Primary Industries Levies and Charges Collection Amendment Regulations 2004 (No. 2)¹

Statutory Rules 2004 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 27 MAY 2006 2004

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 2004 (No. 2).

2 Commencement

These Regulations commence on 1 July 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 23

insert

Part 24 Persimmons

24.1 Application

This Part applies in relation to persimmons.

24.2 Definitions for Part 24

In this Part:

chargeable persimmons means persimmons on which charge is imposed.

deal means sell, buy or export.
exporter, for chargeable persimmons, means the producer of
the persimmons 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 persimmons means persimmons that are not exempt from levy under clause 24.2 of Schedule 15 to the Excise Levies Regulations.

retail sale, for a sale of persimmons by a producer, means a
sale by the producer of the persimmons 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 Persimmons are chargeable horticultural products — see Part 24 of Schedule 10 to the Customs Charges Regulations.

Note 2 Persimmons are leviable horticultural products — see Part 24 of Schedule 15 to the Excise Levies Regulations.

24.3 What is a levy year

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

24.4 Who is a producer

For paragraph (b) of the definition of producer in subsection 4 (1) of the Collection Act, persimmons are 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.

24.5 Liability of intermediaries — exporting agents

For subsection 7 (3) of the Collection Act, persimmons 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.

24.6 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 persimmons for a quarter is due for payment on the last day on which the quarterly return for the quarter must be lodged under clause 24.9.

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

24.7 Who must lodge a quarterly return

The following persons must lodge a return for a quarter:
(a) a first purchaser who buys persimmons in the quarter;
(b) a buying agent who buys persimmons in the quarter;
(c) a selling agent who sells persimmons in the quarter;
(d) an exporter who exports persimmons in the quarter;
(e) an exporting agent who exports persimmons in the quarter;
(f) a producer who sells persimmons other than by retail sale in the quarter.

Note  For offences in relation to returns, see section 24 of the Collection Act.
24.8  **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.

24.9  **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 persimmons for a levy year is due for payment on the last day on which the annual return for the levy year must be lodged under clause 24.12.

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

24.10  **Who must lodge an annual return**

A producer who sells leviable persimmons 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.

24.11  **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.

24.12  **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 persimmons dealt with by the person lodging the return; and

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

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

24.13 What records must be kept — producers

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

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.

24.14 What records must be kept — first purchasers and buying agents

(1) A first purchaser and a buying agent must keep records showing, in respect of each quarter:
   (a) the quantity of persimmons bought by the first purchaser or buying agent; and
   (b) the amount of levy payable on the persimmons; and
   (c) the amount of levy paid by the first purchaser or buying agent for the persimmons.

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.
24.15 What records must be kept — exporters and exporting agents

(1) An exporter or exporting agent must keep records showing, in respect of each quarter:
   (a) the quantity of persimmons exported by the exporter or exporting agent; and
   (b) the amount of charge payable on the persimmons; and
   (c) the amount of charge paid by the exporter or exporting agent for the persimmons.

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.

24.16 What records must be kept — selling agents

(1) A selling agent must keep records showing, in respect of each quarter:
   (a) the quantity of persimmons sold by the selling agent; and
   (b) the amount of levy payable on the persimmons; and
   (c) the amount of levy paid by the selling agent for the persimmons.

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
