



Horticultural Levy Act 1987

No. 168 of 1987

An Act to impose a levy on the production of certain horticultural products

[Assented to 26 December 1987]

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

Short title

1. This Act may be cited as the *Horticultural Levy Act 1987*.

Commencement

2. This Act shall come into operation on a day to be fixed by Proclamation.

Principal object

3. The principal object of this Act is to ensure that adequate funds are raised for the operations of the Australian Horticultural Corporation and the Horticultural Research and Development Corporation.

Collection Act to be read with this Act

4. The *Horticultural Levy Collection Act 1987* is incorporated, and shall be read as one, with this Act.

Act binds Crown

5. This Act binds the Crown in right of each of the States, of the Northern Territory and of Norfolk Island.

Imposition of levy

6. Subject to this Act, levy is imposed on leviable horticultural products produced in Australia (whether before or after the commencement of this Act) that are, after the commencement of this Act:

- (a) sold by the producer; or
- (b) used by the producer in the production of other goods.

Rates of levy

7. (1) Subject to subsection (2), the rate of levy in relation to a leviable horticultural product is the sum of the rates prescribed by virtue of sections 8, 9 and 10 that are applicable to the class of leviable horticultural products in which the product is included.

(2) If the Australian Statistician has published an annual average unit gross value in relation to a class of horticultural products for the first 3 of the 4 immediately preceding financial years, the rate of levy in the current financial year in relation to products in the class of products shall not exceed 2% of the average of those values.

Rates of levy destined for the Australian Horticultural Corporation

8. The regulations may fix a rate of levy for the purposes of this section in relation to a class of leviable horticultural products.

Rates of levy destined for the Horticultural Research and Development Corporation

9. The regulations may fix a rate of levy for the purposes of this section in relation to a class of leviable horticultural products.

Rates of levy destined for other purposes

10. The regulations may fix a rate of levy for the purposes of this section in relation to a class of leviable horticultural products.

Flexibility in relation to rates of levy

11. Without limiting the generality of sections 8, 9 and 10:

- (a) different rates may, for the purposes of those sections or any one of them, be prescribed for different classes of leviable horticultural products;
- (b) different rates may be prescribed in relation to a class of leviable horticultural products for the purposes of each of those sections; and

- (c) a rate may be prescribed in relation to a class of leviable horticultural products for the purposes of one or 2 of those sections, and not for the purposes of the other sections or section.

By whom levy payable

12. The levy on any leviable horticultural products is payable by the producer of the products.

Exemptions from levy

13. (1) Levy is not payable on leviable horticultural products that are exported from Australia.

(2) The regulations may exempt from levy:

- (a) leviable horticultural products produced by specified classes of producers; or
- (b) specified subclasses of a class of leviable horticultural products.

Regulations

14. (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing 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.

(2) Without limiting the manner in which classes of leviable horticultural products may be described in the regulations, the regulations may describe such classes by reference to:

- (a) the use for which the products are sold by the producer;
- (b) the use to which the products are put by the producer; or
- (c) the state, form or condition of the products, whether by reference to a process or otherwise.

(3) Before making regulations for the purposes of section 8, the Governor-General shall take into consideration any relevant recommendation made to the Minister by the Australian Horticultural Corporation.

(4) Before making regulations for the purposes of section 9, the Governor-General shall take into consideration any relevant recommendation made to the Minister by the Horticultural Research and Development Corporation.

(5) Before making regulations for the purposes of section 13, the Governor-General shall take into consideration any relevant recommendation made to the Minister by the Australian Horticultural Corporation or the Horticultural Research and Development Corporation.

(6) Before making a recommendation to the Minister for the purposes of subsection (3) or (5), the Australian Horticultural Corporation shall consult with the body that, under the regulations, is the eligible industry body for:

Horticultural Levy No. 168, 1987

(a) the relevant leviable horticultural products; or
(b) the relevant class or subclass of leviable horticultural products;
as the case requires.

(7) Before making a recommendation to the Minister for the purposes of subsection (4) or (5), the Horticultural Research and Development Corporation shall consult with the body that, under the regulations, is the eligible industry body for:

(a) the relevant leviable horticultural products; or
(b) the relevant class or subclass of leviable horticultural products;
as the case requires.

(8) A recommendation under subsection (6) or (7) shall be accompanied by a written statement of the views of the body consulted in relation to the making of the recommendation.

(9) The body that, under the regulations, is the eligible industry body for:

(a) leviable horticultural products; or
(b) a class or subclass of leviable horticultural products;
may make recommendations to the Minister in relation to regulations to be made for the purposes of section 10 in relation to those products or products included in that class or subclass, as the case may be.

(10) Before making regulations for the purposes of section 10, the Governor-General shall take into consideration any relevant recommendation made to the Minister under subsection (9).

*[Minister's second reading speech made in—
House of Representatives on 18 September 1987
Senate on 17 November 1987]*