



Primary Industries (Customs) Charges Act 1999

Act No. 30 of 1999 as amended

This compilation was prepared on 24 December 2010
taking into account amendments up to Act No. 148 of 2010

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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Contents

1	Short title [see Note 1].....	1
2	Commencement [see Note 1].....	1
3	Simplified outline	1
4	Definitions	2
5	Act to bind Crown	2
6	Duties of customs	2
7	Imposition of charge.....	2
8	Regulations.....	2
Schedule 1—Buffaloes		3
1	Imposition of charge.....	3
2	Rate of charge.....	3
3	Who pays the charge	3
4	Transitional—regulations	3
Schedule 2—Cattle (exporters)		5
1	Definitions	5
2	Imposition of charge.....	5
3	Rate of charge.....	5
4	Who pays the charge	6
5	Regulations.....	6
6	Transitional—regulations	6
7	Transitional—declarations.....	7
Schedule 3—Cattle (producers)		8
1	Definitions	8
2	Imposition of charge.....	9
3	Rate of charges	9
4	Who pays the charge	10
5	Regulations.....	11
6	Transitional—regulations	11
7	Transitional—declarations.....	11
Schedule 4—Dairy produce		12
1	Definitions	12
2	Imposition of charge—re-importation of exported dairy produce	13
3	Imposition of charge—import offset	13
4	Rate of charges	14
5	Who pays the charge	15
6	Charge may be referred to as a levy	16

Schedule 5—Deer	17
1 Definitions	17
2 Imposition of charge	17
3 Rate of charge	17
4 Who pays the charge	17
5 Regulations	17
6 Transitional—regulations	18
Schedule 6—Deer velvet	19
1 Definitions	19
2 Imposition of charge	19
3 Rate of charge	19
4 Who pays the charge	21
5 Regulations	21
6 Transitional—regulations	21
7 Transitional—delegation	21
Schedule 7—Forest industries (export)	22
1 Definitions	22
2 Imposition of charge	22
3 Rate of charge	23
4 Who pays the charge	23
5 Regulations	23
6 Transitional—regulations	23
Schedule 8—Forest industries (import)	24
1 Definitions	24
2 Imposition of charge	24
3 Rate of charge	24
4 Who pays the charge	25
5 Regulations	25
6 Transitional—regulations	26
7 Transitional—determinations	26
Schedule 9—Honey	27
1 Definitions	27
2 Imposition of charge	27
3 Rate of charge	28
4 Who pays the charge	28
5 Regulations	28
6 Transitional—regulations	29
Schedule 10—Horticultural products	30
1 Definitions	30
2 Imposition of charge	30

3	Rates of charge	31
4	Who pays the charge	32
5	Regulations	32
6	Transitional—regulations	34
Schedule 11—Live-stock (exporters)		35
1	Definitions	35
2	Imposition of charge	35
3	Rate of charge—sheep	36
4	Rate of charge—lambs	36
5	Rate of charge—goats	36
6	Who pays the charge	36
7	Regulations	37
8	Transitional—regulations	37
9	Transitional—declarations	37
10	Transitional—authorisations	38
Schedule 12—Live-stock (producers)		39
1	Definitions	39
2	Imposition of charge	39
3	Rate of charges—sheep	40
4	Rate of charges—lambs	40
5	Rate of charges—goats	40
6	Who pays the charge	41
7	Regulations	41
8	Transitional—regulations	41
9	Transitional—declarations	42
Schedule 13—Wine		43
1	Definitions	43
2	Imposition of charge	43
3	Rate of charge	43
4	Who pays the charge	43
5	Regulations	44
6	Transitional—regulations	44
Schedule 14—Regulations may impose primary industries charges		45
Part 1—Definitions		45
1	Definitions	45
Part 2—Regulations may impose charges on primary industry products		47
2	Imposition of charge	47

3	Imposition of 2 or more charges	47
4	Additional charges	47
Part 3—Rate of charge		48
5	Rate of charge	48
6	Composite rate of charge	48
7	Flexibility in relation to rates of charge	48
8	Maximum rate of charge for animal products	48
9	Maximum rate of charge for plant products	49
Part 4—Miscellaneous		50
10	Person liable to pay charge	50
11	Exemptions from charge	50
12	Designated bodies	50
13	Regulations	50
Notes		53

An Act relating to the imposition of primary industries charges that are duties of customs

1 Short title [see Note 1]

This Act may be cited as the *Primary Industries (Customs) Charges Act 1999*.

2 Commencement [see Note 1]

This Act commences on the commencement of section 1 of the *Primary Industries (Excise) Levies Act 1999*.

3 Simplified outline

The following is a simplified outline of this Act:

- This Act authorises the imposition of primary industries charges that are duties of customs.
- Each of Schedules 1 to 13 imposes a particular charge and makes provision for:
 - (a) the operative rate of the charge; and
 - (b) the maximum rate of the charge; and
 - (c) the person who is liable to pay the charge; and
 - (d) any exemptions from the charge.
- Schedule 14 allows the regulations to impose charges. In addition to imposing a particular charge, regulations under Schedule 14 are to set out:
 - (a) the operative rate of the charge; and
 - (b) the person who is liable to pay the charge; and
 - (c) any exemptions from the charge.

- | |
|---|
| <ul style="list-style-type: none">• Schedule 14 sets out the maximum rate of charge that can be imposed by regulations under that Schedule. |
|---|

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, of the Northern Territory and of Norfolk Island.

6 Duties of customs

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

7 Imposition of charge

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—Buffaloes

1 Imposition of charge

- (1) Charge is imposed on buffaloes exported from Australia after the commencement of this Schedule.
- (2) The regulations may provide that no amount of charge is payable by producers of buffaloes under this Schedule.
- (3) Despite anything else in this Schedule, if a regulation of the kind referred to in subclause (2) is made, an amount of charge is not payable under this Schedule on the export of buffaloes in respect of any period while the regulation is in force.

2 Rate of charge

The rate of charge imposed by this Schedule on the export of each head of buffalo is the sum of the following amounts:

- (a) \$4.60 or, if another amount (not exceeding \$18.00) is prescribed by the regulations, the other amount;
- (b) 73 cents or, if another amount (not exceeding \$4.00) is prescribed by the regulations, the other amount.

Note 1: Paragraph (a) identifies amounts that, under the *Primary Industries and Energy Research and Development Act 1989*, are destined for the Rural Industries Research and Development Corporation.

Note 2: Paragraph (b) identifies amounts that, under the *National Cattle Disease Eradication Account Act 1991*, are destined for the National Cattle Disease Eradication Account.

3 Who pays the charge

Charge imposed by this Schedule on buffaloes exported from Australia is payable by the producer of the buffaloes.

4 Transitional—regulations

- (1) This clause applies to regulations if:
 - (a) the regulations were made for the purposes of a particular provision of the *Buffalo Export Charge Act 1997*; and

Clause 4

- (b) the regulations were in force immediately before the commencement of this clause.
- (2) The regulations have effect, after the commencement of this clause, as if they had been made for the purposes of the corresponding provision of this Schedule.

Schedule 2—Cattle (exporters)

1 Definitions

In this Schedule:

cattle means bovine animals other than buffalo.

dairy cattle means bovine animals that are, or, if they were not exported from Australia, would be likely to be, held on licensed dairy premises for a purpose related to commercial milk production, including but without limiting the generality of the above, bulls, calves and replacement heifers.

licensed dairy premises means premises that, under the law of the State or Territory in which the premises are situated, are authorised for use as a dairy farm.

live-stock export marketing body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

live-stock export research body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

2 Imposition of charge

- (1) Charge is imposed on the export of cattle (other than dairy cattle) from Australia after the commencement of this Schedule.
- (2) The regulations may provide that no amount of charge is payable by exporters of cattle under this Schedule.
- (3) Despite anything else in this Schedule, if a regulation of the kind referred to in subclause (2) is made, an amount of charge is not payable under this Schedule on the export of cattle from Australia in respect of any period while the regulation is in force.

3 Rate of charge

- (1) The rate of charge imposed by this Schedule on the export of cattle is the sum of the following amounts per kilogram of cattle so exported:

Clause 4

- (a) the prescribed amount (not exceeding 3 cents);
- (b) the prescribed amount (not exceeding 0.5 cent).

Note 1: Paragraph (1)(a) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the live-stock export marketing body.

Note 2: Paragraph (1)(b) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the live-stock export research body.

- (2) For the purposes of calculating charge imposed by this Schedule, the weight of cattle exported is their liveweight described in the bill of lading, or similar document of title, facilitating the export of such cattle.
- (3) Where the liveweight of cattle exported is not described in the bill of lading, or similar document of title, facilitating the export of the cattle, then, for the purposes of calculating charge imposed by this Schedule, the liveweight of the cattle is taken to be 480 kilograms per head.

4 Who pays the charge

Charge imposed by this Schedule on the export of cattle from Australia is payable by the exporter of the cattle.

5 Regulations

- (1) The Minister may, by notice in the *Gazette*, declare that the body specified in the declaration is the body whose recommendations about the amount to be prescribed for the purposes of paragraph 3(1)(a) or 3(1)(b) of this Schedule are to be taken into consideration under subclause (2).
- (2) If a declaration is in force under subclause (1), then, before the Governor-General makes regulations prescribing an amount for the purposes of the paragraph to which the declaration relates, the Minister must take into consideration any relevant recommendation made to the Minister by the body specified in the declaration in relation to that paragraph.

6 Transitional—regulations

- (1) This clause applies to regulations if:
-

- (a) the regulations were made for the purposes of a particular provision of the *Cattle (Exporters) Export Charge Act 1997*; and
 - (b) the regulations were in force immediately before the commencement of this clause.
- (2) The regulations have effect, after the commencement of this clause, as if they had been made for the purposes of the corresponding provision of this Schedule.

7 Transitional—declarations

- (1) This clause applies to a declaration if:
- (a) the declaration was made for the purposes of a particular provision of the *Cattle (Exporters) Export Charge Act 1997*; and
 - (b) the declaration was in force immediately before the commencement of this clause.
- (2) The declaration has effect, after the commencement of this clause, as if it had been made for the purposes of the corresponding provision of this Schedule.

Schedule 3—Cattle (producers)

1 Definitions

(1) In this Schedule:

bobby calf means a bovine animal (other than a buffalo):

- (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.

cattle means bovine animals other than buffalo.

chargeable bobby calf means a bobby calf to which subclause 3(3) does not apply.

dairy cattle means bovine animals that are, or, if they were not exported from Australia, would be likely to be, held on licensed dairy premises for a purpose related to commercial milk production, including but without limiting the generality of the above, bulls, calves and replacement heifers.

industry marketing body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

industry research body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

licensed dairy premises means premises that, under the law of the State or Territory in which the premises are situated, are authorised for use as a dairy farm.

(2) A reference in this Schedule to the **intermediary** is a reference to 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 charge imposed by this Schedule.

2 Imposition of charge

- (1) Charge is imposed on the export from Australia after the commencement of this Schedule of cattle (other than dairy cattle). However, charge is not imposed by this subclause on the export of cattle (other than dairy cattle) if levy under Schedule 3 to the *Primary Industries (Excise) Levies Act 1999* or the repealed *Cattle Transactions Levy Act 1997* has been paid, or is payable, in respect of an act or transaction relating to the cattle.
- (2) Charge is imposed on the export from Australia after the commencement of this Schedule of cattle (other than dairy cattle) 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 longest of the following periods:
 - (i) 60 days;
 - (ii) the period for which the cattle are required under the *Quarantine Act 1908* to be held in quarantine before being exported;
 - (iii) 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 charges

- (1) The rate of each of the charges imposed by this Schedule on the export of each head of cattle (other than a chargeable bobby calf) is the sum of the following amounts:
 - (a) \$2.16 or, if another amount (not exceeding \$6.50) is prescribed by the regulations, the other amount;
 - (b) 72 cents or, if another amount (not exceeding \$2.00) is prescribed by the regulations, the other amount;
 - (c) 17 cents or, if another amount (not exceeding \$4.00) is prescribed by the regulations, the other amount;
 - (d) 13 cents or, if another amount (not exceeding 50 cents) is prescribed by the regulations, the other amount.

Clause 4

- Note 1: Paragraph (1)(a) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the industry marketing body.
- Note 2: Paragraph (1)(b) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the industry research body.
- Note 3: Paragraph (1)(c) identifies amounts that, under the *National Cattle Disease Eradication Account Act 1991*, are destined for the National Cattle Disease Eradication Account.
- Note 4: Paragraph (1)(d) identifies amounts that, under the *Australian Animal Health Council (Live-stock Industries) Funding Act 1996*, are destined for the Australian Animal Health Council.
- (2) The rate of each of the charges imposed by this Schedule on the export of each head of cattle that is a chargeable bobby calf is the sum of the following amounts:
- (a) 48 cents or, if another amount (not exceeding \$1.90) is prescribed by the regulations, the other amount;
 - (b) 16 cents or, if another amount (not exceeding 40 cents) is prescribed by the regulations, the other amount;
 - (c) the prescribed amount (not exceeding 20 cents), if any;
 - (d) the prescribed amount (not exceeding 50 cents), if any.
- Note 1: Paragraph (2)(a) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the industry marketing body.
- Note 2: Paragraph (2)(b) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the industry research body.
- Note 3: Paragraph (2)(c) identifies amounts that, under the *National Cattle Disease Eradication Account Act 1991*, are destined for the National Cattle Disease Eradication Account.
- Note 4: Paragraph (2)(d) identifies amounts that, under the *Australian Animal Health Council (Live-stock Industries) Funding Act 1996*, are destined for the Australian Animal Health Council.
- (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 Who pays the charge

Charge imposed by this Schedule on the export of cattle from Australia is payable by the producer of the cattle.

5 Regulations

- (1) The Minister may, by notice in the *Gazette*, declare that the body specified in the declaration is the body whose recommendations about the amount to be prescribed for the purposes of paragraph 3(1)(a), 3(1)(b), 3(1)(d), 3(2)(a), 3(2)(b) or 3(2)(d) of this Schedule are to be taken into consideration under subclause (2).
- (2) If a declaration is in force under subclause (1), then, before the Governor-General makes regulations prescribing an amount for the purposes of the paragraph to which the declaration relates, the Minister must take into consideration any relevant recommendation made to the Minister by the body specified in the declaration in relation to that paragraph.

6 Transitional—regulations

- (1) This clause applies to regulations if:
 - (a) the regulations were made for the purposes of a particular provision of the *Cattle (Producers) Export Charges Act 1997*; and
 - (b) the regulations were in force immediately before the commencement of this clause.
- (2) The regulations have effect, after the commencement of this clause, as if they had been made for the purposes of the corresponding provision of this Schedule.

7 Transitional—declarations

- (1) This clause applies to a declaration if:
 - (a) the declaration was made for the purposes of a particular provision of the *Cattle (Producers) Export Charges Act 1997*; and
 - (b) the declaration was in force immediately before the commencement of this clause.
- (2) The declaration has effect, after the commencement of this clause, as if it had been made for the purposes of the corresponding provision of this Schedule.

Schedule 4—Dairy produce

1 Definitions

- (1) Words and expressions used in this Schedule have the same meanings as in Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*.

Note: Clause 6 provides that charge imposed by this Schedule may be referred to either as a charge or a levy.

- (2) For the purposes of this Schedule, a person is a **prescribed exporter** in relation to a financial year if:
- (a) the person has an export milk fat component or an export protein component, or both, within the meaning of clause 8 of Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*, for a month or months of the year; or
 - (b) during the year, the person has exported from Australia dairy produce and:
 - (i) relevant dairy produce used, whether by that person or by another person, in the manufacture of the exported dairy produce has been taken into account in the calculation of manufacturing milk levy; and
 - (ii) the export of the dairy produce has not been taken into account for the purposes of subclause 8(2) of Schedule 6 to the *Primary Industries (Excise) Levies Act 1999* or of subsection 7(2) of the repealed *Dairy Produce Levy (No. 1) Act 1986*.
- (3) For the purposes of this Schedule, an export from Australia of dairy produce constitutes a **relevant export** if:
- (a) the export of the dairy produce has been taken into account for the purposes of subclause 8(2) of Schedule 6 to the *Primary Industries (Excise) Levies Act 1999* or of subsection 7(2) of the repealed *Dairy Produce Levy (No. 1) Act 1986*; or
 - (b) both of the following conditions are satisfied:
 - (i) manufacturing milk levy was imposed on relevant dairy produce used, whether by the person who exported the dairy produce or by another person, in the manufacture of the exported dairy produce;

- (ii) the export of the dairy produce has not been taken into account for the purposes of subclause 8(2) of Schedule 6 to the *Primary Industries (Excise) Levies Act 1999* or of subsection 7(2) of the repealed *Dairy Produce Levy (No. 1) Act 1986*.
- (4) For the purposes of this Schedule, the question whether a body corporate is related to another body corporate is to be determined in the same way as the question whether bodies corporate are related to each other is determined for the purposes of the *Corporations Act 2001*.

2 Imposition of charge—re-importation of exported dairy produce

If:

- (a) dairy produce is exported from Australia (whether before or after the commencement of this Schedule); and
 - (b) one of the following conditions is satisfied:
 - (i) an amount has been paid, or is payable, to a person by way of a market support payment under the *Dairy Produce Act 1986* in respect of the dairy produce;
 - (ii) the export of the dairy produce has been taken into account for the purposes of subclause 8(2) of Schedule 6 to the *Primary Industries (Excise) Levies Act 1999* or of subsection 7(2) of the repealed *Dairy Produce Levy (No. 1) Act 1986*;
 - (iii) a person has been paid, or is entitled to be paid, a manufacturing milk levy rebate under section 108E of the *Dairy Produce Act 1986* in relation to the export of the dairy produce; and
 - (c) the dairy produce is subsequently imported into Australia, after the commencement of this Schedule, in the same form, or substantially the same form, as it was exported;
- charge is imposed on the dairy produce.

3 Imposition of charge—import offset

- (1) Charge is imposed on the total quantity of dairy produce imported into Australia during a financial year commencing on or after 1 July 1999:
 - (a) by a prescribed exporter; or

Clause 4

- (b) if the prescribed exporter is a body corporate, by a body corporate (other than a prescribed exporter) that is related to the prescribed exporter.
- (2) Charge is not imposed by this clause on dairy produce in relation to which charge has been paid, or is payable, under clause 2.

4 Rate of charges

Re-importation of exported dairy produce

- (1) The amount of the charge imposed on dairy produce by clause 2 is an amount equal to the total of:
 - (a) an amount calculated at the milk fat rate for the month in which the dairy produce is imported on the milk fat content of the dairy produce when imported; and
 - (b) an amount calculated at the protein rate for the month in which the dairy produce is imported on the protein content of the dairy produce when imported.

Import offset

- (2) Subject to subclause (3), the amount of the charge imposed by clause 3 on dairy produce imported during a financial year is calculated as follows:
 - (a) in respect of each quantity of dairy produce imported:
 - (i) an amount is calculated at the milk fat rate for the month in which the dairy produce was imported on the milk fat content of the dairy produce when imported; and
 - (ii) an amount is calculated at the protein rate for the month in which the dairy produce was imported on the protein content of the dairy produce when imported;
 - (b) the amount of the charge is an amount equal to the total of the amounts calculated under paragraph (a) in respect of the dairy produce imported during the year.
- (3) Subject to subclause (4), the maximum amount of the charge imposed by clause 3 on dairy produce imported by a prescribed exporter or, if the prescribed exporter is a body corporate, by a body corporate that is related to the prescribed exporter, during a financial year is an amount calculated as follows:

- (a) in respect of each quantity of dairy produce the subject of a relevant export by the prescribed exporter during the financial year:
 - (i) an amount is calculated at the milk fat rate for the month in which the dairy produce was exported on the milk fat content of the dairy produce; and
 - (ii) an amount is calculated at the protein rate for the month in which the dairy produce was exported on the protein content of the dairy produce;
 - (b) the amounts calculated under paragraph (a) are added together;
 - (c) if charge has been paid, or is payable, by the prescribed exporter under clause 2 in respect of the importation, during the financial year, of any dairy produce and the amount so paid or payable is less than the amount arrived at under paragraph (b), the maximum amount is the amount equal to the difference between the amount arrived at under paragraph (b) and the amount of charge so paid or payable;
 - (d) if no deduction is made under paragraph (c), the total arrived at under paragraph (b) is the maximum amount.
- (4) If:
- (a) charge has been paid, or is payable, by the prescribed exporter under clause 2 in respect of the importation, during the financial year, of any dairy produce; and
 - (b) the amount so paid or payable equals or exceeds the amount arrived at under paragraph (3)(b);
- charge is not imposed by clause 3 on the importation of dairy produce by the prescribed exporter or, if the prescribed exporter is a body corporate, by a body corporate that is related to the prescribed exporter, during the financial year.
- (5) In this clause, a reference to the *milk fat rate* for a month or the *protein rate* for a month has the same meaning as in clause 8 of Schedule 6 to the *Primary Industries (Excise) Levies Act 1999*.

5 Who pays the charge

- (1) Charge imposed on dairy produce by clause 2 is payable by the importer of the dairy produce.

Clause 6

- (2) Charge imposed on dairy produce by clause 3 is payable by the prescribed exporter referred to in that clause.

6 Charge may be referred to as a levy

- (1) Charge imposed by this Schedule may be referred to either as a charge or a levy.
- (2) Subclause (1) has effect only for the purposes of the imposition of the charge.

Schedule 5—Deer

1 Definitions

In this Schedule:

representative industry organisation means:

- (a) the organisation known as the Deer Industry Association of Australia Limited; or
- (b) such other organisation as is specified in the regulations.

2 Imposition of charge

Charge is imposed on live deer produced in Australia (whether before or after the commencement of this Schedule) that are exported from Australia after the commencement of this Schedule.

3 Rate of charge

- (1) The rate of charge imposed by this Schedule on live deer is:
 - (a) the amount per head that is specified in the regulations; or
 - (b) if no amount is specified in the regulations, \$10.00 per head.
- (2) The amount specified in the regulations for the purposes of paragraph (1)(a) must not exceed \$20.00 per head.

4 Who pays the charge

Charge imposed by this Schedule on live deer is payable by the producer of the deer.

5 Regulations

Before the Governor-General makes a regulation specifying an amount for the purposes of paragraph 3(1)(a) of this Schedule, the Minister must take into consideration any relevant recommendation made to the Minister by a representative industry organisation.

Clause 6

6 Transitional—regulations

- (1) This clause applies to regulations if:
 - (a) the regulations were made for the purposes of a particular provision of the *Deer Export Charge Act 1992*; and
 - (b) the regulations were in force immediately before the commencement of this clause.
- (2) The regulations have effect, after the commencement of this clause, as if they had been made for the purposes of the corresponding provision of this Schedule.

Schedule 6—Deer velvet

1 Definitions

In this Schedule:

deer velvet means the developing antler of deer together with its cutaneous covering, harvested as living tissue.

designated organisation means:

- (a) the Australian Deer Horn and Co Products Pty Ltd; or
- (b) if another organisation is specified in the regulations—that other organisation.

representative industry organisation means:

- (a) the organisation known as the Deer Industry Association of Australia Limited; or
- (b) such other organisation as is specified in the regulations.

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.

2 Imposition of charge

- (1) Charge is imposed on deer velvet produced in Australia (whether before or after the commencement of this Schedule) that is exported from Australia after the commencement of this Schedule.
- (2) Charge is not imposed by this Schedule on deer velvet on which levy has already been imposed by Schedule 8 to the *Primary Industries (Excise) Levies Act 1999* or by the repealed *Deer Velvet Levy Act 1992*.

3 Rate of charge

- (1) The rate of charge imposed by this Schedule on deer velvet is:

Clause 3

- (a) the percentage of the declared value of the deer velvet that is specified in the regulations; or
- (b) if no percentage is specified in the regulations—5% of the declared value of the deer velvet.

Declared value

- (2) For the purposes of subclause (1), the **declared value** of a quantity of deer velvet is the value of the velvet described in the bill of lading, or similar document of title, facilitating the export of the deer velvet.
- (3) If the Secretary reasonably believes that the declared value of a quantity of deer velvet ascertained under subclause (2) is not fair and reasonable:
 - (a) subject to subclause (4), the Secretary may determine a value that, in the Secretary's opinion, is a fair and reasonable value for the deer velvet; and
 - (b) the value so determined is the declared value of the deer velvet for the purposes of calculation of charge imposed by this Schedule.

Note: A determination by the Secretary of the declared value of deer velvet exported from Australia is reviewable under section 28 of the *Primary Industries Levies and Charges Collection Act 1991*.

- (4) For the purposes of determining the value of deer velvet under paragraph (3)(a), the Secretary must have regard only to the following:
 - (a) the quantity of the deer velvet;
 - (b) the quality of the deer velvet;
 - (c) the price for deer velvet of that quality:
 - (i) published by, or by authority of, the designated organisation; and
 - (ii) applicable at the time the deer velvet is exported;
 - (d) the matters (if any) specified in the regulations.

Maximum rate

- (5) For the purposes of paragraph (1)(a), the percentage specified in the regulations must not exceed 7% of the declared value of the deer velvet.

Delegation

- (6) The Secretary may, by writing, delegate the power to determine the declared value of deer velvet to a senior officer.

4 Who pays the charge

Charge imposed by this Schedule on deer velvet is payable by the producer of the deer velvet.

5 Regulations

Before the Governor-General makes a regulation specifying a percentage for the purposes of paragraph 3(1)(a) of this Schedule, the Minister must take into consideration any relevant recommendation made to the Minister by a representative industry organisation.

6 Transitional—regulations

- (1) This clause applies to regulations if:
- (a) the regulations were made for the purposes of a particular provision of the *Deer Velvet Export Charge Act 1992*; and
 - (b) the regulations were in force immediately before the commencement of this clause.
- (2) The regulations have effect, after the commencement of this clause, as if they had been made for the purposes of the corresponding provision of this Schedule.

7 Transitional—delegation

- (1) This clause applies to a delegation if:
- (a) the delegation was made for the purposes of a particular provision of the *Deer Velvet Export Charge Act 1992*; and
 - (b) the delegation was in force immediately before the commencement of this clause.
- (2) The delegation has effect, after the commencement of this clause, as if it had been made for the purposes of the corresponding provision of this Schedule.

Schedule 7—Forest industries (export)

1 Definitions

In this Schedule:

industry body means a body for which both of the following conditions are met:

- (a) members of the body are exporters of logs;
- (b) the body is prescribed by the regulations for the purposes of this paragraph.

logs means logs that:

- (a) are intended for export; and
- (b) have not undergone any form of processing other than:
 - (i) debarking; or
 - (ii) any other process prescribed by regulations made for the purposes of paragraph (b) of the definition of **logs** in clause 1 of Schedule 10 to the *Primary Industries (Excise) Levies Act 1999*.

mill has the same meaning as in Schedule 10 to the *Primary Industries (Excise) Levies Act 1999*.

2 Imposition of charge

- (1) Charge is imposed on logs produced in Australia (whether before or after the commencement of this Schedule) and exported from Australia after the commencement of this Schedule.
- (2) Charge is not imposed by this Schedule on logs if:
 - (a) levy under Schedule 10 to the *Primary Industries (Excise) Levies Act 1999* or the repealed *Forest Industries Research Levy Act 1993* has already been paid on the logs; or
 - (b) charge under this Schedule or the repealed *Forest Industries Research Export Charge Act 1993* has already been paid on the logs.
- (3) The regulations may exempt a specified class of logs from charge imposed by this Schedule.

3 Rate of charge

- (1) The rate of charge imposed by this Schedule is equal to the rate of levy (if any) that would have been imposed under Schedule 10 to the *Primary Industries (Excise) Levies Act 1999* if the logs had been delivered to a mill in Australia.
- (2) The regulations may provide that charge is not payable if the amount to be collected is less than an amount specified in the regulations.

4 Who pays the charge

Charge imposed by this Schedule on logs is payable by the exporter of the logs.

5 Regulations

Before the Governor-General makes regulations for the purposes of this Schedule, the Minister must take into consideration any relevant recommendation made to the Minister by an industry body.

6 Transitional—regulations

- (1) This clause applies to regulations if:
 - (a) the regulations were made for the purposes of a particular provision of the *Forest Industries Research Export Charge Act 1993*; and
 - (b) the regulations were in force immediately before the commencement of this clause.
- (2) The regulations have effect, after the commencement of this clause, as if they had been made for the purposes of the corresponding provision of this Schedule.

Schedule 8—Forest industries (import)

1 Definitions

In this Schedule:

forest products means:

- (a) logs; or
- (b) such other products as are described in Chapter 44 of Schedule 3 to the *Customs Tariff Act 1995* and prescribed by the regulations.

industry body means a body for which both of the following conditions are met:

- (a) members of the body are importers of forest products;
- (b) the body is prescribed by the regulations for the purposes of this paragraph.

logs has the same meaning as in Schedule 10 to the *Primary Industries (Excise) Levies Act 1999*.

mill has the same meaning as in Schedule 10 to the *Primary Industries (Excise) Levies Act 1999*.

2 Imposition of charge

- (1) Charge is imposed on forest products imported into Australia after the commencement of this Schedule.
- (2) The regulations may exempt a specified class of forest products from charge imposed by this Schedule.

3 Rate of charge

- (1) The rate of charge imposed by this Schedule is:
 - (a) if the forest products are logs—the rate of levy (if any) that would have been payable under Schedule 10 to the *Primary Industries (Excise) Levies Act 1999* if the logs had been produced in Australia and delivered to a mill in Australia; or
 - (b) otherwise—a rate worked out by multiplying:

- (i) the rate of levy (if any) that would have been payable under Schedule 10 to the *Primary Industries (Excise) Levies Act 1999* in respect of logs of the same class that were used to produce the forest products if the logs had been produced in Australia and delivered to a mill in Australia; and
 - (ii) the conversion factor determined by the Minister to apply to forest products of the class in question.
- (2) The Minister may determine in writing, for a class of forest products, a conversion factor that, in the Minister's opinion, reasonably approximates (but does not exceed) the average proportionality between:
 - (a) volumes of logs that are used, in accordance with normal wood processing practices in Australia, to produce such volumes of those forest products; and
 - (b) volumes of forest products in that class.
- (3) Before making a determination, the Minister must take into consideration any relevant recommendation made to him or her by an industry body.
- (4) Such determinations are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (5) The regulations may provide that the charge imposed by this Schedule is not payable if the amount to be collected is less than an amount specified in the regulations.

4 Who pays the charge

Charge imposed by this Schedule on forest products is payable by the importer of the forest products.

5 Regulations

Before the Governor-General makes regulations for the purposes of this Schedule, the Minister must take into consideration any relevant recommendation made to the Minister by an industry body.

Clause 6

6 Transitional—regulations

- (1) This clause applies to regulations if:
 - (a) the regulations were made for the purposes of a particular provision of the *Forest Industries Research Import Charge Act 1993*; and
 - (b) the regulations were in force immediately before the commencement of this clause.
- (2) The regulations have effect, after the commencement of this clause, as if they had been made for the purposes of the corresponding provision of this Schedule.

7 Transitional—determinations

- (1) This clause applies to a determination if:
 - (a) the determination was made for the purposes of a particular provision of the *Forest Industries Research Import Charge Act 1993*; and
 - (b) the determination was in force immediately before the commencement of this clause.
- (2) The determination has effect, after the commencement of this clause, as if it had been made for the purposes of the corresponding provision of this Schedule.

Schedule 9—Honey

1 Definitions

In this Schedule:

honey means honey that is produced in Australia.

industry services body means the industry services body declared under section 9 of the *Horticulture Marketing and Research and Development Services Act 2000*.

producers' organisation means the organisation known as the Australian Honey Bee Industry Council, or, if another organisation is prescribed for the purposes of this definition, that other organisation.

R&D authority means:

- (a) where charge imposed by this Schedule is attached to an R&D Corporation under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the R&D Corporation; or
- (b) where charge imposed by this Schedule is attached to an R&D Fund under section 5 of that Act—the R&D Council in respect of which the R&D Fund is established under that Act.

R&D Corporation has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*.

R&D Council has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*.

R&D Fund has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*.

2 Imposition of charge

- (1) Charge is imposed on honey that is exported from Australia after the commencement of this Schedule.

Clause 3

- (2) Charge is not imposed by this Schedule on honey included in a class of honey declared by the regulations to be a class of honey that is exempt from charge.
- (3) Charge is not imposed by this Schedule on honey on which levy imposed by clause 2 of Schedule 14 to the *Primary Industries (Excise) Levies Act 1999* or by the repealed *Honey Levy Act (No. 1) 1962* has been paid or is payable.
- (4) If, in any month, a person exports honey on which charge is imposed by this Schedule but the weight of the total quantity of such honey exported by the person in that month does not exceed 50 kilograms, charge is not payable under this Schedule in respect of honey exported by the person in that month.

3 Rate of charge

The rate of charge imposed by this Schedule on honey is:

- (a) a charge at the rate of 0.75 cent per kilogram; or
- (b) if another rate, not exceeding 1.50 cents per kilogram, is prescribed for the purposes of this clause, that other rate.

4 Who pays the charge

Charge imposed by this Schedule on honey exported from Australia is payable by the producer of the honey.

5 Regulations

- (1) Before the Governor-General makes regulations for the purposes of subclause 2(2), the Minister must take into consideration any relevant recommendation made to the Minister by the producers' organisation.
- (2) The producers' organisation must not make a recommendation to the Minister under subclause (1) unless it has consulted the industry services body in relation to the recommendation.
- (3) Before the Governor-General makes regulations for the purposes of clause 3, the Minister must take into consideration any relevant recommendation made to the Minister by the R&D authority or by the producers' organisation.

6 Transitional—regulations

- (1) This clause applies to regulations if:
 - (a) the regulations were made for the purposes of a particular provision of the *Honey Export Charge Act 1973*; and
 - (b) the regulations were in force immediately before the commencement of this clause.
- (2) The regulations have effect, after the commencement of this clause, as if they had been made for the purposes of the corresponding provision of this Schedule.

Schedule 10—Horticultural products

1 Definitions

In this Schedule:

chargeable horticultural products means horticultural products prescribed for the purposes of this definition.

cut flowers and foliage includes processed cut flowers and foliage.

fruits includes processed fruits.

horticultural products means:

- (a) fruits; and
- (b) vegetables; and
- (c) nuts; and
- (d) nursery products; and
- (e) cut flowers and foliage; and
- (f) products prescribed for the purposes of this paragraph.

industry services body means the industry services body declared under section 9 of the *Horticulture Marketing and Research and Development Services Act 2000*.

nursery products includes trees, shrubs, plants, seeds, bulbs, corms, tubers, propagating material and plant tissue cultures, grown for ornamental purposes or for producing fruits, vegetables, nuts or cut flowers and foliage.

nuts includes processed nuts.

vegetables includes:

- (a) mushrooms and other edible fungi; and
- (b) processed vegetables (including mushrooms and other edible fungi).

2 Imposition of charge

- (1) Charge is imposed on chargeable 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) Charge is not imposed on chargeable horticultural products if the producer has paid levy imposed by Schedule 15 to the *Primary Industries (Excise) Levies Act 1999*, or by the repealed *Horticultural Levy Act 1987*, on those horticultural products.
- (3) The regulations may exempt from charge imposed by this Schedule:
 - (a) chargeable horticultural products exported by a specified class of persons; or
 - (b) specified subclasses of a class of chargeable horticultural products.

3 Rates of charge

- (1) The rate of charge imposed by this Schedule on a chargeable horticultural product is the sum of the rates prescribed for the purposes of subclauses (3), (4), (5) and (6) that are applicable to the class of chargeable horticultural products in which the product is included.

Maximum rate

- (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 charge in the current financial year in relation to products in the class of products must not exceed 5% of the average of those values.

Marketing component

- (3) The regulations may fix a rate of charge for the purposes of this subclause in relation to a class of chargeable horticultural products.

Research and development component

- (5) The regulations may fix a rate of charge for the purposes of this subclause in relation to a class of chargeable horticultural products.

Clause 4

Rates of charge destined for other purposes

- (6) The regulations may fix a rate of charge for the purposes of this subclause in relation to a class of chargeable horticultural products.

Flexibility in relation to rates of charge

- (7) Without limiting subclauses (3), (5) and (6):
- (a) different rates may, for the purposes of those subclauses or any one of them, be prescribed for different classes of chargeable horticultural products; and
 - (b) different rates may be prescribed in relation to a class of chargeable horticultural products for the purposes of each of those subclauses; and
 - (c) a rate may be prescribed in relation to a class of chargeable horticultural products for the purposes of one or more of those subclauses, and not for the purposes of the other subclauses or subclause.
- (8) Subclause (7) does not, by implication, limit the application of subsection 33(3A) of the *Acts Interpretation Act 1901*.

4 Who pays the charge

Charge imposed by this Schedule on chargeable horticultural products is payable by the producer of the products.

5 Regulations

- (1) Without limiting the manner in which classes of chargeable 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.
- (2) Before the Governor-General makes regulations for the purposes of subclause 2(3), the Minister must take into consideration any relevant recommendation made to the Minister by the industry services body.

- (3) Before the Governor-General makes regulations for the purposes of subclause 3(3), the Minister must take into consideration any relevant recommendation made to the Minister by the industry services body.
- (5) Before the Governor-General makes regulations for the purposes of subclause 3(5), the Minister must take into consideration any relevant recommendation made to the Minister by the industry services body.
- (6) Before making a recommendation to the Minister for the purposes of subclause (2) or (3), the industry services body must consult with the body that, under the regulations, is the eligible industry body for:
 - (a) the relevant chargeable horticultural products; or
 - (b) the relevant class or subclass of chargeable horticultural products;as the case requires.
- (7) Before making a recommendation to the Minister for the purposes of subclause (2) or (5), the industry services body must consult with the body that, under the regulations, is the eligible industry body for:
 - (a) the relevant chargeable horticultural products; or
 - (b) the relevant class or subclass of chargeable horticultural products;as the case requires.
- (8) A recommendation referred to in subclause (6) or (7) must 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 subclause 3(6) in relation to those products or products included in that class or subclass, as the case may be.

Clause 6

- (10) Before the Governor-General makes regulations for the purposes of subclause 3(6), the Minister must take into consideration any relevant recommendation made to the Minister under subclause (9).

6 Transitional—regulations

- (1) This clause applies to regulations if:
- (a) the regulations were made for the purposes of a particular provision of the *Horticultural Export Charge Act 1987*; and
 - (b) the regulations were in force immediately before the commencement of this clause.
- (2) The regulations have effect, after the commencement of this clause, as if they had been made for the purposes of the corresponding provision of this Schedule.

Schedule 11—Live-stock (exporters)

1 Definitions

In this Schedule:

lamb means a sheep that has not cut a permanent incisor tooth.

live-stock means sheep, lambs and goats.

live-stock export marketing body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

live-stock export research body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

sheep does not include lambs.

2 Imposition of charge

- (1) Charge is imposed on the export of live-stock from Australia after the commencement of this Schedule.
- (2) Charge is not imposed by this Schedule on the export of live-stock that is included in a class of live-stock that is, by notice in the *Gazette*, declared:
 - (a) by the Minister; or
 - (b) by a person authorised by the Minister, in writing, for the purposes of this clause;to be a class of live-stock that is exempt from charge.
- (3) The regulations may provide that no amount of charge is payable by exporters of live-stock under this Schedule.
- (4) Despite anything else in this Schedule, if a regulation of the kind referred to in subclause (3) is made, an amount of charge is not payable under this Schedule on the export of live-stock from Australia in respect of any period while the regulation is in force.

Clause 3

3 Rate of charge—sheep

The rate of charge imposed by this Schedule on the export of each head of sheep is the sum of the following amounts:

- (a) the prescribed amount (not exceeding 55 cents);
- (b) the prescribed amount (not exceeding 25 cents).

Note 1: Paragraph (a) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the live-stock export marketing body.

Note 2: Paragraph (b) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the live-stock export research body.

4 Rate of charge—lambs

The rate of charge imposed by this Schedule on the export of each head of lambs is the sum of the following amounts:

- (a) the prescribed amount (not exceeding 50 cents);
- (b) the prescribed amount (not exceeding 25 cents).

Note 1: Paragraph (a) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the live-stock export marketing body.

Note 2: Paragraph (b) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the live-stock export research body.

5 Rate of charge—goats

The rate of charge imposed by this Schedule on the export of each head of goats is the sum of the following amounts:

- (a) the prescribed amount (not exceeding 55 cents);
- (b) the prescribed amount (not exceeding 25 cents).

Note 1: Paragraph (a) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the live-stock export marketing body.

Note 2: Paragraph (b) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the live-stock export research body.

6 Who pays the charge

Charge imposed by this Schedule on the export of live-stock from Australia is payable by the exporter of the live-stock.

7 Regulations

- (1) The Minister may, by notice in the *Gazette*, declare a body to be the body whose recommendations about the amount to be prescribed for the purposes of paragraph 3(a), 3(b), 4(a), 4(b), 5(a) or 5(b) of this Schedule are to be taken into consideration under subclause (2).
- (2) If a declaration is in force under subclause (1), then, before the Governor-General makes regulations prescribing an amount for the purposes of the paragraph to which the declaration relates, the Minister must take into consideration any relevant recommendation made to the Minister by the body specified in the declaration in relation to that paragraph.

8 Transitional—regulations

- (1) This clause applies to regulations if:
 - (a) the regulations were made for the purposes of a particular provision of the *Live-stock (Exporters) Export Charge Act 1997*; and
 - (b) the regulations were in force immediately before the commencement of this clause.
- (2) The regulations have effect, after the commencement of this clause, as if they had been made for the purposes of the corresponding provision of this Schedule.

9 Transitional—declarations

- (1) This clause applies to a declaration if:
 - (a) the declaration was made for the purposes of a particular provision of the *Live-stock (Exporters) Export Charge Act 1997*; and
 - (b) the declaration was in force immediately before the commencement of this clause.
- (2) The declaration has effect, after the commencement of this clause, as if it had been made for the purposes of the corresponding provision of this Schedule.

Clause 10

10 Transitional—authorisations

- (1) This clause applies to an authorisation if:
 - (a) the authorisation was made for the purposes of a particular provision of the *Live-stock (Exporters) Export Charge Act 1997*; and
 - (b) the authorisation was in force immediately before the commencement of this clause.
- (2) The authorisation has effect, after the commencement of this clause, as if it had been made for the purposes of the corresponding provision of this Schedule.

Schedule 12—Live-stock (producers)

1 Definitions

In this Schedule:

industry marketing body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

industry research body has the same meaning as in Part 3 of the *Australian Meat and Live-stock Industry Act 1997*.

lamb means a sheep that has not cut a permanent incisor tooth.

live-stock means sheep, lambs and goats.

sheep does not include lambs.

2 Imposition of charge

- (1) Charge is imposed on the export of live-stock from Australia after the commencement of this Schedule.
- (2) Charge is not imposed by subclause (1) on the export of live-stock if levy under Schedule 18 to the *Primary Industries (Excise) Levies Act 1999*, or under the repealed *Live-stock Transactions Levy Act 1997*, has been paid, or is payable, in respect of an act or transaction relating to the live-stock.
- (3) Charge is imposed on the export of live-stock from Australia after the commencement of this Schedule if:
 - (a) the live-stock 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 longest of the following periods:
 - (i) 30 days;
 - (ii) the period for which the live-stock are required under the *Quarantine Act 1908* to be held in quarantine before being exported;

Clause 3

- (iii) the period for which the live-stock 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 charges—sheep

The rate of each of the charges imposed by this Schedule on the export of each head of sheep is the sum of the following amounts:

- (a) the prescribed amount (not exceeding 40 cents);
- (b) the prescribed amount (not exceeding 12 cents);
- (c) the prescribed amount (not exceeding 15 cents).

Note 1: Paragraph (a) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the industry marketing body.

Note 2: Paragraph (b) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the industry research body.

Note 3: Paragraph (c) identifies amounts that, under the *Australian Animal Health Council (Live-stock Industries) Funding Act 1996*, are destined for the Australian Animal Health Council.

4 Rate of charges—lambs

The rate of each of the charges imposed by this Schedule on the export of each head of lambs is the sum of the following amounts:

- (a) the prescribed amount (not exceeding 90 cents);
- (b) the prescribed amount (not exceeding 37 cents);
- (c) the prescribed amount (not exceeding 15 cents).

Note 1: Paragraph (a) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the industry marketing body.

Note 2: Paragraph (b) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the industry research body.

Note 3: Paragraph (c) identifies amounts that, under the *Australian Animal Health Council (Live-stock Industries) Funding Act 1996*, are destined for the Australian Animal Health Council.

5 Rate of charges—goats

The rate of each of the charges imposed by this Schedule on the export of each head of goats is the sum of the following amounts:

- (a) the prescribed amount (not exceeding \$1.02);
- (b) the prescribed amount (not exceeding 25 cents);
- (c) the prescribed amount (not exceeding 15 cents).

Note 1: Paragraph (a) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the industry marketing body.

Note 2: Paragraph (b) identifies amounts that, under the *Australian Meat and Live-stock Industry Act 1997*, are destined for the industry research body.

Note 3: Paragraph (c) identifies amounts that, under the *Australian Animal Health Council (Live-stock Industries) Funding Act 1996*, are destined for the Australian Animal Health Council.

6 Who pays the charge

Charge imposed by this Schedule on the export of live-stock from Australia is payable by the producer of the live-stock.

7 Regulations

- (1) The Minister may, by notice in the *Gazette*, declare a body to be the body whose recommendations about the amount to be prescribed for the purposes of paragraph 3(a), 3(b), 3(c), 4(a), 4(b), 4(c), 5(a), 5(b) or 5(c) of this Schedule are to be taken into consideration under subclause (2).
- (2) If a declaration is in force under subclause (1), then, before the Governor-General makes regulations prescribing an amount for the purposes of the paragraph to which the declaration relates, the Minister must take into consideration any relevant recommendation made to the Minister by the body specified in the declaration in relation to that paragraph.

8 Transitional—regulations

- (1) This clause applies to regulations if:
 - (a) the regulations were made for the purposes of a particular provision of the *Live-stock (Producers) Export Charges Act 1997*; and
 - (b) the regulations were in force immediately before the commencement of this clause.

Clause 9

- (2) The regulations have effect, after the commencement of this clause, as if they had been made for the purposes of the corresponding provision of this Schedule.

9 Transitional—declarations

- (1) This clause applies to a declaration if:
 - (a) the declaration was made for the purposes of a particular provision of the *Live-stock (Producers) Export Charges Act 1997*; and
 - (b) the declaration was in force immediately before the commencement of this clause.
- (2) The declaration has effect, after the commencement of this clause, as if it had been made for the purposes of the corresponding provision of this Schedule.

Schedule 13—Wine

1 Definitions

In this Schedule:

Corporation means the Wine Australia Corporation established by the *Wine Australia Corporation Act 1980*.

wine means an alcoholic beverage produced by the complete or partial fermentation of fresh grapes or products derived solely from fresh grapes, or both.

2 Imposition of charge

- (1) Charge is imposed on wine produced in Australia (whether before or after the commencement of this clause) that is exported from Australia after the commencement of this Schedule.
- (2) The regulations may exempt from charge imposed by this Schedule:
 - (a) wine exported by a specified class of persons; or
 - (b) specified classes of wine.

3 Rate of charge

- (1) The rate of charge imposed by this Schedule in relation to wine is the amount worked out in accordance with the regulations.
- (2) The amount worked out in accordance with the regulations for the purposes of subclause (1) must not exceed 0.5% of the free on board sales value of the wine.

4 Who pays the charge

Charge imposed by this Schedule on wine is payable by the producer of the wine.

Clause 5

5 Regulations

- (1) The Corporation may make recommendations to the Minister in relation to regulations to be made for the purposes of clause 3.
- (2) The Corporation must not make a recommendation under subclause (1) unless a motion to endorse the recommendation has been considered at an annual general meeting within the meaning of the *Wine Australia Corporation Act 1980*.
- (3) Before the Governor-General makes regulations for the purposes of clause 3, the Minister must take into consideration:
 - (a) any relevant recommendation made under subclause (1); and
 - (b) any relevant matter notified to the Minister under section 29ZA of the *Wine Australia Corporation Act 1980*.

6 Transitional—regulations

- (1) This clause applies to regulations if:
 - (a) the regulations were made for the purposes of a particular provision of the *Wine Export Charge Act 1997*; and
 - (b) the regulations were in force immediately before the commencement of this clause.
- (2) The regulations have effect, after the commencement of this clause, as if they had been made for the purposes of the corresponding provision of this Schedule.

Schedule 14—Regulations may impose primary industries charges

Part 1—Definitions

1 Definitions

In this Schedule:

animal means any member, alive or dead, of the animal kingdom (other than a human being).

animal product means:

- (a) an animal; or
- (b) any part of an animal; or
- (c) anything produced by an animal; or
- (d) anything wholly or principally produced from, or wholly or principally derived from, an animal.

charge means a charge imposed by regulations made for the purposes of Part 2 of this Schedule.

designated body, in relation to a particular product, has the meaning given by clause 12.

forest operations includes the production, growing or raising of forest products.

horticultural product has the same meaning as in the *Horticulture Marketing and Research and Development Services Act 2000*.

horticulture means the production, growing or raising of horticultural products.

plant means any member, alive or dead, of the plant kingdom, and includes fungi.

plant product means:

- (a) a plant; or
- (b) any part of a plant; or
- (c) anything produced by a plant; or

Clause 1

- (d) anything wholly or principally produced from, or wholly or principally derived from, a plant.

produce of a primary industry means products that result from any of the following (whether or not any operations have been performed in relation to the products):

- (a) agriculture or the cultivation of land;
- (b) the maintenance of animals for commercial purposes;
- (c) forest operations;
- (d) fishing;
- (e) hunting or trapping;
- (f) horticulture;
- (g) any other primary industry activity.

product means an animal product or a plant product (whether or not any operations have been performed in relation to the animal product or plant product).

Part 2—Regulations may impose charges on primary industry products

2 Imposition of charge

- (1) The regulations may impose a charge on one or more specified products in circumstances ascertained in accordance with the regulations.

Note: Products may be specified by name, by inclusion in a specified class, or in any other way.

- (2) The products must be produce of a primary industry.

3 Imposition of 2 or more charges

This Part does not prevent the imposition of 2 or more charges, whether on the same products or on different products.

4 Additional charges

This Part does not prevent the imposition of a charge on a particular product in particular circumstances if another Schedule to this Act applies to the product, whether in those circumstances or in any other circumstances.

Part 3—Rate of charge

5 Rate of charge

The rate of a charge is ascertained in accordance with the regulations.

6 Composite rate of charge

- (1) The rate of a charge may be expressed to be equal to the sum of such components as are prescribed.
- (2) Subclause (1) does not, by implication, limit the generality of clause 5.

7 Flexibility in relation to rates of charge

- (1) Different rates of the same charge may be prescribed for different kinds of products.
- (2) Subclause (1) does not, by implication, limit the generality of any other provision of this Part.
- (3) Subclause (1) does not, by implication, limit the application of subsection 33(3A) of the *Acts Interpretation Act 1901*.

8 Maximum rate of charge for animal products

- (1) The total rate of charge, or the total rates of charges, that may be imposed on an animal product must not exceed whichever is the greatest of the following:
 - (a) \$5 per unit of the animal product;
 - (b) 35 cents per kilogram of the animal product;
 - (c) 7% of the value of the animal product.
- (2) Subclause (1) applies to animal products, whether or not any operations have been performed in relation to the products.

9 Maximum rate of charge for plant products

- (1) The total rate of charge, or the total rates of charges, that may be imposed on a plant product must not exceed whichever is the greater of the following:
 - (a) \$5 per unit of the plant product;
 - (b) 5% of the value of the plant product.
- (2) Subclause (1) applies to plant products, whether or not any operations have been performed in relation to the products.

Part 4—Miscellaneous

10 Person liable to pay charge

A charge is payable by the person ascertained in accordance with the regulations.

11 Exemptions from charge

The regulations may provide for exemptions from a charge.

12 Designated bodies

- (1) The Minister may, by writing, declare that, for the purposes of this Part, a specified body is to be a designated body in relation to one or more specified products.

Note: Products may be specified by name, by inclusion in a specified class, or in any other way.

- (2) The declaration has effect accordingly.
- (3) A declaration under this clause comes into force at a time specified in the declaration. The specified time must not be later than the 28th day after the day on which the declaration was made.
- (4) A declaration under this clause is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

13 Regulations

- (1) This clause applies to regulations made for the purposes of this Schedule.
- (2) If there is a single body that is a designated body in relation to a particular product, then, before the Governor-General makes a regulation in relation to the product, the Minister must take into consideration any relevant recommendation made to the Minister by the body.
- (3) If there are 2 or more bodies that are designated bodies in relation to a particular product, then, before the Governor-General makes a

regulation in relation to the product (other than a regulation that has the effect of reducing the rate of a charge), the Minister must take into consideration any relevant recommendations made to the Minister by those bodies, so long as:

- (a) each body that is a designated body in relation to the product has made a relevant recommendation to the Minister; and
 - (b) all of the relevant recommendations are the same.
- (4) Before making a recommendation under this clause, a designated body must consult such other bodies (if any) as are specified in the regulations.

Table of Acts**Notes to the *Primary Industries (Customs) Charges Act 1999*****Note 1**

The *Primary Industries (Customs) Charges Act 1999* as shown in this compilation comprises Act No. 30, 1999 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequential and Transitional) Act 2001*, see Act No. 55, 2001.

For all other relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Primary Industries (Customs) Charges Act 1999</i>	30, 1999	14 May 1999	1 July 1999 (see s. 2)	
<i>Horticulture Marketing and Research and Development Services (Repeals and Consequential Provisions) Act 2000</i>	163, 2000	21 Dec 2000	Schedule 2 (items 4–16): (a)	—
<i>Corporations (Repeals, Consequential and Transitional) Act 2001</i>	55, 2001	28 June 2001	Ss. 4–14 and Schedule 3 (item 432): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) (b)	Ss. 4–14
<i>Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 2) 2004</i>	139, 2004	13 Dec 2004	Schedule 1 (items 32–65): 13 Dec 2004	—
<i>Financial Framework Legislation Amendment Act 2005</i>	8, 2005	22 Feb 2005	S. 4 and Schedule 1 (items 270–275, 496): Royal Assent	S. 4 and Sch. 1 (item 496)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Forestry Marketing and Research and Development Services (Transitional and Consequential Provisions) Act 2007</i>	123, 2007	28 June 2007	Schedule 1: 29 June 2007 Schedule 2: 3 Sept 2007 (see F2007L02639) Remainder: Royal Assent	—
<i>Financial Framework Legislation Amendment Act 2010</i>	148, 2010	17 Dec 2010	Schedule 4 (items 13, 14): 18 Dec 2010	—

Act Notes

(a) The *Primary Industries (Customs) Charges Act 1999* was amended by Schedule 2 (items 4–16) only of the *Horticulture Marketing and Research and Development Services (Repeals and Consequential Provisions) Act 2000*, subsection 2(2) of which provides as follows:

(2) Schedules 1 (repeals) and 2 (consequential amendments) commence on the transfer day, immediately after the transfer of assets, liabilities and staff under Part 2.

Note: See sections 12 and 13 for the transfer day, and the time at which the transfer occurs.

The transfer day was 1 February 2001 (see *Gazette* 2001, No. GN6).

(b) The *Primary Industries (Customs) Charges Act 1999* was amended by Schedule 3 (item 432) only of the *Corporations (Repeals, Consequential 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*.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Schedule 1	
Note 2 to c. 2.....	am. No. 8, 2005
Schedule 2	
C. 1	am. No. 139, 2004
Notes 1, 2 to c. 3(1).....	am. No. 139, 2004
Schedule 3	
C. 1	am. No. 139, 2004
Notes 1, 2 to c. 3(1).....	am. No. 139, 2004
Note 3 to c. 3(1)	am. No. 8, 2005
Notes 1, 2 to c. 3(2).....	am. No. 139, 2004
Note 3 to c. 3(2)	am. No. 8, 2005
Schedule 4	
C. 1	am. No. 55, 2001
Schedule 7	
C. 1	am. No. 123, 2007
Schedule 8	
C. 1	am. No. 123, 2007
Schedule 9	
C. 1	am. No. 163, 2000
C. 5	am. No. 163, 2000
Schedule 10	
C. 1	am. No. 163, 2000
Subhead to c. 3(3).....	rs. No. 163, 2000
Subhead to c. 3(5).....	rs. No. 163, 2000
C. 3	am. No. 163, 2000
C. 5	am. No. 163, 2000
Schedule 11	
C. 1	am. No. 139, 2004
Notes 1, 2 to c. 3	am. No. 139, 2004
Notes 1, 2 to c. 4	am. No. 139, 2004
Notes 1, 2 to c. 5	am. No. 139, 2004
Schedule 12	
C. 1	am. No. 139, 2004
Notes 1, 2 to c. 3	am. No. 139, 2004
Notes 1, 2 to c. 4	am. No. 139, 2004
Notes 1, 2 to c. 5	am. No. 139, 2004
Schedule 13	
C. 1	am. No. 148, 2010

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected

How affected

C. 5 am. No. 148, 2010

Schedule 14

C. 1 am. No. 163, 2000

Table A

Application, saving or transitional provisions

Financial Framework Legislation Amendment Act 2005 (No. 8, 2005)

4 Saving of matters in Part 2 of Schedule 1

(1) If:

- (a) a decision or action is taken or another thing is made, given or done; and
- (b) the thing is taken, made, given or done under a provision of a Part 2 Act that had effect immediately before the commencement of this Act;

then the thing has the corresponding effect, for the purposes of the Part 2 Act as amended by this Act, as if it had been taken, made, given or done under the Part 2 Act as so amended.

(2) In this section:

Part 2 Act means an Act that is amended by an item in Part 2 of Schedule 1.

Schedule 1

496 Saving provision—Finance Minister’s determinations

If a determination under subsection 20(1) of the *Financial Management and Accountability Act 1997* is in force immediately before the commencement of this item, the determination continues in force as if it were made under subsection 20(1) of that Act as amended by this Act.