*** for the qualifying enterprise is the amount worked out in accordance with the following formula:

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$$\text{Relevant cents} \times \text{Total number of litres of market milk delivered by that enterprise in the 1998-1999 financial year}$$

where:

relevant cents means:

(a) if the market milk number is at least 45—12 cents; or

(b) if the market milk number is at least 35.1 and less than 45—the number of cents worked out in accordance with the following formula:

$$\left[\text{Market milk number} - 35\right] \times 1.2 \text{ cents}$$

(4) However, if the amount calculated under subclause (3) is more than $60,000, then the ***overall market milk amount*** for the qualifying enterprise is taken to be $60,000.

(5) A reference in this clause to the total number of litres of market milk, or the total number of litres of manufacturing milk, delivered by the qualifying enterprise in the 1998-1999 financial year is a reference to that number as determined by the DAA to have taken to have been delivered by that enterprise in that year.

(6) This clause is subject to clause 37V (about the effect of death on eligibility etc. for the grant of payment rights).

37F Market milk payment rights—offsetting

(1) It is a policy objective that the face value of an entity's basic market milk payment right or additional market milk payment right is to be reduced if:

(a) the entity has been granted a payment right (the ***DSAP payment right***) under the DSAP scheme; and

(b) the conditions in paragraphs 51(1)(a), (b) and (c) of this Schedule are satisfied (about the DAA having made an error); and

(c) the DAA has been unable to cancel a number of units (the ***protected units***) in the DSAP payment right because of the operation of subclause 51(2).

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(2) It is a policy objective that the amount of the reduction is to be equal to the total face value of the protected units.

(3) If the amount of the reduction would exceed the face value of the entity's basic market milk payment right or additional market milk payment right, then it is a policy objective that the face value of that payment right is to be reduced to zero.

37G Discretionary payment rights—eligibility

(1) It is a policy objective that an entity is not eligible to be granted a discretionary payment right unless the entity satisfies clause 37H or 37J.

(2) This clause is subject to clause 37V (about the effect of death on eligibility etc. for the grant of payment rights).

37H Discretionary payment rights—entity affected by significant event, crisis or anomalous circumstances etc.

(1) An entity satisfies this clause if:

(a) the entity held an interest (of a kind referred to in the SDA scheme) in a dairy farm enterprise at any time during the period (the ***qualifying period***) beginning on 1 July 1998 and ending at 6.30 pm on 28 September 1999; and

(b) the entity is taken, under the SDA scheme, to have been affected by a significant event, a significant crisis or significant anomalous circumstances.

(2) For the purposes of this clause, ***dairy farm enterprise*** includes a business in Australia that is carried on with a view to delivering market milk and/or manufacturing milk during the qualifying period, but that did not deliver such milk during that period.

37J Discretionary payment rights—entity suffered a fall in lease income etc.

(1) An entity satisfies this clause if:

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(a) the entity was granted a payment right under the DSAP scheme in respect of a lessor interest the entity held in a dairy farm enterprise; and
(b) the entity is not taken, under the SDA scheme, to have been affected by a significant event, a significant crisis or significant anomalous circumstances; and
(c) the entity passes the lease income test.

Cap

(2) It is a policy objective that the total face value of discretionary payment rights, granted in respect of a dairy farm enterprise to entities who satisfy this clause in relation to that enterprise, must not exceed an amount specified in the SDA scheme.

Interpretation

(3) For the purposes of this clause, an entity held a ***lessor interest*** in a dairy farm enterprise if:
(a) under the DSAP scheme, the enterprise was taken to be subject to an eligible dairy leasing arrangement; and
(b) under the DSAP scheme, the entity was taken to be a party to that arrangement as the lessor of land.

(4) For the purposes of this clause, an entity ***passes the lease income test*** if:
(a) both:
(i) more than 50% of the total gross income derived by the entity in the 1999-2000 financial year consisted of eligible lease income; and
(ii) the eligible lease income derived by the entity in the 2000-2001 financial year is at least 20% less than the eligible lease income derived by the entity in the 1999-2000 financial year; or
(b) both:
(i) more than 50% of the total gross income derived by the entity in the 1999-2000, 1998-1999 and 1997-1998 financial years consisted of eligible lease income; and

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(ii) the eligible lease income derived by the entity in the 2000-2001 financial year is at least 20% less than the average of the eligible lease income derived by the entity in the 1999-2000, 1998-1999 and 1997-1998 financial years.

(5) For the purposes of this clause, the gross income derived by an entity is to be worked out in accordance with:

(a) generally accepted accounting principles; or

(b) if, under the SDA scheme, the generally accepted accounting principles are taken to be modified for the purposes of the scheme—those principles as so modified.

(6) For the purposes of this clause, ***eligible lease income*** has the same meaning as in the SDA scheme.

37K Units in payment rights

(1) It is a policy objective that each payment right under the SDA scheme is to be divided into units, where each unit has a face value of $32.

(2) It is a policy objective that the number of units into which a payment right is divided is to be worked out as follows:

(a) divide the number of dollars in the face value of the payment right by 32;

(b) if the result of the division is a whole number—that number is the number of units in the payment right;

(c) if the result of the division is less than 1—there is 1 unit in the payment right;

(d) if the result of the division is greater than 1, but is not a whole number:

(i) round the result of the division up or down to the nearest whole number (rounding up in the case exactly half-way between 2 whole numbers); and

(ii) the rounded number is the number of units in the payment right.

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37L Cancellation of units

It is a policy objective that a payment right under the SDA scheme is to be granted subject to the powers of cancellation conferred on the DAA under the authority of clauses 50, 51 and 52.

Note 1: Clause 50 deals with cancellation of units because of the making of a false statement.

Note 2: Clause 51 deals with cancellation of units because of an error made by the DAA.

Note 3: Clause 52 deals with cancellation of units because of a breach of an undertaking to dispose of the units.

37M Duration of scheme

It is a policy objective that SDA payments are not to be made in respect of a quarter that is later than the quarter ending on 30 June 2008.

37N Register of units etc.

Register

(1) It is a policy objective that the DAA is to include particulars of units in payment rights under the SDA scheme on the register referred to in clause 21.

Registration of ownership

(2) It is a policy objective that an entity's ownership of a unit is not to be counted for the purposes of the SDA scheme unless that ownership is entered on the register.

(3) It is a policy objective that the transfer of the ownership of a unit is not to be registered unless:

(a) the transferee is an eligible entity; or

(b) the transferee gives the DAA a written undertaking to assign the unit to an eligible entity within 60 days after the transfer is registered.

Note: For enforcement of the undertaking, see clause 52.

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Registration of charges

(4) It is a policy objective that the SDA scheme may provide for the registration of charges over units.

Inspection of register

(5) It is a policy objective that an entry on the register relating to a unit is to be open for inspection in the following circumstances:
  (a) the owner of the unit consents to the entry being open for inspection;
  (b) such circumstances as are set out in the SDA scheme.

No declaration of trust in respect of unit

(6) It is a policy objective that:
  (a) the owner of a unit must not dispose of a unit by way of declaration of trust; and
  (b) if a purported disposal contravenes the rule in paragraph (a), it is of no effect.

Beneficial interest in unit must not be transferred independently of legal interest

(7) It is a policy objective that:
  (a) a beneficial interest in a unit must not be transferred independently of the legal interest in the unit; and
  (b) if a purported transfer contravenes the rule in paragraph (a), it is of no effect.

Definition

(8) In this clause:

eligible entity means an entity included in a class of entities declared by the SDA scheme to be entities who are eligible to become transferees of units.

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37P Making of SDA payments

(1) It is a policy objective that, in accordance with the SDA scheme, lump sum payments or quarterly payments will be paid to registered owners of units in payment rights under the scheme.

(2) It is a policy objective that, if an SDA payment is due to be paid to an entity, the payment may be recovered, as a debt due to the entity, by action in a court of competent jurisdiction.

(3) It is a policy objective that, if an individual is entitled to receive an SDA payment and the payment has not been made at the date of the death of the individual, the amount of that payment is payable to the legal personal representative of the individual.

37Q Conferral of administrative powers etc.

(1) The SDA scheme may make provision with respect to a matter by conferring on the DAA, or the Minister, a power to make a decision of an administrative character.

(2) If the SDA scheme confers on the Minister a power to make a decision of an administrative character, the scheme may also make provision for and in relation to the Minister delegating that power to the DAA.

37R Review of decisions

(1) The SDA scheme must contain provisions for and in relation to the review of decisions of the DAA, or the Minister, under the scheme that affect an entity.

(2) Those provisions must provide for review by the Administrative Appeals Tribunal or the Administrative Review Tribunal (as the case may be).

(3) Subclause (2) does not limit subclause (1).

37S Fees

(1) The SDA scheme may provide for fees.

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(2) The amount of a fee under the SDA scheme must not be such as to amount to taxation.

37T Statutory declarations

The SDA scheme may provide for statements in claims to be verified by statutory declaration.

37U Methods by which SDA payments may be made

(1) The SDA scheme may make provision for the methods by which SDA payments may be made.

(2) The SDA scheme may require that SDA payments be made using an electronic funds transfer system.

(3) Subclause (2) does not limit subclause (1).

37V Adjustment of eligibility for payment rights etc.—death

The SDA scheme may make provision for and in relation to the adjustment of:

(a) eligibility for the grant of payment rights under the scheme; and

(b) the calculation of the face value of payment rights under the scheme;

in relation to the death of an individual who would have otherwise been eligible to be granted a payment right under the SDA scheme.

Note: For example, the SDA scheme may contain provisions setting out the eligibility of the trustee of the deceased estate, or of one or more beneficiaries in the estate, to be granted a payment right under the scheme and setting out the calculation of the face value of that right.

37W Ancillary or incidental provisions

The SDA scheme may contain such ancillary or incidental provisions as the Minister considers appropriate.

37X Scheme-making power not limited

Clauses 37C to 37W do not, by implication, limit clause 37B.

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37Y Variation of scheme

(1) The SDA scheme may be varied, but not revoked, in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.

(2) Subclause (1) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* to other instruments under this Act.

37Z Scheme to be a legislative instrument

An instrument under clause 37B is a legislative instrument.

37ZA Application to things happening before commencement

The use of the present tense in a provision of this Division does not imply that the provision does not apply to things happening before the commencement of this Division.

37ZB Use and disclosure of information obtained under the DSAP scheme

(1) An APP entity that holds a record that contains personal information that was obtained for the purposes of the administration of the DSAP scheme may use the information, or disclose the information to a person, body or agency, for the purposes of the administration of the SDA scheme.

(2) Unless the contrary intention appears, an expression used in this clause has the same meaning as in the *Privacy Act 1988*.

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Division 2—Information-gathering powers

38 DAA may obtain information and documents

(1) This clause applies to a person if the DAA has reason to believe that the entity:

(a) has information or a document that is relevant to the operation of the DSAP scheme or the SDA scheme; or

(b) is capable of giving evidence which the DAA has reason to believe is relevant to the operation of the DSAP scheme or the SDA scheme.

(2) The DAA may, by written notice given to the person, require the person:

(a) to give to the DAA, within the period and in the manner and form specified in the notice, any such information; or

(b) to produce to the DAA, within the period and in the manner specified in the notice, any such documents; or

(c) to make copies of any such documents and to produce to the DAA, within the period and in the manner specified in the notice, those copies; or

(d) if the person is an individual—to appear before the DAA at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents; or

(e) if the person is a body corporate—to cause a competent officer of the body to appear before the DAA at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents.

(3) A period specified under paragraph (2)(a), (b) or (c) must not be shorter than 14 days after the notice is given.

(4) A time specified under paragraph (2)(d) or (e) must be at least 14 days after the notice is given.

(5) A person is guilty of an offence if:

(a) the person has been given a notice under subclause (2); and

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(b) the person engages in conduct; and
(c) the person's conduct contravenes a requirement in the notice.

Penalty: 30 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

(6) A notice under subclause (2) must set out the effect of the following provisions:
(a) subclause (5);
(b) clause 133;
(c) section 136.1 of the *Criminal Code*;
(d) section 137.1 of the *Criminal Code*;
(e) section 137.2 of the *Criminal Code*.

39 Copying documents—reasonable compensation

A person is entitled to be paid reasonable compensation for complying with a requirement covered by paragraph 38(2)(c).

40 Self-incrimination

(1) An individual is not excused from giving information or evidence or producing a document or a copy of a document under this Division on the ground that the information or evidence or the production of the document or copy might tend to incriminate the individual or expose the individual to a penalty.

(2) However:
(a) giving the information or evidence or producing the document or copy; or
(b) any information, document or thing obtained as a direct or indirect consequence of giving the information or evidence or producing the document or copy;

is not admissible in evidence against the individual in criminal proceedings other than:
(c) proceedings for an offence against subclause 38(5) or clause 133; or

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(d) proceedings for an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Division.

41 Copies of documents

(1) The DAA may inspect a document or copy produced under this Division and may make and retain copies of, or take and retain extracts from, such a document.

(2) The DAA may retain possession of a copy of a document produced in accordance with a requirement covered by paragraph 38(2)(c).

42 DAA may retain documents

(1) The DAA may take, and retain for as long as is necessary, possession of a document produced under this Division.

(2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the DAA to be a true copy.

(3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

(4) Until a certified copy is supplied, the DAA must provide the person otherwise entitled to possession of the document, or a person authorised by that person, reasonable access to the document for the purposes of inspecting and making copies of, or taking extracts from, the document.

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Division 3—Protection of confidentiality of information

43 Protection of confidentiality of information

(1) This clause restricts what a person (the ***entrusted person***) may do with protected information, or protected documents, that the person has obtained in the course of official employment.

(2) The entrusted person:

(a) must not make a record of protected information; and

(b) must not disclose it to anyone else;

if the recording or disclosure is not in accordance with subclause (3).

Penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

(3) It is not an offence against subclause (2) if any of the following apply to the recording or disclosure:

(a) the recording or disclosure is for the purposes of this Part, the DSAP scheme or the SDA scheme or is otherwise required by any law of the Commonwealth;

(b) the recording or disclosure happens in the course of the performance of the duties of the entrusted person's official employment;

(c) the disclosure is not likely to enable the identification of a particular entity;

(d) both:

(i) the disclosure is to an entity who had an eligible interest in a dairy farm enterprise at 6.30 pm on 28 September 1999; and

(ii) the information relates to that enterprise.

Note: A defendant bears an evidential burden in relation to a matter in paragraph (3)(a), (b), (e) or (f)—see subsection 13.3(3) of the *Criminal Code*.

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(4) Despite subsection 13.3(3) of the *Criminal Code*, the defendant does not bear an evidential burden in relation to a matter in paragraph (3)(c) or (d) of this clause.

(5) Unless it is necessary for the purposes of this Part, the DSAP scheme or the SDA scheme, the entrusted person is not to be required:
  (a) to produce any protected document to a court; or
  (b) to disclose protected information to a court.

(6) In this clause:

disclose means divulge or communicate.

official employment means:
  (a) service as a DAA member; or
  (b) the performance of services for the DAA; or
  (c) the exercise of powers or performance of functions under a delegation by the DAA.

protected document means any document made or given under, or for the purposes of, this Part, the DSAP scheme or the SDA scheme.

protected information means information that meets all the following conditions:
  (a) it relates to the affairs of a person other than the entrusted person;
  (b) it was obtained by the entrusted person, or by any other person, in the course of official employment;
  (c) it was disclosed or obtained for the purposes of this Part, the DSAP scheme or the SDA scheme.

this Part includes any other provision of this Schedule in so far as that other provision relates to this Part.

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Division 4—Recovery of scheme debts

44 Scheme debt

For the purposes of this Division, a ***scheme debt*** is so much of an amount paid, or purportedly paid, to an entity by way of a DSAP payment or an SDA payment as represents an overpayment.

45 Scheme debts are debts due to the industry services body

A scheme debt is a debt due to the industry services body.

46 Recovery by legal proceedings

(1) A scheme debt may be recovered by the DAA, on behalf of the industry services body, by action in a court of competent jurisdiction.

(2) An action under subclause (1) may be instituted by the DAA in its official name.

47 Recovery by set-off

If an entity is liable to pay a scheme debt, the scheme debt may be deducted from one or more DSAP payments or SDA payments that are payable to the entity, and if the scheme debt is so deducted, the DSAP payment or SDA payment (as the case may be) is taken to have been paid in full to the entity.

48 Industry services body may collect money from a person who owes money to an entity

What this clause does

(1) This clause allows for the collection of money from a person who owes money to an entity that has a scheme debt.

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The DAA may give direction

(2) The DAA may direct a person (the ***third party***) who owes, or may later owe, money (the ***available money***) to the entity to pay some or all of the available money to the industry services body in accordance with the direction. The DAA must give a copy of the direction to the entity.

Limit on directions

(3) The direction cannot require an amount to be paid to the industry services body at a time before it becomes owing by the third party to the entity.

Third party to comply

(4) The third party must comply with the direction.

Penalty: 20 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

(5) The third party is not guilty of an offence against subclause (4) if the third party complies with the direction so far as the third party is able to do so.

Note: A defendant bears an evidential burden in relation to the matter in subclause (5). See subsection 13.3(3) of the *Criminal Code*.

Court orders

(6) If a person is convicted of an offence in relation to a refusal or failure of the third party to comply with subclause (4), the court may (in addition to imposing a penalty on the convicted person) order the convicted person to pay to the industry services body an amount up to the amount involved in the refusal or failure of the third party.

Indemnity

(7) Any payment made by the third party under this clause is taken to have been made with the authority of the entity and of all other

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persons concerned, and the third party is indemnified for the payment.

Notice

(8) If the whole of the scheme debt of the entity is discharged before any payment is made by the third party, the DAA must immediately give notice to the third party of that fact.

(9) If a part of the scheme debt of the entity is discharged before any payment is made by the third party, the DAA must:
  (a) immediately give notice to the third party of that fact; and
  (b) make an appropriate variation to the direction; and
  (c) give a copy of the varied direction to the entity.

When third party is taken to owe money

(10) The third party is taken to owe money to the entity if:
  (a) money is due or accruing by the third party to the entity; or
  (b) the third party holds money for or on account of the entity; or
  (c) the third party holds money on account of some other person for payment to the entity; or
  (d) the third party has authority from some other person to pay money to the entity;

whether or not the payment of the money to the entity is dependent on a pre-condition that has not been fulfilled.

49 Penalty for unpaid scheme debts

(1) If an amount of a scheme debt that is payable by an entity remains unpaid after the day by which it must be paid, the entity is liable to a penalty at the rate of 16% per year on the unpaid amount.

(2) The penalty is calculated from the day on which the amount becomes due to be paid.

(3) The fact that a judgment is entered or given in a court for the payment of an amount of a scheme debt, or of a composite amount that includes an amount of a scheme debt, does not of itself cause

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the amount of a scheme debt to stop being unpaid for the purposes of this clause.

(4) If the judgment debt bears interest, the penalty payable under this clause is reduced (but not beyond nil) by the following amount:

$$\text{Interest on judgment debt} \times \frac{\text{Scheme debt component}}{\text{Judgment debt}}$$

where:

scheme debt component means so much of the judgment debt as consists of a scheme debt.

(5) For the purposes of this clause, the day on which a scheme debt is due to be paid is the day on which the DSAP payment or SDA payment concerned was paid.

(6) This clause does not apply to a scheme debt that is attributable (in whole or in part) to an error made by the DAA or the industry services body, where the DSAP payment or SDA payment concerned was received in good faith.

(7) The DSAP scheme or the SDA scheme (as the case may be) must empower the DAA to remit the whole or a part of an amount of penalty payable under this clause.

(8) A penalty payable under this clause may be recovered by the Commonwealth as a debt to the Commonwealth.

(9) This clause has no effect to the extent (if any) to which it imposes taxation (within the meaning of section 55 of the Constitution).

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Division 5—Cancellation of units

50 Cancellation of units because of the making of a false statement

(1) If:

(a) before a payment right was granted, an entity made a false statement to a person who was exercising powers, or performing functions, under or in connection with this Part, the DSAP scheme or the SDA scheme; and

(b) either:

(i) the payment right was granted because of the making of the false statement; or

(ii) as a result of the making of the false statement, the face value of the payment right exceeds the proper amount of the face value;

the DSAP scheme or the SDA scheme (as the case may be) must authorise the DAA to:

(c) if subparagraph (b)(i) applies—cancel all of the units in the payment right; or

(d) if subparagraph (b)(ii) applies—cancel the number of units in the payment right worked out by:

(i) dividing the number of whole dollars in the amount of the excess by 32; and

(ii) if the result of the division is not a whole number—rounding down the result to the nearest whole number (treating zero as a whole number).

(2) If a unit is cancelled as authorised under this clause, this Schedule and the DSAP scheme or the SDA scheme (as the case may be) have, and are taken always to have had, effect as if the unit was never in existence.

Note: This may result in an overpayment. For recovery of overpayments, see Division 4.

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(3) In this clause:

false statement means a statement (whether made orally, in a document or in any other way) that:

(a) is false or misleading in a material particular; or

(b) omits any matter or thing without which the statement is misleading in a material particular.

51 Cancellation of units because of an error made by the DAA

(1) If:

(a) the DAA made an error in relation to the grant of a payment right; and

(b) clause 50 does not apply; and

(c) either:

(i) the payment right would not have been granted if the DAA had not made that error; or

(ii) the face value of the payment right exceeds the amount that would have been the amount of the face value if the DAA had not made that error;

the DSAP scheme or the SDA scheme (as the case may be) must authorise the DAA to:

(d) if subparagraph (c)(i) applies—cancel all of the units in the payment right; or

(e) if subparagraph (c)(ii) applies—cancel the number of units in the payment right worked out by:

(i) dividing the number of whole dollars in the amount of the excess by 32; and

(ii) if the result of the division is not a whole number—rounding down the result to the nearest whole number (treating zero as a whole number).

(2) The DSAP scheme or the SDA scheme (as the case may be) may provide that the DAA is not to cancel a unit as authorised under this clause if the DAA is satisfied that the entity, or each of the entities, who received a DSAP payment or an SDA payment in respect of the unit acted in good faith.

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(3) If a unit is cancelled as authorised under this clause, this Schedule and the DSAP scheme or the SDA scheme (as the case may be) have, and are taken always to have had, effect as if the unit was never in existence.

Note: This may result in an overpayment. For recovery of overpayments, see Division 4.

52 Cancellation of unit because of a breach of an undertaking to assign the unit

DSAP scheme

(1) If:

(a) an entity (the ***first entity***) has given the DAA an undertaking to assign a unit in a payment right under the DSAP scheme to an eligible entity as mentioned in paragraph 21(4)(b); and

(b) the first entity breaches the undertaking; and

(c) the DAA gives the first entity a written notice directing the first entity to comply with the undertaking before the end of the period of 60 days beginning when the direction is given; and

(d) the first entity contravenes the direction;

the DSAP scheme must authorise the DAA to cancel the unit.

(1A) For the purposes of subclause (1), ***eligible entity*** has the same meaning as in clause 21.

SDA scheme

(1B) If:

(a) an entity (the ***first entity***) has given the DAA an undertaking to assign a unit in a payment right under the SDA scheme to an eligible entity as mentioned in paragraph 37N(3)(b); and

(b) the first entity breaches the undertaking; and

(c) the DAA gives the first entity a written notice directing the first entity to comply with the undertaking before the end of the period of 60 days beginning when the direction is given; and

(d) the first entity contravenes the direction;

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the SDA scheme must authorise the DAA to cancel the unit.

(1C) For the purposes of subclause (1B), ***eligible entity*** has the same meaning as in clause 37N.

When cancellation takes effect

(2) The cancellation of a unit as authorised under this clause takes effect at the end of that 60-day period.

54 Limit on cancellation or variation

A payment right or a unit must not be cancelled or varied otherwise than as authorised under this Part.

Division 6—Dairy Adjustment Authority

55 Dairy Adjustment Authority

(1) The Dairy Adjustment Authority is established.

(2) The Minister may, by legislative instrument, declare that the Dairy Adjustment Authority ceases to exist immediately after a specified day.

(3) A declaration under subclause (2) has effect accordingly.

56 Functions

The DAA has the following functions:

(a) such functions as are conferred on the DAA by or under:
  (i) the DSAP scheme or the SDA scheme; or
  (ii) this Schedule; or
  (iii) any other law of the Commonwealth;

(b) to do anything incidental to or conducive to the performance of any of the above functions.

57 Powers

(1) The DAA has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) The powers of the DAA under this clause include (but are not limited to) the power to enter into contracts and agreements on behalf of the Commonwealth.

58 Phasing-down of the DAA

(1) The Minister may, by notice published in the *Gazette*, declare that a specified time is the ***first DAA phase-down time*** for the purposes of this Division.

Note: The effect of the notice is to reduce the number of DAA members from 5 to 2—see clause 59.

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(2) The Minister may, by notice published in the *Gazette*, declare that a specified time is the ***second DAA phase-down time*** for the purposes of this Division. The specified time must be after the first DAA phase-down time.

Note: The effect of the notice is to reduce the number of DAA members from 2 to 1—see clause 59.

(3) A declaration under subclause (1) or (2) has effect accordingly.

59 Membership of the DAA

Before the first DAA phase-down time

(1) Before the first DAA phase-down time, the DAA consists of the following members:

(a) a Chair;

(b) 2 industry members;

(c) a government member;

(d) one other member.

Between the first DAA phase-down time and the second DAA phase-down time

(2) During the period:

(a) beginning at the first DAA phase-down time; and

(b) ending at the second DAA phase-down time;

the DAA consists of the following members:

(c) a Chair;

(d) one other member.

(3) A person who held office as a DAA member immediately before the first DAA phase-down time is taken to vacate that office at that time. However, this subclause does not prevent the person from being re-appointed with effect from the first DAA phase-down time.

After the second DAA phase-down time

(4) After the second DAA phase-down time, the DAA consists of a single member.

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(5) If, after the second DAA phase-down time, there is no ordinary member of the DAA who holds office under subclause (4), the Secretary holds that office.

(6) A person who held office as a DAA member immediately before the second DAA phase-down time is taken to vacate that office at that time. However, this subclause does not prevent the person from being re-appointed with effect from the second DAA phase-down time.

60 Qualifications of DAA members

(1) A person is not to be appointed as:

(a) the DAA Chair; or

(b) the DAA member referred to in paragraph 59(1)(d);

unless it appears to the Minister that the person has knowledge of, or experience in, one or more of the following fields:

(c) business management;

(d) finance;

(e) legal practice;

(f) actuarial practice.

(2) A person is not to be appointed as an industry member unless it appears to the Minister that the person has knowledge of, or experience in, the production of dairy produce.

(3) A person is not to be appointed as the government member unless it appears to the Minister that the person has knowledge of, or experience in, either or both of the following fields:

(a) the formulation of government policy;

(b) public administration.

61 Appointment of DAA members

(1) The ordinary DAA members are to be appointed by the Minister by written instrument.

(2) An ordinary DAA member is to be appointed for the period specified in the instrument of appointment.

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(3) An ordinary DAA member holds office on a part-time basis.

(4) The performance of the functions of the DAA is not affected only because of there being a vacancy or vacancies in the membership of the DAA.

(5) The performance of the functions of the DAA is not affected only because of the reconstitution of the DAA at the first DAA phase-down time or the second DAA phase-down time.

62 Procedures

(1) The regulations may prescribe:
  (a) the manner in which the DAA is to perform its functions; and
  (b) the procedure to be followed at or in relation to meetings of the DAA, including matters with respect to the following:
    (i) the convening of meetings of the DAA;
    (ii) the number of DAA members who are to constitute a quorum;
    (iii) the selection of a DAA member to preside at meetings of the DAA in the absence of the DAA Chair; and
    (iv) the manner in which questions arising at a meeting of the DAA are to be decided.

(2) A resolution is taken to have been passed at a meeting of the DAA if:
  (a) without meeting, a majority of DAA members indicate agreement with the resolution in accordance with the method determined by the DAA under subclause (3); and
  (b) all DAA members were informed of the proposed resolution, or reasonable efforts had been made to inform all DAA members of the proposed resolution.

(3) Subclause (2) applies only if the DAA:
  (a) determines that it applies; and
  (b) determines the method by which DAA members are to indicate agreement with resolutions.

(4) This clause does not apply after the second DAA phase-down time.

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63 Disclosure of interests before the second DAA phase-down time

(1) An ordinary DAA member who has a material personal interest in a matter being considered by the DAA must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the DAA.

(2) The disclosure is to be recorded in the minutes of the meeting and unless the Minister or the DAA otherwise determines, the DAA member must not:
  (a) be present during any deliberation by the DAA about that matter; or
  (b) take part in any decision of the DAA relating to that matter.

(3) For the purposes of the making of a determination by the DAA under subclause (2) in relation to a DAA member who has made a disclosure under subclause (1), a DAA member who has an interest in the matter to which the disclosure relates must not:
  (a) be present during any deliberation of the DAA for the purposes of making the determination; or
  (b) take part in the making by the DAA of the determination.

(4) This clause does not apply after the second DAA phase-down time.

64 Disclosure of interests after the second DAA phase-down time

DAA to notify business interests to Minister

(1) The DAA must give written notice to the Minister of all material personal interests that the DAA has or acquires in any business, or in any body corporate carrying on a business.

DAA to notify potential conflict of interest to Minister

(2) If the DAA has a material personal interest in a matter being considered or about to be considered by the DAA, the DAA must:
  (a) give written notice to the Minister of that interest; and
  (b) take no further action on the matter before:
    (i) the end of 28 days after the date on which the Minister receives the notice; or

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(ii) the date on which written advice of a decision of the Minister under subclause (4) is given in relation to the matter;

whichever first occurs.

Minister may direct DAA to delegate

(3) If:

(a) the DAA has a material personal interest in a matter being considered or about to be considered by the DAA; and

(b) the Minister considers that the interest could conflict with the proper performance of the DAA's functions in relation to that matter;

then:

(c) the Minister must give the DAA a written notice directing the DAA:

(i) not to deal with the matter personally; and

(ii) to delegate the DAA's functions and powers in relation to that matter to a specified person under clause 73; and

(iii) not to delegate the DAA's functions and powers in relation to that matter to any other person; and

(d) the DAA must comply with the direction.

Minister may allow DAA to deal with matter personally

(4) If:

(a) the DAA has a material personal interest in a matter being considered or about to be considered by the DAA; and

(b) the Minister does not consider that the interest could conflict with the proper performance of the DAA's functions in relation to that matter;

the Minister may give the DAA a written notice stating that the Minister has no objection to the DAA dealing with the matter personally.

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Minister's direction to be given within 28 days of notification of DAA's interest

(5) If:

(a) the DAA has a material personal interest in a matter being considered or about to be considered by the DAA; and

(b) the Minister considers that the interest could conflict with the proper performance of the DAA's functions in relation to that matter; and

(c) the DAA gives written notice to the Minister of that interest under subclause (2);

a direction under subclause (3) in relation to that matter has no effect unless it is given before the end of 28 days after the date on which the Minister receives the notice.

Application

(6) This clause does not apply before the second DAA phase-down time.

65 Remuneration and allowances

(1) An ordinary DAA member is to be paid such remuneration as is determined by the Remuneration Tribunal.

(2) If no determination of that remuneration is in operation, a DAA member is to be paid such remuneration as is prescribed.

(3) An ordinary DAA member is to be paid such allowances as are prescribed.

(4) This clause has effect subject to the *Remuneration Tribunal Act 1973*.

66 Leave of absence

(1) The Minister or the DAA Chair may grant leave to an ordinary DAA member to be absent from a meeting or meetings of the DAA.

(2) This clause does not apply after the second DAA phase-down time.

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67 Resignation

An ordinary DAA member may resign by writing signed by the member and sent to the Minister.

68 Termination of appointment

(1) The Minister may terminate an ordinary DAA member's appointment if the Minister is of the opinion that the member's performance has been unsatisfactory.

(2) The Minister may terminate the appointments of all of the ordinary DAA members if the Minister is of the opinion that the DAA's performance has been unsatisfactory.

(3) The Minister may terminate the appointment of an ordinary DAA member because of misbehaviour or physical or mental incapacity.

(4) If:

(a) an ordinary DAA member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or

(b) an ordinary DAA member is absent, except on leave of absence, from 3 consecutive meetings of the DAA; or

(c) an ordinary DAA member fails, without reasonable excuse, to comply with clause 63 or 64;

the Minister may terminate the appointment of the member.

(5) The Minister may at any time terminate the appointment of the government member of the DAA.

(6) The Minister may at any time terminate the appointment of an ordinary DAA member who holds office under subclause 59(4).

Note: Subclause 59(4) deals with the ordinary DAA member who holds office after the second DAA phase-down time.

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69 Other terms and conditions

An ordinary DAA member holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister.

70 Industry services body must provide assistance to DAA

(1) The industry services body must, if requested to do so by the DAA, make available to the DAA reasonable resources and facilities (including secretariat services, clerical assistance and computer resources) for the purposes of enabling the DAA to perform its functions.

(2) If the services of an employee of the industry services body are made available to the DAA under subclause (1), the employee is not subject to the direction of the industry services body in relation to the provision of those services.

(3) Subclause (1) does not, by implication, prevent the DAA from obtaining resources and facilities otherwise than from the industry services body.

71 Consultants etc.

(1) The DAA may, on behalf of the Commonwealth, engage persons to give advice to, and perform services for, the DAA.

(2) The terms and conditions of engagement are as determined by the DAA.

72 Delegation by DAA—before second DAA phase-down time

(1) The DAA may, by resolution, delegate to:

(a) a DAA member; or

(b) a senior employee of the industry services body;

all or any of the DAA's functions and powers.

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(2) A delegation of a function or power under this clause:
  (a) may be revoked by resolution of the DAA (whether or not constituted by the persons constituting the DAA at the time when the function or power was delegated); and
  (b) continues in force notwithstanding a change in the membership of the DAA.

(3) Section 34A of the *Acts Interpretation Act 1901* applies in relation to a delegation under this clause as if the DAA were a person.

(4) A certificate signed by the DAA Chair stating any matter with respect to a delegation of a function or power under this clause is prima facie evidence of that matter.

(5) A document purporting to be a certificate mentioned in subclause (4) is, unless the contrary is established, taken to be such a certificate and to have been duly given.

(6) A delegate under this clause is, in the exercise of a function or power delegated under this clause, subject to any directions given by the DAA.

(7) A reference in this clause to a ***senior employee of the industry services body*** is a reference to a person who:
  (a) is an employee of the industry services body; and
  (b) holds or performs the duties of a position of General Manager.

(8) This clause does not apply after the second DAA phase-down time.

73 Delegation by DAA—after second DAA phase-down time

(1) The DAA may, by writing, delegate to an SES employee or acting SES employee all or any of the DAA's functions and powers.

(2) A delegate under this clause is, in the exercise of a function or power delegated under this clause, subject to any directions given by the DAA.

(3) This clause does not apply before the second DAA phase-down time.

74 Annual report

(1) The DAA must, as soon as practicable after the end of each financial year:

(a) prepare a report on its operations during that financial year; and

(b) give the report to the Minister.

(2) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sittings days of that House after the day on which the Minister receives the report.

(3) This clause does not apply in relation to a financial year if:

(a) the financial year is earlier than the 2000-2001 financial year; or

(b) the Secretary was the sole member of the DAA throughout the financial year.

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Division 7—Miscellaneous

75 DSAP and SDA payments taken to be subsidies for the purposes of section 15-10 of the *Income Tax Assessment Act 1997*

To avoid doubt, for the purposes of section 15-10 of the *Income Tax Assessment Act 1997*, a DSAP payment or an SDA payment received by an entity is taken to be a subsidy received by the entity in relation to carrying on a business.

Note: Section 15-10 of the *Income Tax Assessment Act 1997* provides that an entity's assessable income includes a subsidy received in relation to carrying on a business.

76 Review in 2002-2003

(1) During the 2002-2003 financial year, the DAA must conduct a review of, and make recommendations to the Minister about, the adequacy of collections of dairy adjustment levy to fund DSAP payments, SDA payments and dairy exit payments.

(2) The DAA must prepare a report of a review and recommendations under subclause (1), and give the report to the Minister.

(3) The Minister must cause copies of a report to be laid before each House of the Parliament within 15 sittings days of that House after the completion of the preparation of the report.

(4) In this clause:

dairy adjustment levy means levy within the meaning of Part 4.

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Part 3—Dairy Structural Adjustment Fund

77 Establishment of the Dairy Structural Adjustment Fund

(1) A fund to be known as the Dairy Structural Adjustment Fund is established.

77A The industry services body to keep the Dairy Structural Adjustment Fund

(1) The industry services body must keep and administer the Dairy Structural Adjustment Fund.

(2) The assets of the Dairy Structural Adjustment Fund are the property of the industry services body, but must be kept separate from all other property and must be held on trust by the body for the purposes of this Part.

(3) No stamp duty or other tax is payable under a law of a State or Territory in respect of the operation of subclause (2).

77AA Winding up the Dairy Structural Adjustment Fund

(1) The Minister may, by written notice, specify a day or days on which there is to be paid to the Commonwealth an amount specified in the notice and standing, at the beginning of that day, to the credit of the Dairy Structural Adjustment Fund.

(2) The amount specified in the notice and standing to the credit of the Dairy Structural Adjustment Fund at the beginning of the day specified in the notice is to be paid to the Commonwealth.

(3) If no amount is standing to the credit of the Dairy Structural Adjustment Fund immediately after the time an amount has been paid under subclause (2), that Fund is taken to be wound up immediately after that time.

(4) A notice made under subclause (1) is not a legislative instrument.

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77B What the Dairy Structural Adjustment Fund consists of

The Dairy Structural Adjustment Fund consists of the following:

(a) money credited to the Fund under clause 78;

(b) investments the industry services body has as a result of investing money in the Fund under clause 79B;

(c) all other money and property lawfully paid into, or forming part of, the Fund.

77C Power to borrow or raise money for the purposes of the Dairy Structural Adjustment Fund

(1) The industry services body may:

(a) borrow money; or

(b) raise money otherwise than by borrowing;

for the purpose of making payments for which money of the Dairy Structural Adjustment Fund may be expended.

Note: The meaning of ***raise money otherwise than by borrowing*** is affected by clause 77CC.

(2) The industry services body may give security, including over the assets of the Dairy Structural Adjustment Fund, in respect of the body's obligations in relation to a borrowing or other raising of money under subclause (1).

77CA Borrowing or raising money by dealing in securities

(1) Without limiting subclause 77C(1), the industry services body may, under that subclause, borrow money, or raise money otherwise than by borrowing, by dealing with securities.

(2) In this clause:

dealing with securities includes:

(a) creating, executing, entering into, drawing, making, accepting, endorsing, issuing, discounting, selling, purchasing or re-selling securities; and

(b) creating, selling, purchasing or re-selling rights or options in respect of securities; and

(c) entering into agreements or other arrangements relating to securities.

securities includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents.

77CB Hedging through currency contracts etc.

(1) This clause applies to the following contracts:
  (a) currency contracts;
  (b) interest rate contracts;
  (c) futures contracts;
  (d) contracts relating to:
    (i) dealings known as currency swaps; or
    (ii) dealings known as interest rate swaps;
  (e) contracts relating to both of the dealings referred to in paragraph (d);
  (f) options (including futures options).

(2) The industry services body may enter into and deal with contracts to which this clause applies for hedging purposes in relation to a borrowing or raising, or a proposed borrowing or raising, of money under subclause 77C(1).

(3) A contract is taken to be entered into or dealt with for hedging purposes only if the contract is entered into or dealt with for the purpose of managing the risk of variations in the costs of a borrowing or raising, or a proposed borrowing or raising, of money under subclause 77C(1).

(4) In this clause:

currency contract means:
  (a) a forward exchange rate contract; or
  (b) a contract with respect to currency futures.

futures contract means:
  (a) a deferred delivery contract; or
  (b) a contract with respect to financial futures; or

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(c) a contract with respect to commodity futures.

77CC Obtaining credit etc. taken to be raising of an amount of money, otherwise than by borrowing

(1) This clause applies if the industry services body:
  (a) does a thing mentioned in the table in subclause (2); and
  (b) does not do that thing in relation to a transaction that is in the ordinary course of its day-to-day operations.

(2) By doing that thing, the industry services body is taken, for the purposes of this Part and subclause 94(2), to raise the relevant amount of money mentioned in the following table, otherwise than by borrowing:

Circumstances where the industry services body is taken to raise an amount of money, otherwise than by borrowing		
Item	**If the industry services body...**	**by doing so, it is taken to raise this amount of money, otherwise than by borrowing...**
1	issues an instrument acknowledging a debt in consideration of the payment or deposit of money	the amount of the money paid or deposited
2	issues an instrument acknowledging a debt in consideration of the provision of credit	the value of the credit provided
3	obtains credit	the value of the credit obtained

77D Funding contract may include provisions relating to the Dairy Structural Adjustment Fund

A funding contract with the industry services body may include provisions relating to the Dairy Structural Adjustment Fund. This

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clause does not impliedly limit the matters that may be included in the contract.

78 Money to be paid into the Dairy Structural Adjustment Fund

The following money is to be credited to the Dairy Structural Adjustment Fund:

(a) money paid to the industry services body under clause 83 (which deals with dairy adjustment levy);

(b) money paid to the industry services body under clause 84 (which deals with fees under the DSAP scheme or the SDA scheme);

(c) money paid to the industry services body under clause 85 (which deals with civil penalties relating to the DSAP scheme or the SDA scheme);

(d) money paid to the industry services body by way of the recovery of a scheme debt (within the meaning of clause 44);

(e) money paid to the industry services body under clause 48 (which deals with the collection of money from a person who owes money to an entity that has a scheme debt);

(g) money received by the industry services body as interest or profits from the investment of money standing to the credit of the Dairy Structural Adjustment Fund;

(h) money borrowed or otherwise raised by the industry services body for the purpose of making payments for which money of the Dairy Structural Adjustment Fund may be expended;

(ha) money received by the industry services body in respect of contracts entered into or dealt with by it under clause 77CB;

(i) money paid to the industry services body for the purposes of the Dairy Structural Adjustment Fund.

79 Application of the Dairy Structural Adjustment Fund

Money standing to the credit of the Dairy Structural Adjustment Fund is to be expended:

(a) in making DSAP payments; and

(aa) in making SDA payments; and

(b) in making dairy exit payments; and

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(c) in reimbursing or meeting the expenses of the Commonwealth or the industry services body incurred (whether before or after the commencement of this clause) in relation to the development and implementation of the measures that from time to time form part of the Dairy Industry Adjustment Package; and

(e) in meeting the expenses of the Commonwealth incurred in relation to:

(i) the collection and recovery of amounts referred to in clause 83 (which deals with dairy adjustment levy); or

(ii) the administration of clause 83; and

(f) in payment of any remuneration and allowances of ordinary DAA members; and

(g) in meeting the expenses of the industry services body incurred in making available to the DAA resources and facilities as mentioned in subclause 70(1); and

(h) in meeting the expenses incurred by the Commonwealth in relation to the engagement of persons under clause 71 (which deals with consultants to the DAA); and

(i) in meeting any other expenses incurred by the Commonwealth in relation to:

(i) the administration of this Schedule, the DSAP scheme or the SDA scheme; or

(ii) the performance of the functions, or the exercise of the powers, of the DAA; and

(ia) in meeting the expenses incurred by the Commonwealth in relation to the termination of the program known as the Dairy Industry Adjustment Program; and

(l) in meeting the expenses of the industry services body incurred in administering the Dairy Structural Adjustment Fund; and

(m) in repaying money borrowed or otherwise raised for the purpose of making payments for which money of the Dairy Structural Adjustment Fund may be expended; and

(n) in meeting the expenses of the industry services body incurred in borrowing or otherwise raising money for the purpose of making payments for which money of the Dairy Structural Adjustment Fund may be expended; and

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(na) in meeting the obligations and liabilities of the industry services body in respect of contracts entered into or dealt with by it under clause 77CB; and

(nb) in meeting the expenses of the industry services body incurred in respect of contracts entered into or dealt with by it under clause 77CB; and

(nc) in payment of amounts relating to the indemnity mentioned in clause 86A; and

(o) in reimbursing the Commonwealth for amounts that are refunded under clause 124 (which deals with dairy adjustment levy); and

(p) in reimbursing the Commonwealth for amounts that are refunded under regulations made for the purposes of clause 125 (which deals with dairy adjustment levy); and

(q) in making payments under the Dairy Regional Assistance Programme; and

(r) in meeting the expenses of the Commonwealth incurred in relation to the administration of the Dairy Regional Assistance Programme.

Note: For the Dairy Regional Assistance Programme, see clause 86.

79A How money is to be kept

(1) Money in the Dairy Structural Adjustment Fund must:

(a) until applied for the purposes of this Part; or

(b) until invested under clause 79B;

be kept by the industry services body in an account or accounts with an Australian ADI separate from any account or accounts in which other money is kept.

(2) In this clause:

Australian ADI means:

(a) an ADI (authorised deposit-taking institution) within the meaning of the *Banking Act 1959*; or

(aa) the Reserve Bank of Australia; or

(b) a person who carries on State banking within the meaning of paragraph 51(xiii) of the Constitution.

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79B Money in Dairy Structural Adjustment Fund may be invested

Money in the Dairy Structural Adjustment Fund that is not immediately required for the purposes of this Part may be invested in any way in which trustees are for the time being authorised by a law in force in a State or Territory to invest trust funds.

79C Report to Minister

(1) The industry services body must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report on the administration of the Dairy Structural Adjustment Fund during the year that ended on that 30 June.

(2) The Minister must cause a copy of each report to be tabled in each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

80 Solvency of the Dairy Structural Adjustment Fund

The industry services body and the Minister must take all reasonable steps to ensure that there is sufficient money in the Dairy Structural Adjustment Fund to:

(a) make DSAP payments and SDA payments as they fall due; and

(b) meet any other calls on that Fund as those calls fall due.

83 Payment of dairy adjustment levy to the industry services body

(1) The Commonwealth must pay to the industry services body an amount equal to each amount received by the Commonwealth by way of:

(a) dairy adjustment levy; or

(b) penalty payable under clause 107.

(2) The Commonwealth must pay to the industry services body an amount equal to each amount of dairy adjustment levy notionally received by the Commonwealth under clause 131.

(3) The Consolidated Revenue Fund is appropriated for the purposes of subclauses (1) and (2).

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(3A) The Minister may, by legislative instrument, declare that subclauses (1) and (2) do not apply to any amount received by the Commonwealth after the day specified in the instrument. The day specified must not be earlier than the day declared for the purposes of subclause 94(1).

(4) In this clause:

dairy adjustment levy means levy within the meaning of Part 4.

84 Payment of DSAP and SDA scheme fees to the industry services body

(1) The Commonwealth must pay to the industry services body an amount equal to each amount received by the Commonwealth by way of a fee under the DSAP scheme or the SDA scheme.

(2) The Consolidated Revenue Fund is appropriated for the purposes of subclause (1).

85 Payment of penalties under the DSAP scheme and SDA scheme to the industry services body

(1) The Commonwealth must pay to the industry services body an amount equal to each amount received by the Commonwealth by way of a penalty under clause 49.

(2) The Consolidated Revenue Fund is appropriated for the purposes of subclause (1).

86 Dairy Regional Assistance Programme

(1) For the purposes of this Part, the ***Dairy Regional Assistance Programme*** is a part of the Regional Assistance Programme, being the part known as the Dairy Regional Assistance Programme.

(2) To avoid doubt, the Department of Employment, Workplace Relations and Small Business is responsible for administering the Dairy Regional Assistance Programme. This includes (but is not limited to) responsibility for determining:

(a) the recipients of payments; and

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(b) the amounts of payments; and
(c) the timing of payments; and
(d) the terms and conditions of payments.

(4) The total amount paid out of the Dairy Structural Adjustment Fund:
(a) in making payments under the Dairy Regional Assistance Programme; and
(b) in meeting the expenses of the Commonwealth incurred in relation to the administration of the Dairy Regional Assistance Programme;
must not exceed $65 million.

(6) In this clause:

Regional Assistance Programme means the Programme administered by the Commonwealth and known as the Regional Assistance Programme.

86A Industry services body entitled to full indemnity

(1) The industry services body is entitled to be fully indemnified against any liability (including any liability as to costs) incurred by it in keeping and administering, or purporting to keep and administer, the Dairy Structural Adjustment Fund.

(2) The indemnity is to be paid out of the assets of the Dairy Structural Adjustment Fund.

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Part 4—Collection of dairy adjustment levy

Division 1—Introduction

87 Simplified outline

The following is a simplified outline of this Part:

- The principal levy base for dairy adjustment levy is the sale of a leviable milk product to a person who purchases for the purposes of resale in Australia, where the resale is a retail sale.
- Dairy adjustment levy is imposed by the separate Dairy Adjustment Levy Acts, and the rate of levy is set out in those Acts.
- Levy may be collected by collection agents and collection sub-agents.

88 Definitions

In this Part, unless the contrary intention appears:

authorised person means an APS employee who has been authorised by the Secretary under clause 127 for the purposes of the provision in which the expression occurs.

collecting organisation means an organisation that is a party to an agreement under clause 103.

collection agent means a person who, under clause 97, is an agent of the Commonwealth for the purposes of the collection of levy.

collection sub-agent means a person who, under clause 98 or 99, is a sub-agent of the Commonwealth for the purposes of the collection of levy.

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dairy product means:

(a) milk; or

(b) any other product made from, or containing, milk or a constituent part of milk.

designated small levy-payer has the meaning given by clause 123.

designated small remitter has the meaning given by clause 122.

examinable documents means any documents relevant to the operation of this Part.

late payment penalty means penalty payable under clause 107.

leviable milk product means a dairy product that is:

(a) marketed principally as:

(i) a beverage for human consumption; or

(ii) an ingredient for use in making a beverage for human consumption; or

(b) for use principally as:

(i) a beverage for human consumption; or

(ii) an ingredient for use in making a beverage for human consumption;

but does not include a product declared by the regulations to be exempt from levy.

levy means levy that is payable under Division 2 and imposed as dairy adjustment levy by any of the following:

(a) the *Dairy Adjustment Levy (Excise) Act 2000*;

(b) the *Dairy Adjustment Levy (Customs) Act 2000*;

(c) the *Dairy Adjustment Levy (General) Act 2000*.

organisation includes an unincorporated body of persons.

premises includes:

(a) a structure, building, aircraft, vehicle or vessel; and

(b) a place (whether enclosed or built on or not); and

(c) a part of premises (including premises of the kind referred to in paragraph (a) or (b)).

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process, in relation to a leviable milk product, means:

(a) the production of the product; or

(b) the importation into Australia of the product; or

(c) the performance of any other operation in relation to the product;

but does not include:

(d) the chilling of the product; or

(e) the performance of any operation specified in the regulations.

relevant application to own use, in relation to a leviable milk product, means:

(a) giving the product away; or

(b) transferring property in the product under a contract that is not a contract of sale; or

(c) using the product as an ingredient in making a beverage or other product, where:

(i) the beverage or other product is for supply directly to a consumer; or

(ii) the beverage or other product is to be given away; or

(iii) property in the beverage or other product is to be transferred under a contract that is not a contract of sale.

State includes the Australian Capital Territory and the Northern Territory.

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Division 2—Liability for levy

89 When levy is payable

(1) Levy is payable on each of the following:

(a) the sale of a leviable milk product to a person who purchases for the purposes of resale in Australia, where the resale is a retail sale;

(b) the retail sale of a leviable milk product;

(c) the sale of a leviable milk product to a person who purchases for the purpose of relevantly applying the product to the person's own use in Australia;

(d) the relevant application to a person's own use of a leviable milk product.

(2) Paragraph (1)(d) does not apply to the relevant application to a person's own use of a leviable milk product if the product is consumed at the site on which it was produced.

(3) Levy is not payable under this Division unless it is imposed as dairy adjustment levy by another Act.

90 Commencement of levy

(1) Levy is not payable under paragraph 89(1)(a), (b) or (c) on the sale of a leviable milk product if the sale occurs before 8 July 2000.

(2) Levy is not payable under paragraph 89(1)(d) on the relevant application to a person's own use of a leviable milk product if the relevant application occurs before 8 July 2000.

91 No double levy

Levy is not payable in respect of a leviable milk product if levy has previously been imposed in respect of that product.

92 Exemptions from levy

The regulations may make provision for exemptions from levy.

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93 Who pays the levy

(1) Levy payable under paragraph 89(1)(a) is payable by the person who purchased the leviable milk product for the purposes of resale.

(2) Levy payable under paragraph 89(1)(b) is payable by the person who is the retail seller of the leviable milk product.

(3) Levy payable under paragraph 89(1)(c) is payable by the person who purchased the leviable milk product for the purpose of relevantly applying the product to the person's own use.

(4) Levy payable under paragraph 89(1)(d) is payable by the person who relevantly applied the leviable milk product to the person's own use.

94 Termination of levy when core funding obligations are met

(1) The Minister may, by legislative instrument, declare that the seventh day after the day on which the instrument is registered on the Federal Register of Legislative Instruments established under the *Legislative Instruments Act 2003* is the ***levy termination day*** for the purposes of this clause.

(2) The Minister must not make a declaration under subclause (1) unless the Minister is satisfied that there will be sufficient money in the Dairy Structural Adjustment Fund after the day declared under subclause (1), for the following purposes:

(a) making DSAP payments;

(aa) making SDA payments;

(c) repaying money borrowed or otherwise raised for the purpose of making payments for which money in the Dairy Structural Adjustment Fund may be expanded;

(d) meeting the expenses of the industry services body incurred in borrowing or otherwise raising money for the purposes of making payments for which money in the Dairy Structural Adjustment Fund may be expanded;

(e) in meeting the obligations and liabilities of the industry services body in respect of contracts entered into or dealt with by it under clause 77CB;

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(f) in meeting the expenses of the industry services body incurred in respect of contracts entered into or dealt with by it under clause 77CB.

(3) Levy is not payable under paragraph 89(1)(a), (b) or (c) on the sale of a leviable milk product if the sale occurs after the levy termination day.

(4) Levy is not payable under paragraph 89(1)(d) on the relevant application to a person's own use of a leviable milk product if the relevant application occurs after the levy termination day.

95 Termination of levy if DSAP payment start day does not occur within 6 months after the *Dairy Industry Adjustment Act 2000* receives Royal Assent

(1) This clause applies if the DSAP payment start day is not fixed by a Proclamation published in the *Gazette* within the period of 6 months beginning on the day on which the *Dairy Industry Adjustment Act 2000* receives the Royal Assent.

(2) Levy is not payable under paragraph 89(1)(a), (b) or (c) on the sale of a leviable milk product if the sale occurs after the end of that period.

(3) Levy is not payable under paragraph 89(1)(d) on the relevant application to a person's own use of a leviable milk product if the relevant application occurs after the end of that period.

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Division 3—When levy due for payment

96 When levy due for payment

(1) Levy payable under paragraph 89(1)(a) or (c) on the sale of a leviable milk product is due and payable on whichever is the earlier of the following days:

(a) the first day on which any part of the consideration for the sale is due;

(b) the 90th day after the day on which the sale occurred.

(2) Levy payable by a person under paragraph 89(1)(b) on the retail sale of a leviable milk product is due and payable on:

(a) if the person is a designated small levy-payer in relation to the financial year in which the retail sale occurred—the 28th day after the end of the financial year; or

(b) in any other case—the 28th day after the end of the month in which the retail sale occurred.

(3) Levy payable by a person under paragraph 89(1)(d) on the relevant application to the person's own use of a leviable milk product is due and payable on:

(a) if the person is a designated small levy-payer in relation to the financial year in which the relevant application occurred—the 28th day after the end of the financial year; or

(b) in any other case—the 28th day after the end of the month in which the relevant application occurred.

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Division 4—Collection agents, collection sub-agents and collecting organisations

97 Collection agents

(1) This clause applies to levy if:

(a) the levy is payable under paragraph 89(1)(a) or (c) on the sale of a leviable milk product to a person (the ***purchaser***); and

(b) there is not in force an agreement under clause 103 that relates to the payment of levy by the purchaser.

(2) For better securing the payment of the levy:

(a) the person who performed the last process in relation to the product before the sale occurred is, by force of this clause, the agent of the Commonwealth for the purposes of the collection of the levy; and

(b) if the collection agent supplied the product directly to the purchaser—payment of the levy is to be made to the collection agent on behalf of the Commonwealth at or before the time when the levy becomes due to be paid.

(3) If the purchaser pays an amount of levy under paragraph (2)(b), the purchaser is, to the extent of the amount so paid, discharged from liability to pay the levy to the Commonwealth.

Remission of levy by agent

(4) If the collection agent receives an amount of levy under paragraph (2)(b) during a particular month, the agent must remit the levy to the Commonwealth within:

(a) if the agent is a designated small remitter in relation to the financial year in which the month occurred—28 days after the end of the financial year; or

(b) in any other case—28 days after the end of the month.

(5) A person is guilty of an offence if:

(a) the person is subject to a requirement to remit levy under subclause (4); and

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(b) the person engages in conduct; and
(c) the person's conduct contravenes the requirement.

Penalty: 230 penalty units or imprisonment for 12 months, or both.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Information about levy

(6) If the collection agent supplied the product directly to the purchaser, the collection agent must, before the levy becomes due to be paid, inform the purchaser, either on the invoice for the product or in some other way:
(a) that levy is payable on the sale of the product; and
(b) of the amount of levy payable.

(7) A person is guilty of an offence if:
(a) the person is subject to a requirement to inform another person under subclause (6); and
(b) the first-mentioned person engages in conduct; and
(c) the first-mentioned person's conduct contravenes the requirement.

Penalty for contravention of this subclause: 50 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

98 Collection sub-agents—simple supply chain

(1) This clause applies to levy if:
(a) the levy is payable under paragraph 89(1)(a) or (c) on the sale of a leviable milk product to a person (the ***purchaser***); and
(b) the collection agent for the levy supplied the product to the purchaser indirectly, through a single interposed person; and
(c) there is not in force an agreement under clause 103 that relates to the payment of levy by the purchaser.

Note: For example, if the collection agent (A) sells the product to a wholesaler (W), who in turn sells the product to the purchaser, then W is the interposed person.

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Payment of levy by the purchaser

(2) For better securing the payment of the levy:
  (a) the interposed person is, by force of this clause, the sub-agent of the Commonwealth for the purposes of the collection of the levy; and
  (b) payment of the levy is to be made to the collection sub-agent on behalf of the Commonwealth at or before the time when the levy becomes due to be paid.

(3) If the purchaser pays an amount of levy under paragraph (2)(b), the purchaser is, to the extent of the amount so paid, discharged from liability to pay the levy to the Commonwealth.

Remission of levy by sub-agent and agent

(4) If the collection sub-agent receives an amount of levy under paragraph (2)(b), the sub-agent must remit the levy to the collection agent by such time as is ascertained in accordance with the regulations.

(5) If the collection agent receives an amount of levy under subclause (4) during a particular month, the agent must remit the levy to the Commonwealth within:
  (a) if the agent is a designated small remitter in relation to the financial year in which the month occurred—28 days after the end of the financial year; or
  (b) in any other case—28 days after the end of the month.

(6) A person is guilty of an offence if:
  (a) the person is subject to a requirement to remit levy under subclause (4) or (5); and
  (b) the person engages in conduct; and
  (c) the person's conduct contravenes the requirement.

Penalty: 230 penalty units or imprisonment for 12 months, or both.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Information about levy

(7) The collection agent must, before the levy becomes due to be paid, inform the collection sub-agent, either on the invoice for the product or in some other way:
  (a) that levy is payable on the sale of the product to the purchaser; and
  (b) of the amount of levy payable.

(8) The collection sub-agent must, before the levy becomes due to be paid, inform the purchaser, either on the invoice for the product or in some other way:
  (a) that levy is payable on the sale of the product to the purchaser; and
  (b) of the amount of levy payable.

(9) A person is guilty of an offence if:
  (a) the person is subject to a requirement to inform another person under subclause (7) or (8); and
  (b) the first-mentioned person engages in conduct; and
  (c) the first-mentioned person's conduct contravenes the requirement.

Penalty for contravention of this subclause: 50 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

99 Collection sub-agents—complex supply chain

(1) This clause applies to levy if:
  (a) the levy is payable under paragraph 89(1)(a) or (c) on the sale of a leviable milk product to a person (the ***purchaser***); and
  (b) the collection agent for the levy supplied the product to the purchaser indirectly, through 2 or more interposed persons; and
  (c) there is not in force an agreement under clause 103 that relates to the payment of levy by the purchaser.

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Supply chain

(2) For the purposes of this clause, the interposed persons are taken to form a ***supply chain***, and are to be ranked in an order that corresponds to the order of those persons in the supply chain, with:

(a) the person who acquired the product from the collection agent being ranked highest; and

(b) the person who sold the product to the purchaser being ranked lowest.

Note: For example, if the collection agent (A) sells the product to a wholesaler (W) and W sells the product to a distributor (D), who in turn sells the product to the purchaser, then W is the highest-ranking interposed person and D is the lowest-ranking interposed person.

Payment of levy by the purchaser

(3) For better securing the payment of the levy:

(a) each interposed person is, by force of this clause, a sub-agent of the Commonwealth for the purposes of the collection of the levy; and

(b) payment of the levy is to be made to the lowest-ranking collection sub-agent on behalf of the Commonwealth at or before the time when the levy becomes due to be paid.

(4) If the purchaser pays an amount of levy under paragraph (3)(b), the purchaser is, to the extent of the amount so paid, discharged from liability to pay the levy to the Commonwealth.

Remission of levy by sub-agent and agent

(5) If the lowest-ranking collection sub-agent receives an amount of levy under paragraph (3)(b), the sub-agent must remit the levy to the next highest ranking sub-agent in the supply chain by such time as is ascertained in accordance with the regulations.

(6) If a collection sub-agent (other than the highest-ranking sub-agent) receives an amount of levy under subclause (5) or this subclause, the sub-agent must remit the levy to the next highest ranking sub-agent in the supply chain by such time as is ascertained in accordance with the regulations.

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(7) If the highest-ranking collection sub-agent receives an amount of levy under subclause (5) or (6), the sub-agent must remit the levy to the collection agent by such time as is ascertained in accordance with the regulations.

(8) If the collection agent receives an amount of levy under subclause (7) during a particular month, the agent must remit the levy to the Commonwealth within:

(a) if the agent is a designated small remitter in relation to the financial year in which the month occurred—28 days after the end of the financial year; or

(b) in any other case—28 days after the end of the month.

(9) A person is guilty of an offence if:

(a) the person is subject to a requirement to remit levy under subclause (5), (6), (7) or (8); and

(b) the person engages in conduct; and

(c) the person's conduct contravenes the requirement.

Penalty: 230 penalty units or imprisonment for 12 months, or both.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Information about levy

(10) The collection agent must, before the levy becomes due to be paid, inform the highest-ranking collection sub-agent, either on the invoice for the product or in some other way:

(a) that levy is payable on the sale of the product to the purchaser; and

(b) of the amount of levy payable.

(11) A collection sub-agent (other than the lowest-ranking sub-agent) must, before the levy becomes due to be paid, inform the next lowest-ranking collection sub-agent, either on the invoice for the product or in some other way:

(a) that levy is payable on the sale of the product to the purchaser; and

(b) of the amount of levy payable.

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(12) The lowest-ranking collection sub-agent must, before the levy becomes due to be paid, inform the purchaser, either on the invoice for the product or in some other way:
  (a) that levy is payable on the sale of the product to the purchaser; and
  (b) of the amount of levy payable.

(13) A person is guilty of an offence if:
  (a) the person is subject to a requirement to inform another person under subclause (10), (11) or (12); and
  (b) the first-mentioned person engages in conduct; and
  (c) the first-mentioned person's conduct contravenes the requirement.

Penalty for contravention of this subclause: 50 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

100 Collection agents and collection sub-agents to notify unpaid levy

(1) If:
  (a) an amount of levy is required to be paid to a collection agent or a collection sub-agent under paragraph 97(2)(b), 98(2)(b) or 99(3)(b) at or before a particular time in a particular month; and
  (b) the levy is not paid at or before that time;

the collection agent or collection sub-agent must, within 28 days after the end of the month, give an authorised person a notice about the unpaid levy.

(2) A notice under subclause (1) must set out such information as is specified in the regulations.

(3) A person is guilty of an offence if:
  (a) the person is subject to a requirement to give an authorised person a notice under subclause (1); and
  (b) the first-mentioned person engages in conduct; and
  (c) the first-mentioned person's conduct contravenes the requirement.

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Penalty for contravention of this subclause: 50 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

101 Collection agents and collection sub-agents to notify unremitted levy

(1) If:

(a) an amount of levy is required by subclause 98(4) or 99(5), (6) or (7) to be remitted to a collection agent or a collection sub-agent by a particular time in a particular month; and

(b) the levy is not remitted by that time;

the collection agent or collection sub-agent must, within 28 days after the end of the month, give an authorised person a notice about the unremitted levy.

(2) A notice under subclause (1) must set out such information as is specified in the regulations.

(3) A person is guilty of an offence if:

(a) the person is subject to a requirement to give an authorised person a notice under subclause (1); and

(b) the first-mentioned person engages in conduct; and

(c) the first-mentioned person's conduct contravenes the requirement.

Penalty for contravention of this subclause: 50 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

102 Collection agents and collection sub-agents to issue receipts for levy

(1) If a collection agent receives an amount of levy from another person under paragraph 97(2)(b) or subclause 98(4) or 99(7), the agent must give the other person a receipt for the levy within 14 days after receiving the levy.

(2) If a collection sub-agent receives an amount of levy from another person under paragraph 98(2)(b) or 99(3)(b) or subclause 99(5) or

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(6), the sub-agent must give the other person a receipt for the levy within 14 days after receiving the levy.

(3) The regulations may make provision for exemptions from subclause (1) or (2).

(4) A receipt given under this clause must contain such information as is specified in the regulations.

(5) A person is guilty of an offence if:
  (a) the person is subject to a requirement to give a receipt to another person under subclause (1) or (2); and
  (b) the first-mentioned person engages in conduct; and
  (c) the first-mentioned person's conduct contravenes the requirement.

Penalty: 50 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

(6) For the purposes of this clause, a ***receipt*** means an acknowledgment of having received levy, whether that acknowledgment is given:
  (a) in writing; or
  (b) by way of electronic transmission; or
  (c) in any other form;

but does not include a verbal acknowledgment.

103 Collecting organisations

(1) This clause applies to levy payable under paragraph 89(1)(a) or (c) on the sale of a leviable milk product.

(2) The Secretary may enter into an agreement with an organisation with respect to the collection, on behalf of the Commonwealth, of levy by that organisation.

(3) The matters that may be provided for in an agreement entered into with a collecting organisation include (but are not limited to):
  (a) the State or region in which amounts of levy are to be collected by the organisation; and

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(b) the persons from whom amounts of levy are to be collected by the organisation; and

(c) the keeping by the organisation of accounts and records in relation to amounts of levy collected by the organisation; and

(d) the remission by the organisation to the Commonwealth of amounts of levy collected by the organisation; and

(e) the giving by the organisation to the Secretary of information about:

(i) amounts of levy collected by the organisation; and

(ii) amounts of levy remitted by the organisation to the Commonwealth; and

(iii) leviable milk products in respect of which levy is payable; and

(f) the inspection and audit of accounts and records kept by the organisation for the purposes of paragraph (c).

(4) If an agreement entered into under subclause (1) with a collecting organisation is in force in relation to the payment of levy by a particular person, payment of levy payable by that person is to be made to that organisation, on behalf of the Commonwealth, in accordance with the terms of the agreement.

(5) If a person pays an amount of levy in accordance with subclause (4), the person is, to the extent of the amount so paid, discharged from liability to pay the levy to the Commonwealth.

(6) Before making an agreement under subclause (1), the Secretary must consult the Council.

(7) The Secretary must give notice in the *Gazette* of the making of an agreement under subclause (1) within 21 days after the making of the agreement.

(8) A failure to comply with subclause (6) or (7) does not invalidate the agreement.

(9) The Commonwealth must not, in exercising its powers under this clause:

(a) discriminate between States or parts of States within the meaning of subparagraph 51(ii) of the Constitution; or

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(b) give preference to one State or any part thereof within the meaning of section 99 of the Constitution.

104 Application of the *Public Governance, Performance and Accountability Act 2013*

Despite subsection 105(2) of the *Public Governance, Performance and Accountability Act 2013*, levy collected by a collection agent, a collection sub-agent or a collecting organisation is not other CRF money for the purposes of that Act.

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Division 5—Record-keeping requirements

105 Record-keeping requirements for levy payers

(1) If levy is payable under paragraph 89(1)(a) or (c) on the sale of a leviable milk product, the purchaser of the product must:
  (a) keep a record of the sale; and
  (b) retain that record for at least 5 years after the sale.

(2) If levy is payable under paragraph 89(1)(b) on the retail sale of a leviable milk product, the retail seller must:
  (a) keep a record of the sale; and
  (b) retain that record for at least 5 years after the sale.

(3) If levy is payable under paragraph 89(1)(d) on the relevant application to a person's own use of a leviable milk product, the person must:
  (a) keep a record of that relevant application; and
  (b) retain that record for at least 5 years after the completion of the relevant application.

(4) A record kept under this clause must be:
  (a) in English, or readily accessible and easily convertible into English; and
  (b) such as to enable the person's liability for levy to be readily ascertained.

(5) However, it is not necessary for a person to retain records under this clause if:
  (a) the Secretary notifies the person that the person does not need to retain the records; or
  (b) the person is a company that has been finally dissolved.

(6) A person is guilty of an offence if:
  (a) the person is subject to a requirement to keep or retain a record under this clause; and
  (b) the person engages in conduct; and
  (c) the person's conduct contravenes the requirement.

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Penalty for contravention of this subclause: 30 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

106 Record-keeping requirements for collection agents and collection sub-agents

(1) If a collection agent receives an amount of levy under paragraph 97(2)(b) or subclause 98(4) or 99(7), the agent must:
  (a) keep a record of the receipt; and
  (b) retain that record for at least 5 years after the receipt.

(2) If a collection sub-agent receives an amount of levy under paragraph 98(2)(b) or 99(3)(b) or subclause 99(5) or (6), the sub-agent must:
  (a) keep a record of the receipt; and
  (b) retain that record for at least 5 years after the receipt.

(3) A record kept under this clause must be:
  (a) in English, or readily accessible and easily convertible into English; and
  (b) such as to enable the agent's or sub-agent's liability to remit levy to be readily ascertained.

(4) However, it is not necessary for a person to retain records under this clause if:
  (a) the Secretary notifies the person that the person does not need to retain the records; or
  (b) the person is a company that has been finally dissolved.

(5) A person is guilty of an offence if:
  (a) the person is subject to a requirement to keep or retain a record under this clause; and
  (b) the person engages in conduct; and
  (c) the person's conduct contravenes the requirement.

Penalty for contravention of this subclause: 30 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Division 6—Late payment penalty

107 Late payment penalty

Late payments by levy payer

(1) If an amount of levy that is payable by a person remains unpaid after the time when it became due for payment, there is payable by the person to the Commonwealth, by way of penalty accruing from the time the levy became due for payment until it is paid in full, an amount worked out as follows:

(a) during the month in which the levy became due for payment, the amount of penalty accrues at the rate of 2% per month on the levy due;

(b) during the next and each subsequent month, the amount of penalty consists of the sum of:

(i) each amount that accrued during a previous month; and

(ii) the amount accruing during that month at the rate of 2% per month on the sum of the amount of levy then payable and penalty payable at the end of the previous month.

Late remission by collection agent or collection sub-agent

(2) If an amount of levy that is required by clause 97, 98 or 99 to be remitted by a collection agent or a collection sub-agent remains unremitted after the time when it was required to be remitted, there is payable by the agent or sub-agent to the Commonwealth, by way of penalty accruing from the time the levy was required to be remitted until it is remitted in full, an amount worked out as follows:

(a) during the month in which the levy was required to be remitted, the amount of penalty accrues at the rate of 2% per month on the unremitted levy;

(b) during the next and each subsequent month, the amount of penalty consists of the sum of:

(i) each amount that accrued during a previous month; and

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(ii) the amount accruing during that month at the rate of 2% per month on the sum of the levy then unremitted and penalty payable at the end of the previous month.

(3) The Secretary may extinguish a person's liability for the whole or a part of an amount of penalty payable under this clause.

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Division 7—Recovery of levy debts

108 Levy debts

(1) For the purposes of this Division, a ***levy debt*** is:

(a) an amount of levy that is due and payable by a person; or

(b) an amount of levy that is required by clause 97, 98 or 99 to be remitted to the Commonwealth by a collection agent and that remains unremitted after the time when it is required to be remitted; or

(c) an amount of levy that is required by clause 98 or 99 to be remitted to a collection agent by a collection sub-agent and that remains unremitted after the time when it is required to be remitted; or

(d) an amount of levy that is required by clause 99 to be remitted to a collection sub-agent by another collection sub-agent and that remains unremitted after the time when it is required to be remitted; or

(e) an amount of levy that is required by an agreement under clause 103 to be remitted to the Commonwealth by a collecting organisation and that remains unremitted after the time when it is required to be remitted; or

(f) an amount of late payment penalty.

(2) If an amount of levy that was required to be remitted is recovered by the Commonwealth under this Division:

(a) the obligation to remit the amount of levy ceases from the time of the recovery; and

(b) subclause 108(2) has effect as if the amount of levy had been remitted at the time of the recovery.

109 Levy debts are debts due to the Commonwealth

A levy debt is a debt due to the Commonwealth.

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110 Recovery of levy debts

A levy debt may be recovered by the Commonwealth by action in a court of competent jurisdiction.

111 Commonwealth may collect money from a person who owes money to a person

What this clause does

(1) This clause allows the Commonwealth to collect money from a person who owes money to a person that has a levy debt.

The Secretary may give direction

(2) The Secretary may direct a person (the ***third party***) who owes, or may later owe, money (the ***available money***) to the person to pay some or all of the available money to the Commonwealth in accordance with the direction. The Secretary must give a copy of the direction to the person.

Limit on directions

(3) The direction cannot require an amount to be paid to the Commonwealth at a time before it becomes owing by the third party to the person.

Third party to comply

(4) The third party must comply with the direction.

Penalty: 20 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

(5) The third party is not guilty of an offence against subclause (4) if the third party complies with the direction so far as the third party is able to do so.

Note: A defendant bears an evidential burden in relation to the matter in subclause (5). See subsection 13.3(3) of the *Criminal Code*.

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Court orders

(6) If a person is convicted of an offence in relation to a refusal or failure of the third party to comply with subclause (4), the court may (in addition to imposing a penalty on the convicted person) order the convicted person to pay to the Commonwealth an amount up to the amount involved in the refusal or failure of the third party.

Indemnity

(7) Any payment made by the third party under this clause is taken to have been made with the authority of the person and of all other persons concerned, and the third party is indemnified for the payment.

Notice

(8) If the whole of the levy debt of the person is discharged before any payment is made by the third party, the Secretary must immediately give notice to the third party of that fact.

(9) If a part of the levy debt of the person is discharged before any payment is made by the third party, the Secretary must:
  (a) immediately give notice to the third party of that fact; and
  (b) make an appropriate variation to the direction; and
  (c) give a copy of the varied direction to the person.

When third party is taken to owe money

(10) The third party is taken to owe money to the person if:
  (a) money is due or accruing by the third party to the person; or
  (b) the third party holds money for or on account of the person; or
  (c) the third party holds money on account of some other person for payment to the person; or
  (d) the third party has authority from some other person to pay money to the person;

whether or not the payment of the money to the person is dependent on a pre-condition that has not been fulfilled.

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Division 8—Information-gathering powers

112 Power to call for returns or information

(1) An authorised person may, by notice in writing given to a person, require the person:

(a) to give the authorised person, within such reasonable time as is specified in the notice, such return or information in relation to matters relevant to the operation of this Part as is specified in the notice; and

(b) to verify any such return or information by statutory declaration.

(2) A person is guilty of an offence if:

(a) the person has been given a notice under subclause (1); and

(b) the person engages in conduct; and

(c) the person's conduct contravenes a requirement in the notice.

Penalty: 60 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

(3) If a person is convicted of an offence against subclause (2):

(a) the court may direct the person to give the return or information that he or she is required to give; and

(b) on being so directed, the person must give the return or information to an authorised person within the time specified in the direction.

(4) A person is guilty of an offence if:

(a) the person has been given a direction under subclause (3); and

(b) the person engages in conduct; and

(c) the person's conduct contravenes a requirement in the direction.

Penalty for contravention of this subclause: 60 penalty units.

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Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

113 Regulations may require the giving of returns or information

(1) The regulations may require any or all of the following persons to give returns or information for the purposes of this Part:

(a) persons who are liable to pay, or who have paid, levy;

(b) collection agents;

(c) collection sub-agents;

(d) such other persons as are prescribed.

(2) The regulations may prescribe penalties, not exceeding a fine of 50 penalty units, for offences against regulations made for the purposes of subclause (1).

(3) If a person is convicted of an offence against regulations made for the purposes of this clause:

(a) the court may direct the person to give the return or information that he or she is required to give; and

(b) on being so directed, the person must give the return or information to an authorised person within the time specified in the direction.

(4) A person is guilty of an offence if:

(a) the person has been given a direction under subclause (3); and

(b) the person engages in conduct; and

(c) the person's conduct contravenes a requirement in the direction.

Penalty for contravention of this subclause: 60 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

114 Self-incrimination

(1) An individual is not excused from submitting a return or giving information under this Division on the ground that the return or

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information might tend to incriminate the individual or expose the individual to a penalty.

(2) However:

(a) submitting the return or giving the information; or

(b) any information, document or thing obtained as a direct or indirect consequence of submitting the return or giving the information;

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

(c) proceedings for an offence against subclause 112(2) or (4) or 113(4); or

(d) proceedings for an offence against regulations made for the purposes of clause 113; or

(e) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Division.

(3) In this clause:

this Division includes regulations made for the purposes of clause 113.

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Division 9—Access to premises

115 Powers of authorised person in relation to premises

(1) An authorised person may:

(a) with the consent of the occupier or person in charge of premises; or

(b) in accordance with a warrant issued under clause 118 in relation to premises;

enter the premises for the purpose of ascertaining whether a person has contravened or is contravening a provision of this Part.

(2) If an authorised person enters any premises under subclause (1), the authorised person may:

(a) search the premises for, examine and take stock of, any leviable milk products; and

(b) search the premises for, inspect, examine, take extracts from, and make copies of, any examinable documents.

116 Obstruction of authorised person acting under a warrant

(1) A person is guilty of an offence if:

(a) the person obstructs or hinders an authorised person in the exercise of the authorised person's power under clause 115; and

(b) the authorised person exercises that power in accordance with a warrant issued under clause 118.

Penalty: 30 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

(2) In paragraph (1)(a), strict liability applies to the physical element of circumstance, that the authorised person's power is under clause 115.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

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(3) In paragraph (1)(b), strict liability applies to the physical element of circumstance, that the issue of the warrant was under clause 118.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

117 Persons to assist authorised persons acting under a warrant

(1) If an authorised person enters any premises under clause 115 in accordance with a warrant issued under clause 118, the occupier or the person in charge must, if requested to do so by the authorised person, provide reasonable assistance to the authorised person in the exercise of his or her power under that clause in relation to those premises.

(1A) In subclause (1), strict liability applies to the physical elements of circumstance, that:

(a) the authorised person's power is under clause 115; and

(b) the issue of the warrant was under clause 118.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(2) A person is guilty of an offence if:

(a) the person is subject to a requirement to provide reasonable assistance to an authorised person under subclause (1); and

(b) the first-mentioned person engages in conduct; and

(c) the first-mentioned person's conduct contravenes the requirement.

Penalty for contravention of this subclause: 30 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

118 Warrant to enter premises

(1) If a magistrate, on application by an authorised person, is satisfied, by information on oath:

(a) that there are reasonable grounds for believing:

(i) that there are on particular premises any leviable milk products; or

(ii) that there are examinable documents on particular premises; and

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(b) that the issue of the warrant is reasonably required for the purpose of ascertaining whether a person has contravened or is contravening a provision of this Part;

the magistrate may issue a warrant authorising the authorised person to enter the premises:

(c) with such assistance, and by such force, as is necessary and reasonable; and

(d) during such hours as the warrant specifies, or, if the warrant so specifies, at any time.

(2) A warrant must specify:

(a) the powers exercisable under subclause 115(2) by the authorised person to whom the warrant is issued; and

(b) the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect.

119 Identity cards

(1) The Secretary may cause an identity card to be issued to an authorised person.

(2) An identity card must:

(a) contain a recent photograph of the authorised person to whom it is issued; and

(b) be in a form approved, in writing, by the Secretary.

(3) A person is guilty of an offence if:

(a) the person has been issued with an identity card under subclause (1); and

(b) the person ceases to be an authorised person for the purposes of this Division; and

(c) the person does not immediately return the identity card to the Secretary.

Penalty: 1 penalty unit.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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(4) If an authorised person proposes to enter premises otherwise than in accordance with a warrant issued under clause 118:

(a) the authorised person must produce his or her identity card to the occupier or the person in charge of the premises for inspection; and

(b) if the authorised person fails to do so, the authorised person is not entitled to enter the premises under clause 115.

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Division 10—Evidentiary certificates

120 Evidentiary certificates

(1) The Secretary may issue a written certificate:
  (a) stating that a person is liable to pay levy in respect of one or more sales of leviable milk products; and
  (b) setting out particulars of those sales.

(2) The Secretary may issue a written certificate:
  (a) stating that a person is liable to pay levy in respect of one or more relevant applications to the person's own use of leviable milk products; and
  (b) setting out particulars of those relevant applications.

(3) The Secretary may issue a written certificate:
  (a) stating that a specified person has contravened a levy remission provision; and
  (b) setting out particulars of that contravention.

(4) In this clause:

levy remission provision means:
  (a) subclause 97(4); or
  (b) subclause 98(4); or
  (c) subclause 98(5); or
  (d) subclause 99(5); or
  (e) subclause 99(6); or
  (f) subclause 99(7); or
  (g) subclause 99(8).

121 Evidentiary effect of certificate

(1) In any civil proceedings under, or arising out of, this Part, a certificate under clause 120 is prima facie evidence of the matters in the certificate.

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(2) A document purporting to be a certificate under clause 120 must, unless the contrary is established, be taken to be such a certificate and to have been properly issued.

(3) The Secretary may certify that a document is a copy of a certificate under clause 120.

(4) This clause applies to the certified copy as if it were the original.

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Division 11—Miscellaneous

122 Designated small remitters

(1) The Secretary may, by written notice given to a person, declare that the person is a ***designated small remitter*** in relation to a specified financial year for the purposes of this Part.

(2) The declaration has effect accordingly.

(3) The Secretary must not make a declaration in relation to a person under subclause (1) unless the Secretary is satisfied that:

(a) the person has received, or is likely to receive, one or more amounts of levy in the capacity of collection agent during the financial year concerned; and

(b) the total of those amounts is, or is likely to be, less than $1,000.

123 Designated small levy-payers

(1) The Secretary may, by written notice given to a person, declare that the person is a ***designated small levy-payer*** in relation to a specified financial year for the purposes of this Part.

(2) The declaration has effect accordingly.

(3) The Secretary must not make a declaration in relation to a person under subclause (1) unless the Secretary is satisfied that:

(a) the person is liable to pay, or is likely to be liable to pay either or both of the following:

(i) one or more amounts of levy under paragraph 89(1)(b) on retail sales that occurred, or are likely to occur, during that financial year;

(ii) one or more amounts of levy under paragraph 89(1)(d) on relevant applications that occurred, or are likely to occur, during the financial year concerned; and

(b) the total of those amounts is, or is likely to be, less than $1,000.

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124 Refund of overpayments

If any of the following amounts has been overpaid, the amount overpaid must be refunded by the Commonwealth:

(a) an amount of levy;

(b) an amount of late payment penalty.

125 Refund of levy

The regulations may make provision for refunds of levy.

126 Methods by which levy may be paid or remitted

(1) The regulations may make provision for the methods by which levy may be paid or remitted to the Commonwealth.

(2) Regulations made for the purposes of this clause may make provision for levy to be paid or remitted using an electronic funds transfer system.

(3) Subclause (2) does not limit subclause (1).

127 Authorised persons

(1) The Secretary may, by writing, authorise a specified APS employee to be an authorised person for the purposes of a specified provision or provisions of this Part.

(2) The Secretary must not authorise an APS employee under subclause (1) unless the Secretary is of the opinion that the holder for the time being of the position held by the employee is reasonably likely to be suitably qualified (because of ability and experience) to be an authorised person for the purposes of the provision or provisions concerned.

(3) The Secretary may, by writing, authorise a specified person employed by, or in the service of, a collecting organisation to be an authorised person for the purposes of clause 112.

Note: Clause 112 deals with the giving of returns or information.

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128 Publication of information about levy

(1) An authorised person may publish:

(a) the name and address of a person who has paid, or is liable to pay:

(i) levy; or

(ii) an amount of late payment penalty; or

(b) the name and address of a collection agent, a collection sub-agent or a collecting organisation; or

(c) information about amounts of levy received or receivable by the Commonwealth in any period (including such information relating to a particular State or region); or

(d) information about leviable milk products in respect of which levy is payable;

to either of the following:

(e) the Council;

(f) a person to whom the Secretary has granted access to such information.

(2) Subclause (1) does not authorise the publication of information in a manner that enables:

(a) an amount of levy paid or payable to be identified with a person (including a deceased person); and

(b) an amount of late payment penalty paid or payable to be identified with a person (including a deceased person).

(3) The Secretary may, on behalf of the Commonwealth, charge a fee for publishing a name, address or information under subclause (1).

(4) The amount of a fee under subclause (3) must not be such as to amount to taxation.

129 Delegation by Secretary

(1) The Secretary may, by writing, delegate to a senior officer all or any of the Secretary's powers under this Part (other than clause 127).

Note: Clause 127 deals with authorised persons.

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(2) A delegate under this clause is, in the exercise of a function or power delegated under this clause, subject to any directions given by the Secretary.

(3) In this clause:

senior officer means:

(a) a person who holds or performs the duties of a Senior Executive Service office or position in the Department; or

(b) a person who holds or performs the duties of a DPIE Band 3 office or position, or an equivalent office or position, in the Department.

130 Reconsideration and review of decisions

(1) A person affected by a relevant decision who is dissatisfied with the decision may, within:

(a) 28 days after the day on which the decision first comes to the notice of the person; or

(b) such further period as the Secretary (either before or after the end of the period), by written notice given to the person, allows;

by written notice given to the Secretary, request the Secretary to reconsider the decision.

(2) A request under subclause (1) must set out the reasons for making the request.

(3) The Secretary must, within 45 days after receiving a request under subclause (2), reconsider the relevant decision and may make a decision:

(a) in substitution for the relevant decision, whether in the same terms as the relevant decision or not; or

(b) revoking the relevant decision.

(4) If, as a result of a reconsideration under subclause (3), the Secretary makes a decision in substitution for or revoking a relevant decision, the Secretary must, by written notice given to the person who made the request under subclause (1) for the

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reconsideration, inform the person of the result of the reconsideration and give the reasons for his or her decision.

(5) An application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary under subclause (3).

(6) A person who makes a relevant decision must give to a person affected by the decision a written statement to the effect that a person affected by the decision:

(a) may, if the person is dissatisfied with the decision, seek a reconsideration of the decision in accordance with this clause; and

(b) may, subject to the *Administrative Appeals Tribunal Act 1975*, if the person is dissatisfied with a decision made on that reconsideration, make application to the Administrative Appeals Tribunal for review of that decision.

(7) If the Secretary makes a decision under subclause (3) and gives to a person affected by the decision notice in writing of the making of the decision, that notice must include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates by or on behalf of a person affected by the decision.

(8) A failure to comply with subclause (6) or (7) in relation to a decision does not affect the validity of the decision.

(9) In this clause:

relevant decision means a decision to refuse to extinguish, under subclause 107(3), a person's liability for the whole or part of an amount of late payment penalty.

131 Commonwealth not liable to levy

(1) The Commonwealth is not liable to pay levy.

(2) Even though the Commonwealth is not liable to pay levy, it is the intention of the Parliament that the Commonwealth and Commonwealth entities should be notionally liable for levy.

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(3) The Minister for Finance may give such written directions as are necessary or convenient to be given for carrying out or giving effect to subclause (2) and, in particular, may give directions in relation to the transfer of money within an account, or between accounts, operated by the Commonwealth or a Commonwealth entity.

(4) Directions under subclause (3) have effect, and must be complied with, despite any other law of the Commonwealth.

(5) In this clause:

Commonwealth entity means a Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013* that cannot be made liable to taxation by a Commonwealth law.

Minister for Finance means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

132 Compensation for acquisition of property

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

(2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

(3) In this clause:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

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Part 5—Offences

133 False or misleading evidence

A person is guilty of an offence if:

(a) the person gives evidence to another person; and

(b) the person does so knowing that the evidence is false or misleading in a material particular; and

(c) the evidence is given under clause 38.

Penalty: Imprisonment for 12 months.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history
Endnote 5—Uncommenced amendments
Endnote 6—Modifications
Endnote 7—Misdescribed amendments
Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word "none" will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2
The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

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

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Uncommenced amendments—Endnote 5
The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

Modifications—Endnote 6
If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7
An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

Miscellaneous—Endnote 8
Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

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Endnote 2—Abbreviation key

ad = added or inserted
am = amended
c = clause(s)
Ch = Chapter(s)
def = definition(s)
Dict = Dictionary
disallowed = disallowed by Parliament
Div = Division(s)
exp = expired or ceased to have effect
hdg = heading(s)
LI = Legislative Instrument
LIA = *Legislative Instruments Act 2003*
mod = modified/modification
No = Number(s)
o = order(s)
Ord = Ordinance
orig = original
par = paragraph(s)/subparagraph(s)
/sub-subparagraph(s)
pres = present
prev = previous
(prev) = previously
Pt = Part(s)
r = regulation(s)/rule(s)
Reg = Regulation/Regulations
reloc = relocated
renum = renumbered
rep = repealed
rs = repealed and substituted
s = section(s)
Sch = Schedule(s)
Sdiv = Subdivision(s)
SLI = Select Legislative Instrument
SR = Statutory Rules
Sub-Ch = Sub-Chapter(s)
SubPt = Subpart(s)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Dairy Produce Act 1986	54, 1986	24 June 1986	ss. 1–4, 28–32, 41–46 and 92–108: Royal Assent ss. 10(3)–(8) and 53(3): 1 Oct 1986 Remainder: 1 July 1986	
Statute Law (Miscellaneous Provisions) Act (No. 2) 1986	168, 1986	18 Dec 1986	s. 3: *(a)*	s. 5(1)
Statute Law (Miscellaneous Provisions) Act 1987	141, 1987	18 Dec 1987	s. 3: Royal Assent *(b)*	s. 5(1) and (8)
Dairy Produce Amendment Act 1987	162, 1987	26 Dec 1987	26 Dec 1987	—
Primary Industries (Recovery of Levy Collection Expenses) Act 1988	51, 1988	15 June 1988	s. 3: Royal Assent *(c)*	—
Primary Industries and Energy Legislation Amendment Act 1988	111, 1988	12 Dec 1988	s. 3: Royal Assent *(d)*	—
Rural Industries Research Amendment Act 1988	114, 1988	12 Dec 1988	s. 53: Royal Assent *(e)*	—
Banking Legislation Amendment Act 1989	129, 1989	7 Nov 1989	ss. 1–3, 26, 29–33, 35, 38 and 40: Royal Assent s. 23(1): 4 May 1989 s. 39: 23 Jan 1988 Remainder: 28 Dec 1989 (*see Gazette* 1989, No. S383)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Exotic Animal Disease Control Act 1989	130, 1989	7 Nov 1989	7 Nov 1989	—
Primary Industries and Energy Legislation Amendment Act (No. 2) 1989	15, 1990	17 Jan 1990	s. 3: Royal Assent: *(f)*	—
Primary Industries and Energy Research and Development Act 1989	17, 1990	17 Jan 1990	ss. 9, 26(2), 31(2), 36(2), 39(2), Part 3 (ss. 92–121) and s. 156: 1 July 1990 Remainder: Royal Assent	—
Primary Industries Levies and Charges Collection (Consequential Provisions) Act 1991	26, 1991	1 Mar 1991	1 July 1991 (*see* s 2)	s. 7
Primary Industries Legislation Amendment Act 1991	39, 1991	27 Mar 1991	ss. 3(1) and 4: 1 July 1991 Remainder: Royal Assent	s. 5
Dairy Produce Amendment Act 1992	67, 1992	26 June 1992	s. 6: 1 July 1992 Remainder: Royal Assent	—
Dairy Produce Amendment Act 1993	16, 1993	9 June 1993	9 June 1993	—
Primary Industries and Energy Legislation Amendment Act 1993	94, 1993	16 Dec 1993	Parts 11 and 12 (ss. 47–65): 1 Jan 1994 s. 69(1)(b): 1 July 1989 Remainder: Royal Assent	—
Dairy Produce (World Trade Organization Amendments) Act 1994	153, 1994	13 Dec 1994	1 Jan 1995 (*see* s. 2 and *Gazette* 1995, No. S471)	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Dairy Produce Amendment Act 1995	45, 1995	21 June 1995	1 July 1995	—
Dairy Produce Amendment Act 1996	3, 1996	6 June 1996	1 July 1995 *(g)*	s. 3 (item 4)
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Schedule 4 (item 57): Royal Assent *(h)*	—
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Schedule 2 (items 662–695): 1 Jan 1998 (*see Gazette* 1997, No. GN49) *(i)*	—
Primary Industries and Energy Legislation Amendment Act (No. 1) 1998	102, 1998	30 July 1998	30 July 1998	—
Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 1999	4, 1999	31 Mar 1999	31 Mar 1999	—
Primary Industries Levies and Charges (Consequential Amendments) Act 1999	32, 1999	14 May 1999	Schedule 11: 1 July 1999 *(j)*	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Schedule 1 (items 359, 360): 5 Dec 1999 (*see Gazette* 1999, No. S584) *(k)*	—
Corporate Law Economic Reform Program Act 1999	156, 1999	24 Nov 1999	Schedule 10 (items 71–75): 13 Mar 2000 (*see Gazette* 2000, No. S114) *(l)*	—
Dairy Industry Adjustment Act 2000	22, 2000	3 Apr 2000	3 Apr 2000	Sch. 1 (item 18)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	ss. 1–3 and Schedule 1 (items 1, 4, 6, 7, 9–11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419)
Corporations (Repeals, Consequentials and Transitionals) Act 2001	55, 2001	28 June 2001	ss. 4–14 and Schedule 3 (item 166): 15 July 2001 (*see Gazette* 2001, No. S285) *(m)*	ss. 4–14
Dairy Produce Legislation Amendment (Supplementary Assistance) Act 2001	94, 2001	20 July 2001	20 July 2001	—
Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Act 2001	115, 2001	18 Sept 2001	16 Oct 2001	s. 4
Dairy Industry Legislation Amendment Act 2002	84, 2002	10 Oct 2002	10 Oct 2002	—
as amended by				
Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2003	38, 2003	2 May 2003	Schedule 6: *(n)*	—
Dairy Industry Service Reform Act 2003	32, 2003	15 Apr 2003	Schedule 1: 1 July 2003 (*see Gazette* 2003, No. S228) Remainder: Royal Assent	Sch. 1 (items 127–129)
Dairy Produce Amendment Act 2004	32, 2004	20 Apr 2004	Schedules 2 and 3: *(o)* Remainder: Royal Assent	Sch. 1 (item 3)

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Dairy Adjustment Levy Termination Act 2008	123, 2008	25 Nov 2008	Schedule 1: 26 Nov 2008	Sch. 1 (item 3)
Financial Framework Legislation Amendment Act (No. 2) 2012	82, 2012	28 June 2012	Schedule 1 (items 33–42): 29 June 2012	Sch. 1 (items 41, 42)
Privacy Amendment (Enhancing Privacy Protection) Act 2012	197, 2012	12 Dec 2012	Sch 5 (item 27): 12 Mar 2014	—
Statute Law Revision Act 2013	103, 2013	29 June 2013	Sch 3 (items 95–98, 343): 29 June 2013	Sch 3 (item 343)
Rural Research and Development Legislation Amendment Act 2013	146, 2013	13 Dec 2013	Sch 2: (item 1), Sch 5 (items 1, 2) and Sch 7 (item 5): Royal Assent	—
Farm Household Support (Consequential and Transitional Provisions) Act 2014	13, 2014	28 Mar 2014	Sch 2 (items 7–30): 1 July 2014 (s 2(1) item 3)	Sch 2 (items 9, 24 and 26)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 8 (items 97, 98): 1 July 2014 (s 2(1) item 6)	—

(a) The *Dairy Produce Act 1986* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1986*, subsection 2(4) of which provides as follows:

(4) The amendment of paragraph 36(3)(d) of the *Dairy Produce Act 1986* made by this Act shall be deemed to have come into operation on 1 July 1986.

(b) The *Dairy Produce Act 1986* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(c) The *Dairy Produce Act 1986* was amended by section 3 only of the *Primary Industries (Recovery of Levy Collection Expenses) Act 1988*, subsection 2(1) of which provides as follows:

(1) Subject to sections (2), (3) and (4), this Act commences on the day on which it receives the Royal Assent.

(d) The *Dairy Produce Act 1986* was amended by section 3 only of the *Primary Industries and Energy Legislation Amendment Act 1988*, subsection 2(1) of which provides as follows:

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

(e) The *Dairy Produce Act 1986* was amended by section 53 only of the *Rural Industries Research Amendment Act 1988*, subsection 2(1) of which provides as follows:

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

(f) The *Dairy Produce Act 1986* was amended by section 3 only of the *Primary Industries and Energy Legislation Amendment Act (No. 2) 1989*, subsection 2(1) of which provides as follows:

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

(g) Section 2 of the *Dairy Produce Amendment Act 1996* provides as follows:

2 This Act is taken to have commenced on 1 July 1995, immediately after the commencement of the *Dairy Produce Amendment Act 1995*.

(h) The *Dairy Produce Act 1986* was amended by Schedule 4 (item 57) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:

(1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

(i) The *Dairy Produce Act 1986* was amended by Schedule 2 (items 662–695) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997* subsection 2(2) of which provides as follows:

(2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.

(j) The *Dairy Produce Act 1986* was amended by Schedule 11 only of the *Primary Industries Levies and Charges (Consequential Amendments) Act 1999*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the commencement of section 1 of the *Primary Industries (Excise) Levies Act 1999*.

(k) The *Dairy Produce Act 1986* was amended by Schedule 1 (items 359 and 360) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:

(1) In this Act, ***commencing time*** means the time when the *Public Service Act 1999* commences.

(2) Subject to this section, this Act commences at the commencing time.

(l) The *Dairy Produce Act 1986* was amended by Schedule 10 (items 71–75) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2)(c) of which provides as follows:

(2) The following provisions commence on a day or days to be fixed by Proclamation:

(c) the items in Schedules 10, 11 and 12.

(m) The *Dairy Produce Act 1986* was amended by Schedule 3 (item 166) only of the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, subsection 2(3) of which provides as follows:

(3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.

(n) Subsection 2(1) (item 10) of the *Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2003* provides as follows:

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	**Commencement**	**Date/Details**
10. Schedule 6	Immediately after the time specified in the *Dairy Industry Legislation Amendment Act 2002* for the commencement of item 4 of Schedule 1 to that Act	10 October 2002

(o) Subsection 2(1) (item 3) of the *Dairy Produce Amendment Act 2004* provides as follows:

(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.

Endnote 3—Legislation history

Provision(s)	Commencement	Date/Details
3. Schedules 2 and 3	Immediately after the commencement of Schedule 1 to the *Dairy Industry Service Reform Act 2003*.	1 July 2003

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Endnote 4—Amendment history

Provision affected	How affected
Title	am. No. 22, 2000; No. 32, 2003
Part I	
s. 3	am. No. 141, 1987; Nos. 129 and 130, 1989; No. 17, 1990; Nos. 26 and 39, 1991; No. 16, 1993; No. 153, 1994; No. 45, 1995; No. 152, 1997; No. 32, 1999; No. 22, 2000; No. 32, 2003; No 146, 2013
Note to s. 3	ad. No. 157, 1997
	rep. No. 32, 2003
s. 4A	ad. No. 115, 2001
Part II	
Part II	rs. No. 32, 2003
Division 1	
s. 5	rs. No. 32, 2003
	am. No. 82, 2012
Note to s. 5(2)	ad. No. 152, 1997
	rep. No. 32, 2003
Heading to s. 6	rs. No. 82, 2012
s. 6	rs. No. 32, 2003
	am. No. 82, 2012; No 146, 2013
Note to s. 6(6)	am. No. 82, 2012
Division 2	
s. 7	am. No. 84, 2002
	rs. No. 32, 2003
s. 8	rs. No. 32, 2003
Division 3	
s. 9	rs. No. 32, 2003
Division 4	
s. 10	am. No. 39, 1991
	rs. No. 32, 2003
s. 11	rs. No. 32, 2003
s. 12	am. No. 141, 1987; No. 152, 1997

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Endnote 4—Amendment history

Provision affected	How affected
	rs. No. 32, 2003
s. 13	rs. No. 32, 2003
s. 14	am. No. 39, 1991
	rs. No. 32, 2003
s. 15	rep. No. 32, 2003
s. 16	am. No. 39, 1991; No. 152, 1997
	rep. No. 32, 2003
s. 17	am. No. 39, 1991; No. 16, 1993
	rep. No. 32, 2003
ss. 18–22	rep. No. 32, 2003
s. 23	am. No. 39, 1991
	rep. No. 32, 2003
ss. 24–26	rep. No. 32, 2003
s. 27	am. No. 39, 1991
	rep. No. 32, 2003
Part III	rep. No. 32, 2003
ss. 28–32	rep. No. 32, 2003
s. 33	am. No. 141, 1987; No. 39, 1991; No. 102, 1998
	rep. No. 32, 2003
s. 34	rep. No. 32, 2003
s. 35	rs. No. 152, 1997
	am. No. 156, 1999
	rep. No. 32, 2003
s. 36	am. No. 168, 1986
	rep. No. 32, 2003
s. 37	rep. No. 32, 2003
s. 38	am. No. 141, 1987; No. 39, 1991; No. 152, 1997; No. 156, 1999
	rep. No. 32, 2003
s. 39	rep. No. 32, 2003
s. 40	am. No. 152, 1997
	rep. No. 32, 2003
s. 41	am. No. 39, 1991

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Provision affected	How affected
	rep. No. 32, 2003
s. 42	rep. No. 32, 2003
s. 43	am. No. 39, 1991
	rep. No. 32, 2003
ss. 44, 45	rep. No. 32, 2003
s. 46	am. No. 152, 1997; No. 156, 1999
	rep. No. 32, 2003
Part IV	rep. No. 32, 2003
s. 47	am. No. 43, 1996; No. 152, 1997; No. 102, 1998; No. 156, 1999
	rep. No. 32, 2003
ss. 48, 49	rep. No. 32, 2003
s. 50	am. No.102, 1998
	rep. No. 32, 2003
ss. 50A, 50B	ad. No. 39, 1991
	rep. No. 32, 2003
Part V	
s. 51	am. No. 141, 1987
	rs. No. 32, 2003
s. 51A	ad. No. 162, 1987
	rep. No. 32, 2003
s. 52	rs. No. 32, 2003
s. 53	am. No. 39, 1991
	rs. No. 32, 2003
s. 54	am. No. 115, 2001
	rs. No. 32, 2003
s. 55	am. No. 115, 2001
	rep. No. 32, 2003
ss. 56–58	rep. No. 32, 2003
s. 59	am. No. 162, 1987
	rep. No. 32, 2003
s. 60	am. No. 32, 2003

Endnote 4—Amendment history

Provision affected	How affected
Heading to Part VI	rs. No. 26, 1991
Div. 1 of Part VI	rep. No. 26, 1991
s. 61	rep. No. 26, 1991
ss. 62, 63	am. No. 15, 1990
	rep. No. 26, 1991
s. 64	rep. No. 26, 1991
s. 65	am. No. 114, 1988; No. 17, 1990
	rep. No. 26, 1991
Heading to Div. 2 of Part VI	rep. No. 26, 1991
ss. 66–69	rep. No. 26, 1991
Part VI	rep. No. 45, 1995
s. 70	rep. No. 45, 1995
Part VII	rep. No. 32, 2003
s. 71	am. No. 51, 1988; No. 26, 1991; No. 32, 1999
	rep. No. 32, 2003
s. 72	am. No. 16, 1993
	rep. No. 152, 1997
s. 73	rep. No. 152, 1997
s. 74	am. No. 51, 1988; No. 26, 1991; No. 16, 1993; No. 45, 1995; No. 152, 1997; No. 32, 1999; No. 22, 2000
	rep. No. 32, 2003
ss. 75–78	rep. No. 32, 2003
s. 79	rs. No. 16, 1993
	rep. No. 32, 2003
s. 80	am. No. 45, 1995; No. 152, 1997
	rep. No. 32, 2003
s. 81	rep. No. 152, 1997
s. 82	am. No. 141, 1987; No. 111, 1988; No. 39, 1991
	rep. No. 152, 1997
s. 83	rep. No. 32, 2003
s. 84	rep. No. 16, 1993

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Provision affected	How affected
s. 85	am. No. 16, 1993
	rs. No. 152, 1997
	rep. No. 32, 2003
ss. 86, 87	am. No. 152, 1997
	rep. No. 32, 2003
s. 88	am. No. 141, 1987; No. 17, 1990; No. 39, 1991; No. 67, 1992; No. 94, 1993; No. 45, 1995; No. 152, 1997; No. 32, 1999; No. 84, 2002
	rep. No. 32, 2003
s. 89	am. No. 152, 1997
	rep. No. 32, 2003
s. 90	am. No. 51, 1988; No. 26, 1991; No. 152, 1997; No. 32, 1999
	rep. No. 32, 2003
s. 91	am. No. 51, 1988; No. 67, 1992; No. 45, 1995; No. 152, 1997; No. 32, 1999; No. 84, 2002
	rep. No. 32, 2003
s. 92	am. No. 152, 1997
	rep. No. 32, 2003
Note to s. 92	ad. No. 32, 1999
	rep. No. 32, 2003
s. 93	am. No. 51, 1988; No. 26, 1991; No. 16, 1993; No. 32, 1999
	rep. No. 32, 2003
s. 94	am. No. 67, 1992; No. 153, 1994
	rep. No. 32, 2003
s. 94A	ad. No. 94, 1993
	am. No. 153, 1994; No. 55, 2001
	rep. No. 32, 2003
s. 95	am. No. 39, 1991; No. 67, 1992; No. 153, 1994
	rep. No. 32, 2003
ss. 96, 97	rep. No. 32, 2003
s. 98	am. No. 67, 1992
	rep. No. 45, 1995
ss. 99, 100	rep. No. 32, 2003

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Endnote 4—Amendment history

Provision affected	How affected
s. 101	am. No. 51, 1988; No. 26, 1991; No. 16, 1993; No. 152, 1997
	rep. No. 32, 2003
s. 102	am. No. 39, 1991; No. 67, 1992; No. 153, 1994
	rs. No. 45, 1995
	rep. No. 32, 2003
Div. 5 of Part VII	rep. No. 67, 1992
	ad. No. 45, 1995
	rep. No. 32, 2003
s. 103	rep. No. 67, 1992
	ad. No. 45, 1995
	am. No. 3, 1996; No. 32, 1999
	rep. No. 32, 2003
s. 104	rep. No. 67, 1992
	ad. No. 45, 1995
	am. No. 152, 1997
	rep. No. 32, 2003
s. 105	rep. No. 67, 1992
	ad. No. 45, 1995
	rep. No. 32, 2003
s. 106	rep. No. 67, 1992
	ad. No. 45, 1995
	am. No. 152, 1997; No. 4, 1999
	rep. No. 32, 2003
s. 107	am. No. 51, 1988; No. 26, 1991
	rep. No. 67, 1992
	ad. No. 45, 1995
	am. No. 32, 1999
	rep. No. 32, 2003
s. 108	am. No. 26, 1991
	rep. No. 67, 1992
	ad. No. 45, 1995
	am. No. 3, 1996; No. 152, 1997

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Provision affected	How affected
	rep. No. 32, 2003
ss. 108A–108C	ad. No. 45, 1995
	rep. No. 32, 2003
ss. 108D–108E	ad. No. 45, 1995
	am. No. 32, 1999
	rep. No. 32, 2003
ss. 108EA, 108EB	ad. No. 4, 1999
	rep. No. 32, 2003
s. 108F	ad. No. 45, 1995
	rep. No. 32, 2003
s. 108G	ad. No. 45, 1995
	am. No. 152, 1997
	rep. No. 32, 2003
Part VIII	
Heading to s. 109	rs. No. 32, 2003
s. 109	am. No. 32, 2003
ss. 109A, 109B	ad. No. 45, 1995
	am. No. 32, 1999
	rep. No. 32, 2003
s. 109C	ad. No. 45, 1995
	am. No. 146, 1999
	rep. No. 32, 2003
s. 110	rep. No. 32, 2003
s. 111	am. No. 22, 2000
s. 111A	ad. No. 45, 1995
	am. No. 32, 1999
s. 112	am. No. 16, 1993; No. 22, 2000
	rep. No. 137, 2000
s. 113	am. No. 26, 1991; No. 22, 2000; No. 115, 2001
s. 114	am. Nos. 22 and 137, 2000
	rep. No. 32, 2003
s. 115	am. No. 22, 2000

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Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 32, 2003
s. 116	am. No. 22, 2000
s. 117	am. No. 137, 2000
	rep. No. 32, 2003
s. 118	am. No. 162, 1987; No. 26, 1991; No. 94, 1993; No. 45, 1995; No. 4, 1999
	rep. No. 32, 2003
s. 119	am. No. 16, 1993; Nos. 22 and 94, 2000; No. 115, 2001; No. 84, 2002 (as am. by No. 38, 2003); No. 32, 2003; No 13, 2014
s. 120	am. No. 22, 2000
s. 121	rep. No. 32, 2003
s. 122	rep. No. 152, 1997
Heading to s. 123	rs. No. 152, 1997
	rep. No. 32, 2003
s. 123	am. No. 39, 1991; No. 152, 1997
	rep. No. 32, 2003
s. 124	am. No. 152, 1997
	rep. No. 32, 2003
s. 125	rep. No. 32, 2003
s. 125A	ad. No. 22, 2000
s. 126	am. No. 26, 1991; No. 32, 2003
s 126A	ad No 146, 2013
Heading to Schedule	rep. No. 22, 2000
Heading to Schedule 1	ad. No. 22, 2000
	rep. No. 32, 2003
Schedule	ad. No. 39, 1991
	rep. No. 32, 2003
c. 1	ad. No. 39, 1991
	am. No. 146, 1999
	rep. No. 32, 2003
Schedule 2	
Schedule 2	ad. No. 22, 2000
Part 1	
c. 1	ad. No. 22, 2000

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Provision affected	How affected
	am. No. 94, 2001; No 13, 2014
c. 2	ad. No. 22, 2000
	am. No. 94, 2001; No. 84, 2002; No. 32, 2003; No 13, 2014
cc. 3–8	ad. No. 22, 2000
Part 2	
Heading to Part 2	rs. No. 94, 2001
Division 1	
c. 9	ad. No. 22, 2000
c. 10	ad. No. 22, 2000
	am. No. 32, 2003
cc. 11–15	ad. No. 22, 2000
c. 16	ad. No. 22, 2000
	am. No. 115, 2001
Note to c. 16(9)	am. No. 115, 2001
c. 17	ad. No. 22, 2000
	am. No. 115, 2001
Note to c. 17(5)	am. No. 115, 2001
c 18	ad. No. 22, 2000
c 19	ad. No. 22, 2000
	am No 13, 2014
Note 4 to c. 19(2)	am. No. 84, 2002
	rep No 13, 2014
cc. 20–22	ad. No. 22, 2000
c. 23	ad. No. 22, 2000
	am. No. 32, 2003
cc. 24–37	ad. No. 22, 2000
hdg to c 36	rs No 103, 2013
c 36	am No 103, 2013
Division 1A	
Div. 1A of Part 2	ad. No. 94, 2001
c. 37A	ad. No. 94, 2001
c. 37B	ad. No. 94, 2001

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Endnote 4—Amendment history

Provision affected	How affected
	am. No. 32, 2003
cc. 37C, 37D	ad. No. 94, 2001
c. 37DA	ad. No. 94, 2001
c. 37E	ad. No. 94, 2001
c. 37F	ad. No. 94, 2001
c. 37G	ad. No. 94, 2001
c. 37H	ad. No. 94, 2001
c. 37J	ad. No. 94, 2001
c. 37K	ad. No. 94, 2001
c 37L	ad. No. 94, 2001
	am No 13, 2014
Note 4 to c. 37L	am. No. 84, 2002
	rep No 13, 2014
c. 37M	ad. No. 94, 2001
c. 37N	ad. No. 94, 2001
c. 37P	ad. No. 94, 2001
c. 37Q	ad. No. 94, 2001
c. 37R	ad. No. 94, 2001
c. 37S	ad. No. 94, 2001
c. 37T	ad. No. 94, 2001
c. 37U	ad. No. 94, 2001
c. 37V	ad. No. 94, 2001
c. 37W	ad. No. 94, 2001
c. 37X	ad. No. 94, 2001
c. 37Y	ad. No. 94, 2001
hdg to c 37Z	rs No 103, 2013
c. 37Z	ad. No. 94, 2001
	am No 103, 2013
c. 37ZA	ad. No. 94, 2001
c. 37ZB	ad. No. 94, 2001
	am No 197, 2012

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Provision affected	How affected
Division 2	
c. 38	ad. No. 22, 2000
	am. Nos. 94 and 115, 2001
c. 39	ad. No. 22, 2000
c. 40	ad. No. 22, 2000
	am. No. 115, 2001
cc. 41, 42	ad. No. 22, 2000
Division 3	
c. 43	ad. No. 22, 2000
	am. No. 94, 2001; No. 84, 2002; No. 32, 2003; No 13, 2014
Note to c. 43(3)	am. No. 84, 2002
Division 4	
c. 44	ad. No. 22, 2000
	am. No. 94, 2001
Heading to c. 45	am. No. 32, 2003
cc. 45, 46	ad. No. 22, 2000
	am. No. 32, 2003
c. 47	ad. No. 22, 2000
	am. No. 94, 2001
Heading to c. 48	am. No. 32, 2003
c. 48	ad. No. 22, 2000
	am. No. 32, 2003
c. 49	ad. No. 22, 2000
	am. No. 94, 2001; No. 32, 2003
Division 5	
cc. 50, 51	ad. No. 22, 2000
	am. No. 94, 2001
Subhead to c. 52(1)	ad. No. 94, 2001
c. 52	ad. No. 22, 2000
	am. No. 94, 2001
c. 53	ad. No. 22, 2000
	am. No. 94, 2001; No. 84, 2002

Endnote 4—Amendment history

Provision affected	How affected
	rep No 13, 2014
c. 54	ad. No. 22, 2000
Division 6	
c. 55	ad. No. 22, 2000
	am. No. 123, 2008
c. 56	ad. No. 22, 2000
	am. No. 94, 2001
cc. 57–69	ad. No. 22, 2000
Heading to c. 70	am. No. 32, 2003
c. 70	ad. No. 22, 2000
	am. No. 32, 2003
c. 71	ad. No. 22, 2000
c. 72	ad. No. 22, 2000
	am. No. 32, 2003
cc. 73, 74	ad. No. 22, 2000
Division 7	
Heading to c. 75	am. No. 94, 2001
cc. 75, 76	ad. No. 22, 2000
	am. No. 94, 2001
Part 3	
c. 77	ad. No. 22, 2000
	am. No. 32, 2003
c. 77A	ad. No. 32, 2003
c. 77AA	ad. No. 123, 2008
c. 77B	ad. No. 32, 2003
Heading to c. 77C	am. No. 32, 2004
c. 77C	ad. No. 32, 2003
	am. No. 32, 2004
cc. 77CA–77CC	ad. No. 32, 2004
c. 77D	ad. No. 32, 2003
c. 78	ad. No. 22, 2000
	am. No. 94, 2001; No. 84, 2002; No. 32, 2003; No. 32, 2004; No 13, 2014

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Provision affected	How affected
c. 79	ad. No. 22, 2000
	am. No. 94, 2001; No. 84, 2002; No. 32, 2003; No. 32, 2004; No. 123, 2008; No 13, 2014
c. 79A	ad. No. 32, 2003
	am. No. 32, 2004
cc. 79B, 79C	ad. No. 32, 2003
c. 80	ad. No. 22, 2000
	am. No. 94, 2001; No. 84, 2002; No. 32, 2003; No 13, 2014
cc. 81, 82	ad. No. 22, 2000
	rep. No. 32, 2003
Heading to c. 83	am. No. 32, 2003
c. 83	ad. No. 22, 2000
	am. No. 32, 2003; No. 123, 2008
Heading to c. 84	am. No. 94, 2001; No. 32, 2003
c. 84	ad. No. 22, 2000
	am. No. 94, 2001; No. 32, 2003
Heading to c. 85	am. No. 94, 2001; No. 32, 2003
c. 85	ad. No. 22, 2000
	am. No. 32, 2003
c. 86	ad. No. 22, 2000
	am. No. 94, 2001
c. 86A	ad. No. 32, 2004
Part 4	
Division 1	
cc. 87, 88	ad. No. 22, 2000
Division 2	
cc. 89–93	ad. No. 22, 2000
c. 94	ad. No. 22, 2000
	am. No. 94, 2001; No. 84, 2002; No. 32, 2003; No. 32, 2004; No. 123, 2008; No 13, 2014
c. 95	ad. No. 22, 2000
Division 3	
c. 96	ad. No. 22, 2000

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Endnote 4—Amendment history

Provision affected	How affected
Division 4	
c. 97	ad. No. 22, 2000
c. 98	ad. No. 22, 2000
c. 99	ad. No. 22, 2000
c. 100	ad. No. 22, 2000
c. 101	ad. No. 22, 2000
c. 102	ad. No. 22, 2000
c. 103	ad. No. 22, 2000
c. 104	ad. No. 22, 2000
	rs No 62, 2014
Division 5	
cc. 105, 106	ad. No. 22, 2000
Division 6	
c. 107	ad. No. 22, 2000
Division 7	
cc. 108–111	ad. No. 22, 2000
Division 8	
cc. 112, 113	ad. No. 22, 2000
c. 114	ad. No. 22, 2000
	am. No. 115, 2001
Division 9	
c. 115	ad. No. 22, 2000
cc. 116, 117	ad. No. 22, 2000
	am. No. 115, 2001
cc. 118, 119	ad. No. 22, 2000
Division 10	
cc. 120, 121	ad. No. 22, 2000
Division 11	
c. 122	ad. No.22, 2000
c. 123	ad. No.22, 2000
c. 124	ad. No.22, 2000
c. 125	ad. No.22, 2000

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Provision affected	How affected
c. 126	ad. No.22, 2000
c. 127	ad. No.22, 2000
c. 128	ad. No.22, 2000
c. 129	ad. No.22, 2000
c. 130	ad. No.22, 2000
c. 131	ad. No.22, 2000
	am No 62, 2014
c. 132	ad. No. 22, 2000
	rep. No. 115, 2001
	ad. No. 123, 2008
Part 5	
c. 133	ad. No. 22, 2000
c. 134	ad. No. 22, 2000
	rep. No. 115, 2001
cc. 135, 136	ad. No. 22, 2000
	am. No. 94, 2001
	rep. No. 115, 2001

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Endnote 5—Uncommenced amendments [none]

Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]