



# Grain Legumes Levy Collection Act 1985

No. 107 of 1985

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## An Act to make provision for the collection of levy imposed by the *Grain Legumes Levy Act 1985*

[Assented to 16 October 1985]

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 *Grain Legumes Levy Collection Act 1985*.

### Commencement

2. This Act shall come into operation on the day that is fixed by Proclamation for the purposes of sub-section 2 (2) of the *Grain Legumes Levy Act 1985*.

### Interpretation

3. (1) In this Act, unless the contrary intention appears—  
“appoint” includes re-appoint;

“authorised person” means a person who is, by virtue of an appointment under section 13, an authorised person for the purposes of the provision in which the expression occurs.

(2) For the purposes of this Act—

- (a) a person is a purchaser of leviable grain legumes if the person is liable to pay the grower of those grain legumes for the grain legumes; and
- (b) a person is the receiver of leviable grain legumes if the grain legumes are delivered to the person by the grower of the grain legumes otherwise than for storage and no person is liable to pay the grower for the grain legumes.

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

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

#### **Time for payment of levy**

5. (1) Levy on leviable grain legumes is due and payable on the expiration of 28 days, or such longer period as is from time to time prescribed, after the last day of—

- (a) in the case of leviable grain legumes delivered by the grower of the grain legumes to another person—the quarter in which the grain legumes were so delivered or, if the weight of leviable grain legumes delivered to that person by growers in the levy year in which the quarter occurs reaches the leviable weight in a later quarter, that later quarter; or
- (b) in the case of leviable grain legumes processed by the grower of those grain legumes—the quarter in which those grain legumes were processed.

(2) In this section, “quarter” means a period of 3 months ending on the last day of December, March, June or September.

(3) For the purposes of sub-section (2), the period commencing on the day that is fixed by Proclamation for the purposes of sub-section 2 (2) of the *Grain Legumes Levy Act 1985* and ending on the last day of December, March, June or September, whichever first occurs after the day that is so fixed, shall be taken to be a quarter.

#### **Liability of purchaser or receiver**

6. (1) For the better securing of the payment of levy, the purchaser or receiver of leviable grain legumes (being a purchaser or receiver in Australia), is liable to pay to the Commonwealth, on behalf of the grower, an amount (in this section referred to as the “relevant amount”) equal to any levy on those leviable grain legumes that has become payable by the grower but has not been paid to, or recovered by, the Commonwealth.

(2) Notwithstanding any law of a State or Territory or any agreement (whether entered into before or after the commencement of this Act) to the

contrary, the purchaser of leviable grain legumes may, for the purpose of ensuring that the purchaser is provided with the funds necessary for the due payment by the purchaser, on behalf of the grower, of the relevant amount, deduct from any money payable by the purchaser for those grain legumes an amount equal to, or that may reasonably be expected to be equal to, the relevant amount.

(3) Where a purchaser deducts an amount under sub-section (2), the grower is, upon the levy becoming payable, discharged from his or her liability to pay the levy to the extent of the amount so deducted, but the liability of the purchaser under sub-section (1) is not affected.

(4) Where, under sub-section (1), an amount in respect of levy payable by the grower of leviable grain legumes is paid on behalf of the grower by, or is recovered by the Commonwealth from, the purchaser—

- (a) the grower is, to the extent of the amount so paid or recovered, discharged from so much of his or her liability to the Commonwealth to pay that levy as has not been previously discharged by virtue of sub-section (3); and
- (b) the purchaser may recover from the grower, by set-off or otherwise, an amount equal to the amount so paid by, or recovered from, the purchaser in respect of that levy to the extent that the amount exceeds the amount of money (if any) provided to the purchaser under sub-section (2).

(5) Where, under sub-section (1), an amount in respect of levy payable by the grower of leviable grain legumes is paid on behalf of the grower by, or is recovered by the Commonwealth from, the receiver of the grain legumes—

- (a) the grower is discharged from liability to pay that levy to the extent of the amount so paid or recovered; and
- (b) subject to any agreement between the receiver and the grower, the receiver may recover from the grower an amount equal to the amount so paid by, or recovered from, the receiver.

### **Penalty for non-payment**

7. (1) Where the liability of the grower of leviable grain legumes to pay levy is not discharged at or before the time when that levy is due and payable, there is payable to the Commonwealth by way of penalty, in addition to that levy, an amount calculated at the rate of 20% per annum on the levy or on so much of the levy as from time to time remains unpaid, to be computed from the time when the levy became due and payable.

- (2) A penalty under sub-section (1) is payable—
  - (a) where the penalty relates to levy in respect of leviable grain legumes delivered by the grower of those grain legumes to another person—by that other person; or
  - (b) where the penalty relates to levy in respect of leviable grain legumes processed by the grower of those grain legumes—by the grower.

(3) Where—

- (a) the purchaser of leviable grain legumes has, pursuant to sub-section 6 (2), made a deduction in respect of levy payable on those grain legumes from an amount payable by the purchaser of those grain legumes; and
- (b) the purchaser has not at or before the time when, under section 5, the levy becomes due and payable by the grower, paid to the Commonwealth, on behalf of the grower, the whole or any part of the amount so deducted,

there is payable by the purchaser to the Commonwealth by way of penalty, in addition to the amount payable by the purchaser to the Commonwealth under sub-section 6 (1), an amount calculated at the rate of 20% per annum on the amount of the deduction, or so much of that amount as from time to time remains unpaid, to be computed from the time when the levy became due and payable.

(4) The Minister or, subject to sub-section (5), an authorised person, may, in a particular case, for reasons that the Minister or the authorised person, as the case may be, in his or her discretion thinks sufficient, remit the whole or a part of an amount payable under this section.

(5) The power under sub-section (4) to remit the whole or a part of an amount payable under this section shall not be exercised by an authorised person in a case where the amount, before remission, exceeds \$500.

**Recovery of levy, &c.**

8. The following amounts may be recovered by the Commonwealth as debts due to the Commonwealth:

- (a) levy that is due and payable;
- (b) an amount that is payable to the Commonwealth under sub-section 6 (1);
- (c) an amount that is payable by way of penalty under section 7.

**Refund of levy**

9. (1) Where any amount referred to in section 8 has been overpaid, an amount equal to the amount of the overpayment shall be refunded by the Commonwealth.

(2) Where—

- (a) an amount is to be refunded by the Commonwealth in accordance with sub-section (1); and
- (b) that amount has been taken into account under paragraph 7 (1) (a) of the *Rural Industries Research Act 1985* in calculating an amount to be paid into the Research Fund established under that Act in relation to goods of a kind in respect of which levy is imposed under the *Grain Legumes Levy Act 1985*,

the amount of the refund shall be paid from that Research Fund.

**Power to call for information**

**10.** An authorised person may, by notice in writing given or sent by post to a person, require the person to give to the authorised person, within such time (being not less than 14 days after receipt of the notice) as is 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.

**Access to premises**

**11. (1)** An authorised person may, with the consent of the occupier of any premises, enter those premises for the purpose of exercising the powers of an authorised person under this section.

**(2)** Where an authorised person has a reasonable ground for believing that—

- (a)** particular premises are premises at which leviable grain legumes are produced, stored or processed; or
- (b)** there are on particular premises 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 exercising the powers of an authorised person under this section.

**(3)** If, on an application under sub-section (2), the Justice of the Peace is satisfied, by information on oath or affirmation, that—

- (a)** there is a reasonable ground for believing that—
  - (i)** the premises to which the application relates are premises on which leviable grain legumes are produced, stored or processed; or
  - (ii)** there are on those premises examinable documents; and
- (b)** the issue of the warrant is reasonably required for the purposes of this Act,

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

**(4)** A warrant granted under this section shall specify a day, not being a day later than one month after the date of issue of the warrant, upon which the warrant ceases to have effect.

**(5)** Where an authorised person has entered any premises pursuant to this section, the authorised person may—

- (a)** search for, examine and take stock of leviable grain legumes; and
- (b)** search for, inspect, take extracts from, and make copies of, any examinable documents.

(6) A person shall not, without reasonable excuse, obstruct or hinder an authorised person acting pursuant to sub-section (1) or pursuant to a warrant issued under sub-section (3).

Penalty: \$1,000 or imprisonment for 6 months, or both.

(7) In this section, “examinable documents” means—

- (a) any documents relating to financial dealings between persons who deliver leviable grain legumes and persons to whom leviable grain legumes are delivered; and
- (b) any documents relating to the production, storage, carriage, delivery, processing, purchase, sale or export of leviable grain legumes.

#### **Offences in relation to returns, &c.**

12. (1) A person shall not, without reasonable excuse, 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.

(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 sub-section (1) or (3); or
- (b) proceedings for recovery of a penalty payable under section 7.

(3) A person shall not knowingly present a document, make a statement or submit a return, that 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—\$1,000 or imprisonment for 6 months, or both; or
- (b) in the case of a body corporate—\$5,000.

#### **Appointment of authorised persons**

13. The Minister may, by writing, appoint a person, or persons included in a class of persons, to be an authorised person or authorised persons, as the case may be, for the purposes of a specified provision of this Act.

#### **Review of decisions**

14. An application may be made to the Administrative Appeals Tribunal for a review of a decision made under sub-section 7 (4).

#### **Regulations**

15. 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,  
and in particular—
- (c) providing for the manner of payment of levy and other money payable to the Commonwealth under this Act;
  - (d) requiring the keeping of records, in respect of leviable grain legumes, by growers, receivers or purchasers of leviable grain legumes and by such other persons (if any) as are prescribed;
  - (e) requiring growers, receivers or purchasers of leviable grain legumes, and such other persons (if any) as are prescribed, to provide returns for the purposes of this Act; and
  - (f) prescribing penalties, not exceeding a fine of \$500, for offences against the regulations.
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*[Minister's second reading speech made in—  
House of Representatives on 22 August 1985  
Senate on 8 October 1985]*