



**Statutory Rules 1988 No. 188<sup>1</sup>**

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## **Horticultural Levy (Citrus) Regulations**

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 4 of the *Acts Interpretation Act 1901*, hereby make the following Regulations under the *Horticultural Levy Act 1987* and the *Horticultural Levy Collection Act 1987*.

Dated 25 July 1988.

N. M. STEPHEN  
Governor-General

By His Excellency's Command,

JOHN KERIN  
Minister of State for Primary  
Industries and Energy

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### **Citation**

1. These Regulations may be cited as the Horticultural Levy (Citrus) Regulations.

### **Commencement**

2. These Regulations commence on the date of commencement of the Levy Act.

### **Interpretation**

3. (1) In these Regulations, unless the contrary intention appears:

“authorised agent” means a person appointed under regulation 6 of the Horticultural Levy Collection Regulations;

“box”, in relation to citrus, means a container of a kind:

- (a) ordinarily used in the Australian horticultural industry for packing citrus; and
- (b) ordinarily known in that industry as a bushel box or 30 litre box;

“citrus” means fruit of any species of the genus *Citrus*, the genus *Fortunella* or any plant originating as a result of hybridisation between, or within, either of these genera and includes the fruit of plants commonly known as calomindin, citrons, cumquats, grapefruit, lemons, limes, mandarins, oranges, pummellos, sevilles, tangelos, tangerines and tangors;

“citrus (excluding grapefruit) in bulk” means citrus (excluding grapefruit):

- (a) sold in bulk by the producer to a first purchaser or through a selling agent; or
- (b) used by the producer in the production in Australia of fruit juices or any other processed product;

“citrus (excluding grapefruit) not in bulk” means citrus (excluding grapefruit) sold by the producer but not so sold in bulk;

“grapefruit in bulk” means grapefruit:

- (a) sold in bulk by the producer to a first purchaser or through a selling agent; or
- (b) used by the producer in the production in Australia of fruit juice or any other processed product;

“grapefruit not in bulk” means grapefruit sold by the producer but not so sold in bulk;

“prescribed class”, in relation to citrus, means one of the classes of horticultural products prescribed by regulation 7;

“prescribed first purchaser” means a person:

- (a) who, because of a business carried on by the person, is a first purchaser of leviable horticultural products; and
- (b) whose business referred to in paragraph (a) is not wholly or substantially a business of selling or processing horticultural products;

“retail sale”, in relation to a sale of a leviable horticultural product by a producer, means a sale by the producer of the product other than a sale to a first purchaser or through a selling agent;

“sold in bulk”, in relation to citrus transported or to be transported in a container, means sold where the mass of citrus in the container exceeds 30 kilograms;

“the Collection Act” means the *Horticultural Levy Collection Act 1987*;

“the Levy Act” means the *Horticultural Levy Act 1987*.

(2) For the purposes of the application of these Regulations to citrus not packed in boxes:

- (a) a reference to a box of grapefruit is a reference to 16.67 kilograms of grapefruit; and

- (b) a reference to a box of citrus excluding grapefruit is a reference to 20 kilograms of that citrus.

**Rates of levy**

4. (1) The rate of levy for the purposes of section 8 of the Levy Act in relation to a class of leviable horticultural products specified in an item in the Schedule is the rate specified in column 3 in that item.

(2) The rate of levy for the purposes of section 9 of the Levy Act in relation to a class of leviable horticultural products specified in an item in the Schedule is the rate specified in column 4 in that item.

**Exemption from levy**

5. For the purposes of paragraph 13 (2) (b) of the Levy Act, the following subclasses of the prescribed classes of leviable horticultural products are exempt from levy:

- (a) citrus:
  - (i) sold in a calendar year by the producer by retail sale; or
  - (ii) used in a calendar year by the producer in the production of fruit juice or any other processed product;if the total of the quantities of citrus so sold and so used by that producer in that year does not exceed 500 boxes;
- (b) citrus purchased in a calendar year by a prescribed first purchaser if the quantity of citrus so purchased by that prescribed first purchaser does not exceed 500 boxes;
- (c) citrus sold for stockfood.

**Eligible industry body**

6. For the purposes of subsections 14 (6) and (7) of the Levy Act, the Australian Citrus Growers' Federation is the eligible industry body for the classes of leviable horticultural products specified in column 2 in the Schedule.

**Leviable horticultural products**

7. The classes of horticultural products specified in column 2 in the Schedule are prescribed for the purposes of the definition of leviable horticultural products in section 4 of the Collection Act.

**Monthly returns**

8. (1) In subregulation (2), "prescribed particulars", in relation to a return provided in respect of a month in respect of citrus by a person who is a first purchaser (other than a prescribed first purchaser), selling agent or producer, means:

- (a) the full name and business, or residential, address of that person, not being the address of a post office box or bag;
- (b) if the address referred to in paragraph (a) is not a satisfactory address for service of documents on that person—such an address, that may be the address of a post office box or bag;

- (c) the month in which the citrus was purchased, sold or used by that person;
- (d) the quantity of each prescribed class of citrus purchased by that person for use in, or sold by that person for use in, or used by that person in, the production of fruit juice in that month;
- (e) the quantity of each prescribed class of citrus purchased by that person for use in, sold by that person for use in, or used by that person in, the production of any other processed product in that month;
- (f) the quantity of each prescribed class of citrus purchased, sold or used by that person in that month for purposes other than for use in the production of fruit juice or any other processed product;
- (g) the amount of levy payable in respect of each quantity referred to in paragraphs (d), (e) and (f) in respect of that month; and
- (h) the total of the amounts referred to in paragraph (g).

(2) A person who is:

- (a) a first purchaser (other than a prescribed first purchaser) who has in any month purchased citrus from a producer of citrus; or
- (b) a selling agent who has in any month sold citrus on behalf of a producer of citrus;

shall, on or before the twenty-eighth day of the next succeeding month, lodge with the Secretary at the office of the Department in Canberra a return setting out:

- (c) such of the prescribed particulars as are applicable; and
- (d) a declaration, signed by that person or an authorised agent of that person, that the particulars set out in the return are correct in every material particular.

### **Annual returns**

9. (1) Where in any calendar year including the calendar year 1988:

- (a) a person who is a producer of citrus has, after the commencement of these Regulations, sold citrus by retail sale or used citrus in the production of fruit juice or any other processed product; and
- (b) the total of:
  - (i) the quantity of citrus sold by that producer in that calendar year by retail sale;
  - (ii) the quantity of citrus used by that producer in that calendar year in the production in Australia of fruit juice; and
  - (iii) the quantity of citrus used by that producer in that calendar year in the production in Australia of any processed product other than fruit juice;

is 500 boxes or more;

that person shall, on or before 28 February in the next succeeding calendar year, lodge with the Secretary at the office of the Department in Canberra a return setting out:

- (c) the full name and business, or residential, address of the producer, not being the address of a post office box or bag;
  - (d) if the address referred to in paragraph (c) is not a satisfactory address for service of documents on that person—such an address, that may be the address of a post office box or bag;
  - (e) the calendar year in which the citrus was so sold or used;
  - (f) the quantity of each prescribed class of citrus so sold;
  - (g) the quantity of each prescribed class of citrus so used;
  - (h) the amount of levy payable in respect of each of the quantities referred to in paragraphs (f) and (g);
  - (i) the total of the amounts referred to in paragraph (h); and
  - (j) a declaration, signed by that person or an authorised agent of that person, that the particulars set out in the return are correct in every material particular.
- (2) Where in any calendar year including the calendar year 1988:
- (a) a person who is a prescribed first purchaser has, after the commencement of these Regulations, purchased citrus; and
  - (b) the total of the quantities of citrus so purchased exceeds 500 boxes;
- that person shall, on or before 28 February in the next succeeding calendar year, lodge with the Secretary at the office of the Department in Canberra a return setting out:
- (c) the full name and business, or residential, address of the prescribed first purchaser, not being the address of a post office box or bag;
  - (d) if the address referred to in paragraph (c) is not a satisfactory address for service of documents on that person—such an address, that may be the address of a post office box or bag;
  - (e) the calendar year in which the citrus was so purchased;
  - (f) the quantity of each prescribed class of citrus so purchased;
  - (g) the amount of levy payable in respect of each of the quantities referred to in paragraph (f);
  - (h) the total of the amounts referred to in paragraph (g); and
  - (i) a declaration, signed by that person or an authorised agent of that person, that the particulars set out in the return are correct in every material particular.

### **Records to be kept**

**10.** A producer of citrus shall keep records showing:

- (a) the quantity of each prescribed class of citrus sold by that producer by retail sale in each month;
- (b) the quantity of citrus used by that producer in the production of fruit juice in each month; and
- (c) the quantity of citrus used by that producer in the production of any processed product other than fruit juice in each month.

- Penalty: (a) in the case of a natural person—a fine not exceeding \$500;  
or  
(b) in the case of a body corporate—a fine not exceeding \$2,500.

(2) A person who is a first purchaser or selling agent of citrus shall keep records showing, separately in respect of each prescribed class of citrus:

- (a) purchased by that person from a producer of citrus in each month;  
or  
(b) sold by that person on behalf of a producer of citrus in each month;  
as the case may be:  
(c) the quantity so purchased in each month for use in the production of fruit juice;  
(d) the quantity so sold in each month for that use;  
(e) the quantity so purchased in each month for use in the production of any processed product other than fruit juice;  
(f) the quantity so sold in each month for that last-mentioned use;  
(g) the quantity so purchased in each month for purposes other than for use in the production of fruit juice or any other processed product; and  
(h) the quantity so sold in each month for purposes other than for use in the production of fruit juice or any other processed product.

- Penalty: (a) in the case of a natural person—a fine not exceeding \$500;  
or  
(b) in the case of a body corporate—a fine not exceeding \$2,500.

## **SCHEDULE**

Regulations 4, 6 and 7

### **RATES OF LEVY**

Column 1 Item	Column 2 Class of leviable horticultural products	Column 3 Rate for the purposes of section 8 of the Act	Column 4 Rate for the purposes of section 9 of the Act
1	Grapefruit in bulk	75 cents per tonne	25 cents per tonne
2	Grapefruit not in bulk	1.25 cents per box	0.42 cent per box
3	Citrus (excluding grapefruit) in bulk	75 cents per tonne	25 cents per tonne
4	Citrus (excluding grapefruit) not in bulk	1.5 cents per box	0.5 cent per box

## **NOTE**

1. Notified in the *Commonwealth of Australia Gazette* on 29 July 1988.