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Primary Industries (Excise) Levies Regulations 1999

Statutory Rules 1999 No. 4

302

I, WILLIAM PATRICK DEANE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Primary Industries (Excise) Levies Act 1999*.

Dated | 8 DEC 1999.

WILLIAM DEANE
Governor-General

By His Excellency's Command,

JUDITH TROETH
Parliamentary Secretary to the Minister for Agriculture,
Fisheries and Forestry
for the Minister for Agriculture, Fisheries and Forestry



Primary Industries (Excise) Levies Regulations 1999

Statutory Rules 1999 No. 1

302

made under the

Primary Industries (Excise) Levies Act 1999

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Reader's Guide

How to use these Regulations

1. This Note is not part of these Regulations and does not have any legal force. It is intended only to be helpful in reading these Regulations. It is not intended to take the place of these Regulations or the Acts.

What these Regulations do

2. These Regulations are made under the *Primary Industries (Excise) Levies Act 1999* (the **Excise Levies Act**). The Excise Levies Act authorises the imposition of primary industries levies that are duties of excise. The funds raised by the imposition of the levies are distributed to research, marketing and industry bodies for each primary industry commodity or class of commodities.

3. The Excise Levies Act is made up of preliminary provisions and 27 Schedules. Each of Schedules 1 to 26 imposes particular kinds of levies on a primary industry commodity or class of commodities. Schedule 27 allows the regulations to impose levies on primary industry products.

4. These Regulations set out the rates of levy and other details that are necessary for the administration of the levies imposed by the Excise Levies Act.

How these Regulations are arranged

5. These Regulations are made up of preliminary provisions and 26 Schedules. The preliminary provisions contain general matters and definitions. Schedules 1 to 26 each prescribe details for a commodity or class of commodities. Each Schedule to these Regulations contains references to the corresponding Schedule to the Excise Levies Act.

6. Some Schedule numbers have been left unused for the insertion of those Schedules in the future. Schedule 15 will deal with horticultural products, with a Part for each product. There are Notes in these Regulations explaining what the unused Schedule Parts will cover.

What are the levy rates?

7. The maximum levy rates for each commodity are set out in the relevant Schedule to the Excise Levies Act. Each Schedule to the Act allows the regulations to set a different rate (not exceeding the specified maximum rate). Each of the Schedules to these Regulations may contain clauses setting operative levy rates.

What other legislation needs to be read?

The Customs Charges Act

8. The *Primary Industries (Customs) Charges Act 1999* (the **Customs Charges Act**) imposes customs charges on primary industries commodities. The Customs Charges Act is made up of preliminary provisions and 14 Schedules. Each of Schedules 1 to 13 imposes particular kinds of charges on a primary industry commodity or class of commodities. Schedule 14 allows the regulations to impose charges on primary industry products.

9. It is intended that regulations will be made under the Customs Charges Act. The planned regulations will be called the *Primary Industries (Customs) Charges Regulations 1999* (the **Customs Charges Regulations**). The Customs Charges Regulations will set out the rates of charge and other details that are necessary for the administration of the charges.

The Collection Act and Collection Regulations

10. The Act that sets out the basic reporting and levy and charge collection arrangements for primary products is the *Primary Industries Levies and Charges Collection Act 1991* (the **Collection Act**). The collection and reporting details for each of the commodities contained in the Excise Levies Act and Customs Charges Act are set out in the *Primary Industries Levies and Charges Collection Regulations 1991* (the **Collection Regulations**).

11. The Collection Regulations are divided into a preliminary Part and 36 Schedules. Schedule 1 is the form of a warrant. Schedules 2 to 36 contain the reporting and collection details for commodities contained in the Customs Charges Regulations and Excise Levies Regulations, listed in alphabetical order.

The National Residue Survey Levies legislation

12. The National Residue Survey is a program to monitor, and report on, the level of contaminants in food products produced in Australia, or exported from Australia. The program is funded by levies on the products.

13. The National Residue Survey Levies legislation is made up of the *National Residue Survey (Customs) Levy Act 1998*, the *National Residue Survey (Excise) Levy Act 1998*, the *National Residue Survey Administration Act 1992*, the *Collection Act* and the *Primary Industries Levies and Charges (National Residue Survey Levies) Regulations 1998* (the *NRS Levies Regulations*).

14. The first 2 Acts impose the levies, and the third Act sets up the Reserve into which the levies are paid and provides for the distribution of money from the Reserve. The NRS Levies Regulations set out certain matters that are necessary for the administration of the levies that fund the National Residue Survey scheme.

1 Name of Regulations

These Regulations are the *Primary Industries (Excise) Levies Regulations 1999*.

2 Commencement

These Regulations commence on 1 January 2000.

3 Definitions for these Regulations generally

In these Regulations:

Collection Act means the *Primary Industries Levies and Charges Collection Act 1991*.

Collection Regulations means the *Primary Industries Levies and Charges Collection Regulations 1991*.

Customs Charges Act means the *Primary Industries (Customs) Charges Act 1999*.

Customs Charges Regulations means the *Primary Industries (Customs) Charges Regulations 1999*.

Excise Levies Act means the *Primary Industries (Excise) Levies Act 1999*.

Note 1 Many of the terms used in these Regulations are defined in the Excise Levies Act.

Note 2 Other terms may be defined in a Schedule or a Part for that Schedule or Part only.

4 Incorporation of the Collection Regulations

These Regulations are incorporated, and must be read as one, with the Collection Regulations.

5 Rates of levy and other matters

The Schedules have effect.

Note Schedule numbers 1 to 3 intentionally not used.

- Schedule 1 will deal with **beef production**. For the current levy details for beef production, see the *Primary Industries Levies and Charges Collection (Buffalo, Cattle and Live-stock) Regulations 1998*, Pt 3.

- Schedule 2 will deal with **buffalo slaughter**. For the current levy details for buffalo slaughter, see the *Primary Industries Levies and Charges Collection (Buffalo, Cattle and Live-stock) Regulations 1998*, Pt 2.
- Schedule 3 will deal with **cattle transactions**. For the current levy details for cattle transactions, see the *Primary Industries Levies and Charges Collection (Buffalo, Cattle and Live-stock) Regulations 1998*, Pt 3, and the Cattle Transactions Levy Regulations.

Schedule 4 Coarse grains

1 Definitions for Schedule 4

In this Schedule:

canary seed means the grain harvested from *Phalaris canariensis*.

grain sorghum means the grain harvested from *Sorghum bicolor* (grain sorghum types).

levy year has the meaning given in clause 3 of Schedule 8 to the Collection Regulations.

maize means the grain harvested from *Zea mays* (grain maize types).

millet means the grain harvested from *Echinochloa frumentaceae* synonym *utilis*, *Panicum miliaceum* or *Setaria italica* (grain millet types).

Note *Leviable coarse grain* is defined in the Excise Levies Act, Sch 4, cl 1.

2 What is the sale value of leviable coarse grain

- (1) In this section:

grain means leviable coarse grain.

- (2) For the definition of *value* in clause 1 of Schedule 4 to the Excise Levies Act, the *sale value* of grain is:

- (a) for grain for sowing — the amount that would be the sale price of the grain if it were not grain for sowing and if it had been sold at the market price on the day the grain was delivered as mentioned in paragraph 5(1)(a) of Schedule 4 to the Excise Levies Act; or
- (b) for grain in a pool — the amount of each payment made for the grain; or

- (c) in any other case:
 - (i) the sale price of the grain according to the sales invoices or other sales documents for the grain; or
 - (ii) if there are no sales invoices or sales documents for the grain — the amount that would be the sale price of the grain if it had been sold at the market price on the day the grain was delivered, or processed, as mentioned in subclause 5 (1) of Schedule 4 to the Excise Levies Act.
- (3) The value of grain is to be net of handling, storage, transport and f.o.b. costs.

3 Leviable coarse grain — prescribed grains

- (1) For the definition of *leviable coarse grain* in clause 1 of Schedule 4 to the Excise Levies Act, the following kinds of coarse grains are prescribed:
 - (a) canary seed;
 - (b) grain sorghum;
 - (c) maize;
 - (d) millet.
- (2) However, for subclause 5 (5) of that Schedule, popping corn is exempt from levy.

4 What are the rates of levy for prescribed grains

For subclause 6 (2) of Schedule 4 to the Excise Levies Act, the following rates of levy are prescribed:

- (a) for canary seed — 1% of the value of the grain;
- (b) for grain sorghum — 1% of the value of the grain;
- (c) for maize — 0.7% of the value of the grain;
- (d) for millet — 1% of the value of the grain.

Note 1 Barley, cereal rye, oats and triticale are leviable coarse grains: see Excise Levy Act, cl 1, Sch 4.

Note 2 For the rate of NRS excise levy on coarse grain, see s 6 of Sch 2 to the *National Residue Survey (Excise) Levy Act 1998*. For other matters for NRS levy on coarse grain, see Pt 4 of the *Primary Industries Levies and Charges (National Residue Survey Levies) Regulations 1998*.

Note 3 Schedule number 5 intentionally not used. Schedule 5 will deal with **cotton**. For the current levy details for cotton, see the *Primary Industries Levies and Charges Collection (Cotton) Regulations*.

Schedule 6 Dairy produce

1 Definitions for Schedule 6

In this Schedule:

Australian Animal Health Council levy means levy imposed under paragraph 6 (1) (g) of Schedule 6 to the Excise Levies Act.

Corporation levy means the levy imposed under paragraph 6 (1) (d) of Schedule 6 to the Excise Levies Act.

manufacturing milk levy means the levy imposed under paragraph 6 (1) (b) of Schedule 6 to the Excise Levies Act.

market milk levy means the levy imposed under paragraph 6 (1) (a) of Schedule 6 to the Excise Levies Act.

promotion levy means the levy imposed under paragraph 6 (1) (e) of Schedule 6 to the Excise Levies Act.

research levy means the levy imposed under paragraph 6 (1) (f) of Schedule 6 to the Excise Levies Act.

2 Market milk levy — prescribed milk fat rate and protein rate

- (1) For paragraph 7 (a) of Schedule 6 to the Excise Levies Act, the milk fat rate is 15.750 cents per kilogram.
- (2) For paragraph 7 (b) of that Schedule, the protein rate is 38.3906 cents per kilogram.

3 **Manufacturing milk levy — prescribed milk fat rate and protein rate**

- (1) For the definition of *milk fat rate* in subclause 8 (1) of Schedule 6 to the Excise Levies Act, the milk fat rate is 29.717 cents per kilogram.
- (2) For the definition of *protein rate* in subclause 8 (1) of that Schedule, the protein rate is 70.785 cents per kilogram.

Note Subclause 4 (5) of the Customs Charges Act states that, for cl 4 of that Act, *milk fat rate* for a month and *protein rate* for a month have the same meaning as in the Excise Levies Act, Sch 6, cl 8.

4 **Other levies — prescribed milk fat rate and protein rate**

- (1) For paragraph 10 (1) (a) of Schedule 6 to the Excise Levies Act, the following milk fat rates are prescribed:
 - (a) for a Corporation levy — 0.1400 cent per kilogram;
 - (b) for a promotion levy — 1.4525 cents per kilogram;
 - (c) for a research levy — 1.0150 cents per kilogram;
 - (d) for an Australian Animal Health Council levy — 0.0373 cent per kilogram.
- (2) For paragraph 10 (1) (b) of that Schedule, the following protein rates are prescribed:
 - (a) for a Corporation levy — 0.3413 cent per kilogram;
 - (b) for a promotion levy — 3.5405 cents per kilogram;
 - (c) for a research levy — 2.4740 cents per kilogram;
 - (d) for an Australian Animal Health Council levy — 0.0880 cent per kilogram.

Note Schedule numbers 7 to 11 intentionally not used.

- Schedule 7 will deal with **deer slaughter**. For the current levy details for deer slaughter, see the Primary Industries Levies and Charges Collection (Deer and Deer Velvet) Regulations.
- Schedule 8 will deal with **deer velvet**. For the current levy details for deer velvet, see the Primary Industries Levies and Charges Collection (Deer and Deer Velvet) Regulations.
- Schedule 9 will deal with **dried fruits**. For the current levy details for dried fruits, see the Dried Fruits Levy Regulations.
- Schedule 10 will deal with **forest industries products**. For the current levy details for forest industries products, see the Primary Industries Levies and Charges Collection (Forest and Wood Products) Regulations.
- Schedule 11 will deal with **goat fibre**. For the current levy details for goat fibre, see the Primary Industries Levies and Charges Collection (Goat Fibre) Regulations.

Schedule 12 Grain legumes

1 Definition for Schedule 12

In this Schedule:

levy year has the meaning given in clause 3 of Schedule 19 to the Collection Regulations.

Note **Leviable grain legumes** is defined in the Excise Levies Act, Sch 12, cl 1.

2 What is the value of leviable grain legumes

(1) In this section:

grain legumes means leviable grain legumes.

(2) For the definition of **value** in clause 1 of Schedule 12 to the Excise Levies Act, the value of grain legumes is:

- (a) for grain legumes for sowing — the amount that would be the sale price of the grain legumes if they were not grain legumes for sowing and if they had been sold at the market price on the day the grain legumes were delivered as mentioned in paragraph 5 (1) (a) of Schedule 12 to the Excise Levies Act; or
- (b) for grain legumes in a pool — the amount of each payment made for the grain legumes; or
- (c) in any other case:
 - (i) the sale price of the grain legumes according to the sales invoices or other sales documents for the grain legumes; or
 - (ii) if there are no sales invoices or other sales documents for the grain legumes — the amount that would be the sale price of the grain legumes if they had been sold at the market price on the day the grain legumes were delivered, or processed, as mentioned in subclause 5 (1) of Schedule 12 to the Excise Levies Act.

- (3) The value of grain legumes is to be net of handling, storage, transport and f.o.b. costs.

3 **Leviable grain legumes — prescribed grains**

For the definition of *leviable grain legumes* in clause 1 of Schedule 12 of the Excise Levies Act, seeds of the following plant species, being seeds of leguminous plants, are prescribed:

- (a) *Cajanus cajan*;
- (b) *Cicer arietinum*;
- (c) *Lens culinaris*;
- (d) *Phaseolus vulgaris*;
- (e) *Vicia faba*;
- (f) *Vigna mungo*;
- (g) *Vigna radiata*;
- (h) *Vicia sativa*;
- (i) *Vigna unguiculata*;
- (j) *Vigna vexillata*.

Note 1 The seeds of lupins, the seeds of field peas and peanuts are leviable grain legumes: see Excise Levies Act, Sch 12, cl 1.

Note 2 For the rate of NRS excise levy on grain legumes, see the *National Residue Survey (Excise) Levies Act 1998*, Sch 6, s 6. For other details for NRS excise levy on grain legumes, see the *Primary Industries Levies and Charges (National Residue Survey Levies) Regulations 1998*, Pt 8.

Note 3 Schedule numbers 13 and 14 intentionally not used.

- Schedule 13 will deal with **grapes**. For the current levy details for grapes, see the *Primary Industries Levies and Charges Collection (Grape Research) Regulations*.
- Schedule 14 will deal with **honey**. For the current levy details for honey, see the *Honey Levies and Charges Regulations 1998*.

Note 4 Schedule number 15 intentionally not used. Schedule 15 will deal with **horticultural products**.

- Part 1 of Schedule 15 will contain a definition for the Schedule.
- Part 2 will deal with **almonds**. For the current levy details for almonds, see the *Primary Industries Levies and Charges Collection (Almonds) Regulations*.

- Part 3 will deal with **apples and pears**. For the current levy details for apples and pears see the Primary Industries Levies and Charges Collection (Apple and Pear) Regulations.
- Part 4 will deal with **avocados**. For the current levy details for avocados, see the Primary Industries Levies and Charges Collection (Avocado) Regulations.
- Part 5 will deal with **cherries**. For the current levy details for cherries, see the Primary Industries Levies and Charges Collection (Cherry) Regulations.
- Part 6 will deal with **chestnuts**. For the current levy details for chestnuts, see the Primary Industries Levies and Charges Collection (Chestnut) Regulations.
- Part 7 will deal with **citrus**. For the current levy details for citrus, see the Primary Industries Levies and Charges Collection (Citrus) Regulations.
- Part 8 will deal with **custard apples**. For the current levy details for custard apples, see the Primary Industries Levies and Charges Collection (Custard Apples) Regulations.
- Part 9 will deal with **dried vine fruits**. For the current levy details for dried vine fruits, see the Primary Industries Levies and Charges Collection (Dried Vine Fruits) Regulations.
- Part 10 will deal with **macadamia nuts**. For the current levy details for macadamia nuts, see the *Primary Industries (Excise) Levies (Macadamia Nut) Regulations 1999*.
- Part 11 will deal with **nashi**. For the current levy details for nashi, see the Primary Industries Levies and Charges Collection (Nashi) Regulations.
- Part 12 will deal with **nursery products**. For the current levy details for nursery products, see the Primary Industries Levies and Charges Collection (Nursery Products) Regulations.
- Part 13 will deal with **passionfruit**. For the current levy details for passionfruit, see the *Primary Industries Levies and Charges Collection (Passionfruit) Regulations 1999*.
- Part 14 will deal with **potatoes**. For the current levy details for potatoes, see the Primary Industries Levies and Charges Collection (Potato) Regulations.
- Part 15 will deal with **stone fruit**. For the current levy details for stone fruit, see the Primary Industries Levies and Charges Collection (Stone Fruit) Regulations.
- Part 16 will deal with **strawberries**. For the current levy details for strawberries, see the *Primary Industries Levies and Charges Collection (Strawberries) Regulations 1997*.

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- Part 17 will deal with **vegetables**. For the current levy details for vegetables, see the *Primary Industries (Excise) Levies (Vegetable) Regulations 1999*.

Note 5 Schedule numbers 16 to 19 intentionally not used.

- Schedule 16 will deal with **laying chickens**. For the current levy details for laying chickens, see the Laying Chicken Levy Regulations.
- Schedule 17 will deal with **live-stock slaughter**. For the current levy details for live-stock slaughter, see the *Primary Industries Levies and Charges Collection (Buffalo, Cattle and Live-stock) Regulations 1998*.
- Schedule 18 will deal with **live-stock transactions**. For the current levy details for live-stock transactions, see the *Primary Industries Levies and Charges Collection (Buffalo, Cattle and Live-stock) Regulations 1998*.
- Schedule 19 will deal with **meat chickens**. For the current levy details for meat chickens, see the Meat Chicken Levy Regulations.

Schedule 20 Oilseeds

1 Definition for Schedule 20

In this Schedule:

levy year has the meaning given in clause 3 of Schedule 29 to the Collection Regulations.

Note *Leviable oilseeds* is defined in the Excise Levies Act, Sch 20, cl 1.

2 What is the value of leviable oilseeds

(1) In this section:

oilseeds means leviable oilseeds.

(2) For the definition of *value* in clause 1 of Schedule 20 to the Excise Levies Act, the value of oilseeds is:

- (a) for oilseeds for sowing — the amount that would be the sale price of the oilseeds if they were not oilseeds for sowing and if they had been sold at the market price on the day the oilseeds were delivered as mentioned in paragraph 6 (2) (a) of Schedule 20 to the Excise Levies Act; or
- (b) for oilseeds in a pool — the amount of each payment made for the oilseeds; or
- (c) in any other case:
 - (i) the sale price of the oilseeds according to the sales invoices or other sales documents for the oilseeds; or
 - (ii) if there are no sales invoices or other sales documents for the oilseeds — the amount that would be the sale price of the oilseeds if they had been sold at the market price on the day the oilseeds were delivered, or processed, as mentioned in subclause 6 (2) of Schedule 20 to the Excise Levies Act.

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- (3) The value of oilseeds is to be net of handling, storage, transport and f.o.b. costs.

Note Schedule numbers 21 and 22 intentionally not used.

- Schedule 21 may not be used. If it is used, Schedule 21 will deal with **pasture seeds**. Leviable pasture seed varieties and rates of levy for leviable pasture seed varieties are set out in Schedule 21 to the Excise Levies Act and may be varied by the Minister by instrument published in the *Gazette*.
- Schedule 22 will deal with **pig slaughter**. For the current levy details for pig slaughter, see the Pig Slaughter Levy Regulations.

Schedule 23 Rice

1 **Additional leviable rice varieties**

For paragraph (b) of the definition of *leviable rice* in clause 1 of Schedule 23 to the Excise Levies Act, the rice variety *Oryza sativa* L. cv. Opus is prescribed.

Note 1 Rates of levy on leviable rice varieties are specified by the Minister by instrument published in the *Gazette*, under the Excise Levies Act, Sch 23, subcl 3 (1).

Note 2 Schedule number 24 intentionally not used. Schedule 24 will deal with **sugar cane**. For the current levy details for sugar cane, see the Sugar Cane Levy Regulations.

Schedule 25 Wheat

1 Definition for Schedule 25

In this Schedule:

levy year has the meaning given in clause 3 of Schedule 34 to the Collection Regulations.

2 What is the sale value of wheat

- (1) For the definition of *value* in clause 1 of Schedule 25 to the Excise Levies Act, the *sale value* of wheat is:
 - (a) for wheat for sowing — the amount that would be the sale price of the wheat if it were not wheat for sowing and if it had been sold at the market price on the day the wheat was delivered as mentioned in paragraph 4 (1) (a) of Schedule 25 to the Excise Levies Act; or
 - (b) for wheat in a pool — the amount of each payment made for the wheat; or
 - (c) in any other case:
 - (i) the sale price of the wheat according to the sales invoices or other sales documents for the wheat; or
 - (ii) if there are no sales invoices or sales documents for the wheat — the amount that would be the sale price of the wheat if that wheat had been sold at the market price on the day the wheat was delivered, or processed, as mentioned in subclause 4 (1) of Schedule 25 to the Excise Levies Act.
- (2) The value of wheat is to be net of handling, storage, transport and f.o.b. costs.

3 What is the minimum amount

For subclause 4 (3) of Schedule 25 to the Excise Levies Act, the minimum amount for any levy year is \$25.

4 What is the rate of levy

For paragraph 5 (b) of Schedule 25 to the Excise Levies Act, 1% is prescribed.

Note 1 For the rate of NRS levy on wheat, see s 5 of Sch 16 to the *National Residue Survey (Excise) Levy Act 1998*, and Pt 18 of the *Primary Industries Levies and Charges (National Residue Survey Levies) Regulations 1998*.

Note 2 Schedule number 26 intentionally not used. Schedule 26 will deal with **wine grapes**. For the current levy details for wine grapes, see the *Wine Grapes Levy Regulations 1986*.

Note

1. Made by the Governor-General on / 1999, and notified in
the *Commonwealth of Australia Gazette* on / 1999.

8 December
15 December