Primary Industries Levies and Charges Collection Amendment Regulations 2003 (No. 11)

Statutory Rules 2003 No. 2

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the Primary Industries Levies and Charges Collection Act 1991.

Dated 4 DEC 2003 2003

PM Jeffery
Governor-General

By His Excellency's Command

JUDITH TROETH
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
1 Name of Regulations
These Regulations are the Primary Industries Levies and Charges Collection Amendment Regulations 2003 (No. [ ]). //

2 Commencement
These Regulations commence on 1 January 2004.

3 Amendment of Primary Industries Levies and Charges Collection Regulations 1991
Schedule 1 amends the Primary Industries Levies and Charges Collection Regulations 1991.

Schedule 1 Amendment
(regulation 3)

[1] Schedule 22, after Part 21
insert

Part 22 Papaya

22.1 Application
This Part applies to papaya.

22.2 Definitions for Part 22
In this Part:
chargeable papaya means papaya on which charge is imposed.
deal means sell, buy, process or export.
exporter, for chargeable papaya, means the producer of the papaya within the meaning of paragraph (g) of the definition of producer in subsection 4(1) of the Collection Act.
Note Paragraph (g) of the definition of producer in subsection 4 (1) of the Collection Act provides that, for chargeable horticultural products on which charge is imposed, producer means the person who exports the product from Australia.

leviable papaya means papaya that is not exempt from levy under clause 22.3 of Schedule 15 to the Excise Levies Regulations.

papaya means fruit of the plant carica papaya.

Note Papaya is also known as pawpaw, papaw and paw paw.

retail sale, for a sale of papaya by a producer, means a sale by the producer of the papaya except a sale:
(a) to a first purchaser; or
(b) through a selling agent, buying agent or exporting agent; or
(c) at a wholesale produce market.

Note 1 Papayas are chargeable horticultural products — see Part 22 of Schedule 10 to the Customs Charges Regulations.

Note 2 Papayas are leviable horticultural products — see Part 22 of Schedule 15 to the Excise Levies Regulations.

22.3 What is a levy year
For the definition of levy year in subsection 4 (1) of the Collection Act, a levy year for papaya is a financial year.

22.4 What is not a process
For the definition of process in subsection 4 (1) of the Collection Act, the following operations are prescribed for papaya:
(a) fruit conditioning operations including storage and ripening;
(b) cleaning;
(c) sorting;
(d) grading;
(e) packing.
22.5 Who is a processor

Papaya is declared to be a product to which paragraph (b) of the definition of processor in subsection 4 (1) of the Collection Act applies.

Note Paragraph (b) of the definition of processor in subsection 4 (1) of the Collection Act provides that, in relation to a collection product declared by the regulations to be a product to which that paragraph applies, processor means the proprietor of the processing establishment that processes the product unless, immediately prior to delivery to that establishment, the product is owned by the proprietor of another processing establishment, in which case processor means the proprietor of that other establishment.

22.6 Who is a producer

For paragraph (b) of the definition of producer in subsection 4 (1) of the Collection Act, papaya is prescribed.

Note 1 Paragraph (b) of the definition of producer in subsection 4 (1) of the Collection Act provides that, for a product that is prescribed for that paragraph, producer means:

(a) where a marketing law vests the product in a person or body or in the Crown in right of a State at or before the time the product is harvested — the person who would have owned the product but for the marketing law; or

(b) if paragraph (a) does not apply — the person who owns the product immediately after it is harvested.

Note 2 Paragraph (g) of the definition of producer in subsection 4 (1) of the Collection Act provides that, for chargeable horticultural products on which charge is imposed, producer means the person who exports the product from Australia.

22.7 Liability of intermediaries — exporting agents

For subsection 7 (3) of the Collection Act, papayas are prescribed.

Note Subsection 7 (3) of the Collection Act provides that an exporting agent who exports prescribed products on which charge is imposed is liable to pay, on behalf of the producer, the amount of any charge due for payment on or in relation to the products that remains unpaid by the producer, and any penalty imposed under subsection 15 (1) of the Collection Act in relation to that charge.
22.8 **Liability of intermediaries — processors**

Papaya is declared to be a product to which paragraph 7 (2) (b) of the Collection Act applies.

*Note* Paragraph 7 (2) (b) of the Collection Act provides that a processor who processes a product on or in relation to which levy is imposed, being a product declared by the regulations to be a product to which this paragraph applies, is liable to pay, on behalf of the producer, any levy due for payment on or in relation to the product that remains unpaid by the producer, any penalty for late payment imposed by subsection 15 (1) of the Collection Act.

22.9 **When is charge or levy due for payment — people who lodge quarterly returns**

For section 6 of the Collection Act, charge or levy payable on papaya for a quarter is due for payment on the last day on which the quarterly return for the quarter must be lodged under clause 22.11.

*Note* For penalty for late payment, see section 15 of the Collection Act.

22.10 **Who must lodge a quarterly return**

The following persons who deal in leviable or chargeable papayas in a quarter, must lodge a return for a quarter:

(a) a first purchaser who buys papayas in the quarter;
(b) a buying agent who buys papayas in the quarter;
(c) a selling agent who sells papayas in the quarter;
(d) an exporter who exports papayas in the quarter;
(e) an exporting agent who exports papayas in the quarter;
(f) a processor who processes papayas in the quarter;
(g) a producer who sells papayas other than by retail sale in the quarter.

*Note* For offences in relation to returns, see section 24 of the Collection Act.
22.11 When must a quarterly return be lodged
A quarterly return must be lodged within 28 days after the end of the quarter to which it relates.

*Note* For offences in relation to returns, see section 24 of the Collection Act.

22.12 When is charge or levy due for payment — people who lodge annual returns
For section 6 of the Collection Act, charge or levy payable on papaya for a levy year is due for payment on 28 August in the following levy year.

*Note* For penalty for late payment, see section 15 of the Collection Act.

22.13 Who must lodge an annual return
A producer who sells leviable papayas by retail sale in a levy year must lodge a return for the levy year.

*Note* For offences in relation to returns, see section 24 of the Collection Act.

22.14 When must an annual return be lodged
A return for a levy year must be lodged on or before 28 August in the following levy year.

*Note* For offences in relation to returns, see section 24 of the Collection Act.

22.15 What must be included in a return
In addition to the information required by regulation 10, a return for a quarter or levy year must state, in respect of the quarter or levy year:

(a) the quantities of leviable and chargeable papayas dealt with by the person lodging the return; and

(b) the amounts of levy and charge payable for the papayas; and
(c) the amounts of levy and charge paid by that person for the papayas.

Note For offences in relation to returns, see section 24 of the Collection Act.

22.16 What records must be kept — producers

(1) A producer who deals in leviable or chargeable papayas in a levy year must keep records showing, in respect of each quarter, or levy year, as the case requires:
(a) the quantity of papayas sold by the producer by retail sale; and
(b) the amount of levy payable on the papayas; and
(c) the amount of levy paid by the producer for the papayas.

Penalty: 10 penalty units.

Note For offences in relation to how long records must be kept, see regulation 12.

(2) An offence against subclause (1) is an offence of strict liability.

22.17 What records must be kept — first purchasers, agents and processors

(1) A first purchaser, a selling agent, a buying agent or a processor who deals in leviable or chargeable papayas in a quarter must keep records showing, in respect of each quarter:
(a) the quantity of papayas dealt with by the first purchaser, agent or processor; and
(b) the amount of levy and charge payable on the papayas; and
(c) the amount of levy and charge paid by the first purchaser, agent or processor for the papayas.

Penalty: 10 penalty units.

Note For offences in relation to how long records must be kept, see regulation 12.

(2) An offence against subclause (1) is an offence of strict liability.
22.18 What records must be kept — exporters and exporting agents

(1) An exporter or exporting agent who deals in chargeable papayas in a quarter must keep records showing, in respect of each quarter:

(a) the quantity of papayas exported by the exporter or exporting agent; and

(b) the amount of charge payable on the papayas; and

(c) the amount of charge paid by the exporter or exporting agent for the papayas.

Penalty: 10 penalty units.

Note For offences in relation to how long records must be kept, see regulation 12.

(2) An offence against subclause (1) is an offence of strict liability.

Notes
