



# **National Residue Survey (Customs) Levy Act 1998**

**No. 32, 1998**

## **Compilation No. 6**

<b>Compilation date:</b>	1 January 2021
<b>Includes amendments up to:</b>	Act No. 144, 2020
<b>Registered:</b>	8 February 2021

Prepared by the Office of Parliamentary Counsel, Canberra

---

## About this compilation

### This compilation

This is a compilation of the *National Residue Survey (Customs) Levy Act 1998* that shows the text of the law as amended and in force on 1 January 2021 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

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

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

---

## Contents

1	Short title.....	1
2	Commencement.....	1
3	Simplified outline.....	1
4	Definitions.....	2
5	Act to bind Crown.....	2
6	Duties of customs.....	2
7	Imposition of levy.....	2
8	Regulations.....	2
<b>Schedule 1—Aquatic animal export</b>		<b>3</b>
1	Definitions.....	3
2	Imposition of levy.....	3
3	Rate of levy.....	4
4	Who pays the levy.....	5
<b>Schedule 2—Cattle export</b>		<b>6</b>
1	Definitions.....	6
2	Imposition of levy.....	6
3	Rate of levy.....	6
4	Who pays the levy.....	7
<b>Schedule 3—Honey export</b>		<b>8</b>
1	Definitions.....	8
2	Imposition of levy.....	8
3	Rate of levy.....	8
4	Who pays the levy.....	9
<b>Schedule 4—Horticultural products export</b>		<b>10</b>
1	Definitions.....	10
2	Imposition of levy.....	10
3	Rate of levy—onions.....	11
4	Rate of levy—apples and pears.....	11
5	Rate of levy—eligible horticultural products.....	11
6	Who pays the levy.....	12
7	Regulations.....	12
<b>Schedule 5—Sheep, lambs and goats export</b>		<b>13</b>
1	Definitions.....	13
2	Imposition of levy.....	13

---

3	Rate of levy .....	14
4	Who pays the levy .....	14
<b>Endnotes</b>		15
<b>Endnote 1—About the endnotes</b>		15
<b>Endnote 2—Abbreviation key</b>		17
<b>Endnote 3—Legislation history</b>		18
<b>Endnote 4—Amendment history</b>		20

# **An Act to impose National Residue Survey Levies that are duties of customs**

## **1 Short title**

This Act may be cited as the *National Residue Survey (Customs) Levy Act 1998*.

## **2 Commencement**

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

## **3 Simplified outline**

The following is a simplified outline of this Act:

- This Act imposes National Residue Survey Levies that are duties of customs.
- Each Schedule imposes a particular levy and makes provision for:
  - (a) the operative rate of the levy; and
  - (b) the maximum rate of the levy; and
  - (c) the person who is liable to pay the levy; and
  - (d) any exemptions from the levy.

#### **4 Definitions**

Unless the contrary intention appears, a word or expression has the same meaning in a Schedule to this Act as it has in the *Primary Industries Levies and Charges Collection Act 1991*.

#### **5 Act to bind Crown**

This Act binds the Crown in right of each of the States, of the Australian Capital Territory and of the Northern Territory. However, it does not bind the Crown in right of the Commonwealth.

#### **6 Duties of customs**

This Act authorises the imposition of a levy only so far as the levy is a duty of customs within the meaning of section 55 of the Constitution.

#### **7 Imposition of levy**

The Schedules have effect.

#### **8 Regulations**

The Governor-General may make regulations 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.

## **Schedule 1—Aquatic animal export**

### **1 Definitions**

In this Schedule:

***aquatic animal*** means:

- (a) live, fresh or processed fish; and
- (b) crustaceans and molluscs; and
- (c) aquatic reptiles; and
- (d) all other forms of amphibious or aquatic animal life;

but does not include:

- (e) aquatic mammals; or
- (f) oyster spat or live fish ova; or
- (g) aquarium fish; or
- (h) shells from which the fish have been removed.

***aquatic animal product*** means a product of which the major component is aquatic animals.

### **2 Imposition of levy**

- (1) National Residue Survey Levy is imposed on the export of aquatic animals, or aquatic animal products, from Australia after the commencement of this Schedule.
- (2) National Residue Survey Levy is not imposed by this Schedule if the aquatic animal or aquatic animal product is prescribed for the purposes of this subclause.

Clause 3

---

**3 Rate of levy**

- (1) The rate of National Residue Survey Levy imposed by this Schedule on the export of aquatic animals of a particular class or aquatic animal products produced from aquatic animals of a particular class is:
- (a) the rate specified in the third column of the following table opposite that class; or
  - (b) if regulations are made prescribing a rate in relation to that class, being a rate that does not exceed the rate specified in the fourth column of the following table opposite that class—that prescribed rate.

---

**Rates table**

---

<b>Item</b>	<b>Class of aquatic animal</b>	<b>Operative rate of levy</b>	<b>Maximum rate of levy</b>
1	fin fish	1 cent per kilogram	5 cents per kilogram
2	abalone	1 cent per kilogram	5 cents per kilogram
3	other crustaceans and molluscs	1 cent per kilogram	5 cents per kilogram
4	any other aquatic animal	1 cent per kilogram	5 cents per kilogram

---

- (2) The regulations may prescribe different rates in relation to:
- (a) different groups of aquatic animals within the same class of aquatic animals; and
  - (b) aquatic animal products produced from different groups of aquatic animals within the same class of aquatic animals.
- (3) Subclause (2) does not affect the application of subsection 33(3A) of the *Acts Interpretation Act 1901*.

#### **4 Who pays the levy**

National Residue Survey Levy imposed by this Schedule on the export of aquatic animals or aquatic animal products is payable by the producer of the aquatic animals or aquatic animal products.

## Schedule 2—Cattle export

### 1 Definitions

In this Schedule:

*cattle* and *dairy cattle* have the same respective meanings as in Schedule 3 to the *Primary Industries (Customs) Charges Act 1999*.

### 2 Imposition of levy

- (1) National Residue Survey Levy is imposed on the export of cattle (other than dairy cattle) from Australia after the commencement of this Schedule if levy under Schedule 1 to the *National Residue Survey (Excise) Levy Act 1998* has not been paid, and is not payable, in respect of an act or transaction relating to the cattle.
- (2) National Residue Survey Levy is imposed on the export of cattle (other than dairy cattle) from Australia after the commencement of this Schedule if:
  - (a) the cattle were purchased by the exporter, whether before or after the commencement of this Schedule; and
  - (b) the period starting on the date of the purchase and ending on the date of the export is longer than the longer of the following periods:
    - (i) 60 days;
    - (ii) the period for which the cattle are required under the law of the country to which they are being exported to be held in quarantine before being exported.

### 3 Rate of levy

- (1) The rate of National Residue Survey Levy imposed by this Schedule on the export of each head of cattle (other than a chargeable bobby calf) is 32 cents or, if another rate (not exceeding 35 cents) is prescribed by the regulations, the other rate.

- (2) The rate of National Residue Survey Levy imposed by this Schedule on the export of each head of cattle that is a chargeable bobby calf is 26 cents or, if another rate (not exceeding 35 cents) is prescribed by the regulations, the other rate.
- (3) For the purposes of subclause (1), a cow with a calf at foot are together taken to constitute a single head of cattle.
- (4) In this clause:

**chargeable bobby calf** means a bovine animal:

- (a) which, at the time when it is exported, had or has a liveweight that did not or does not exceed 80kg; or
- (b) which has not had its liveweight determined at the time when it is exported but which, in the opinion of the intermediary, would, if slaughtered at that time, have constituted or constitute a carcass whose dressed weight would not have exceeded or would not exceed 40kg;

but does not include:

- (c) a buffalo; or
- (d) a calf at foot with a cow.

**intermediary** means the person required, under the *Primary Industries Levies and Charges Collection Act 1991*, to pay to the Commonwealth, on behalf of the producer, an amount equal to the amount of National Residue Survey Levy imposed by this Schedule.

#### **4 Who pays the levy**

The National Residue Survey Levy imposed by this Schedule on the export of cattle is payable by the producer of the cattle.

## Schedule 3—Honey export

### 1 Definitions

In this Schedule:

*honey* means honey that is produced in Australia.

### 2 Imposition of levy

- (1) National Residue Survey Levy is imposed on honey exported from Australia after the commencement of this Schedule.
- (2) National Residue Survey Levy is not imposed by this Schedule on honey on which National Residue Survey Levy imposed by:
  - (a) Schedule 7 to the *National Residue Survey (Excise) Levy Act 1998*; or
  - (b) the repealed *National Residue Survey (Honey) Levy Act 1992*;has been paid or is payable.
- (3) National Residue Survey Levy is not imposed by this Schedule on honey exported from Australia by a person in a month if the weight of the total quantity of the honey exported from Australia by the person in that month is 50 kilograms or less.
- (4) The regulations may exempt a specified class of honey from National Residue Survey Levy imposed by this Schedule.

### 3 Rate of levy

The rate of National Residue Survey Levy imposed by this Schedule on honey is 0.3 cents per kilogram or, if another rate (not exceeding 0.6 cents per kilogram) is prescribed by the regulations, the other rate.

**4 Who pays the levy**

The National Residue Survey Levy imposed by this Schedule on honey is payable by the producer of the honey.

## Schedule 4—Horticultural products export

### 1 Definitions

In this Schedule:

**apples** means fruit of any species of the genus *Malus*.

**eligible horticultural products** means horticultural products specified in regulations made for the purposes of this definition.

**horticultural products** has the same meaning as in Schedule 10 to the *Primary Industries (Customs) Charges Act 1999*.

**leviable horticultural products** means:

- (a) onions; or
- (b) apples; or
- (c) pears; or
- (d) eligible horticultural products.

**onion** means a bulb of the species *Allium cepa*.

**pears** means fruit of any species of the genus *Pyrus*, except fruit of the species *Pyrus pyrifolia* (nashi).

### 2 Imposition of levy

- (1) National Residue Survey Levy is imposed on leviable horticultural products produced in Australia (whether before or after the commencement of this Schedule) that are exported from Australia after the commencement of this Schedule.
- (2) National Residue Survey Levy is not imposed by this Schedule on leviable horticultural products if the producer has paid levy imposed by Schedule 9 to the *National Residue Survey (Excise) Levy Act 1998* on those products.

- (3) The regulations may exempt from National Residue Survey Levy imposed by this Schedule:
- (a) leviable horticultural products exported by a specified class of persons; or
  - (b) specified subclasses of a class of leviable horticultural products.

### **3 Rate of levy—onions**

The rate of National Residue Survey Levy imposed by this Schedule on onions is 40 cents per tonne or, if another rate (not exceeding \$5.00 per tonne) is prescribed by the regulations, the other rate.

### **4 Rate of levy—apples and pears**

- (1) The rate of National Residue Survey Levy imposed by this Schedule on apples is 0.075 of a cent per kilogram or, if another rate (not exceeding 0.1 of a cent per kilogram) is prescribed by the regulations, the other rate.
- (2) The rate of National Residue Survey Levy imposed by this Schedule on pears is 0.075 of a cent per kilogram or, if another rate (not exceeding 0.1 of a cent per kilogram) is prescribed by the regulations, the other rate.

### **5 Rate of levy—eligible horticultural products**

- (1) The rate of National Residue Survey Levy imposed by this Schedule on a particular class of eligible horticultural products is the rate that, under the regulations, is applicable to that class.
- (2) If the Australian Statistician has published an average annual unit gross value in relation to a class of eligible horticultural products for the first 3 of the 4 immediately preceding financial years, the rate of National Residue Survey Levy imposed by this Schedule in the current financial year in relation to products in that class must not exceed 2% of the average of those values.

**Clause 6**

---

- (3) Different rates may be prescribed by the regulations for different classes of eligible horticultural products.
- (4) Subclause (3) does not affect the application of subsection 33(3A) of the *Acts Interpretation Act 1901*.

**6 Who pays the levy**

The National Residue Survey Levy imposed by this Schedule on leviable horticultural products is payable by the producer of the products.

**7 Regulations**

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 exported or sold for export; or
- (b) the state, form or condition of the products, whether by reference to a process or otherwise.

---

## **Schedule 5—Sheep, lambs and goats export**

### **1 Definitions**

In this Schedule:

***lamb*** means an ovine animal that:

- (a) is under 12 months of age; or
- (b) does not have any permanent incisor teeth in wear.

***sheep*** does not include lambs.

### **2 Imposition of levy**

- (1) National Residue Survey Levy is imposed on the export of sheep, lambs or goats from Australia after the commencement of this Schedule if levy under Schedule 15 to the *National Residue Survey (Excise) Levy Act 1998* has not been paid, and is not payable, in respect of an act or transaction relating to the sheep, lambs or goats.
- (2) National Residue Survey Levy is imposed on the export of sheep, lambs or goats from Australia after the commencement of this Schedule if:
  - (a) the sheep, lambs or goats were purchased by the exporter, whether before or after the commencement of this Schedule; and
  - (b) the period starting on the date of the purchase and ending on the date of the export is longer than the longer of the following periods:
    - (i) 30 days;
    - (iii) the period for which the sheep, lambs or goats are required under the law of the country to which they are being exported to be held in quarantine before being exported.

Clause 3

---

**3 Rate of levy**

- (1) The rate of National Residue Survey Levy imposed by this Schedule on the export of each head of sheep or lambs is 2 cents or, if another rate (not exceeding 8 cents) is prescribed by the regulations, the other rate.
- (2) The rate of National Residue Survey Levy imposed by this Schedule on the export of each head of goats is 3 cents or, if another rate (not exceeding 8 cents) is prescribed by the regulations, the other rate.

**4 Who pays the levy**

The National Residue Survey Levy imposed by this Schedule on the export of sheep, lambs or goats is payable by the producer of the sheep, lambs or goats.

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key 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 (or will amend) the compiled law. The information includes commencement details for amending laws and details of any 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 (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

## Endnotes

### Endnote 1—About the endnotes

---

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

---

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
National Residue Survey (Customs) Levy Act 1998	32, 1998	17 Apr 1998	1 Aug 1998 (s 2 and gaz 1998, No S382)	
National Residue Survey (Customs) Levy Amendment Act 1999	28, 1999	14 May 1999	1 July 1999 (s 2)	Sch 1 (item 4)
National Residue Survey (Customs) Levy Amendment Act 2003	92, 2003	14 Oct 2003	14 Oct 2003 (s 2)	Sch 1 (item 6)
National Residue Survey (Customs) Levy Amendment Act (No. 2) 2003	93, 2003	14 Oct 2003	14 Oct 2003 (s 2)	Sch 1 (item 3)
National Residue Survey (Customs) Levy Amendment Act 2005	108, 2005	29 Aug 2005	29 Aug 2005 (s 2)	Sch 1 (item 5)
Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015	62, 2015	16 June 2015	Sch 2 (items 43–46) and Sch 4: 16 June 2016 (s 2(1) items 2, 4) Sch 3: 16 June 2015 (s 2(1) item 3)	Sch 3 and Sch 4
<b>as amended by</b>				
Statute Update (Winter 2017) Act 2017	93, 2017	23 Aug 2017	Sch 2 (item 9): 20 Sept 2017 (s 2(1) item 4)	—
Statute Update (Autumn 2018) Act 2018	41, 2018	22 May 2018	Sch 4 (item 11): 19 June 2018 (s 2(1) item 4)	—

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Customs Charges and Levies Legislation Amendment (Sheep and Lamb) Act 2020	144, 2020	17 Dec 2020	Sch 1 (items 1, 4): 1 Jan 2021 (s 2(1) item 1)	Sch 1 (item 4)

## Endnotes

### Endnote 4—Amendment history

---

#### Endnote 4—Amendment history

---

<b>Provision affected</b>	<b>How affected</b>
s 5 .....	am No 41, 2018
<b>Schedule 2</b>	
Schedule 2 .....	am No 28, 1999; No 62, 2015
<b>Schedule 3</b>	
Schedule 3 .....	am No 93, 2003
<b>Schedule 4</b>	
Schedule 4 .....	am No 28, 1999; No 92, 2003; No 108, 2005
<b>Schedule 5</b>	
Schedule 5 .....	am No 28, 1999; No 62, 2015; No 144, 2020

---