



# Primary Industries Levies and Charges Collection Amendment Regulations 2006 (No. 4)<sup>1</sup>

## Select Legislative Instrument 2006 No. 193

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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 July 2006

P. M. JEFFERY  
Governor-General

By His Excellency's Command

SUSSAN LEY  
Parliamentary Secretary to the Minister for Agriculture, Fisheries  
and Forestry

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**1 Name of Regulations**

These Regulations are the *Primary Industries Levies and Charges Collection Amendment Regulations 2006 (No. 4)*.

**2 Commencement**

These Regulations commence on the day after they are registered.

**3 Transitional — citrus and nashi**

If, immediately before the commencing day, a person has an exemption from lodging a monthly return under clause 7.16 or clause 11.15 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*, on the commencing day the exemption is taken to be an exemption from lodging a quarterly return.

**4 Transitional — custard apples**

If:

- (a) immediately before the commencing day, a person was required to lodge an annual return under clause 8.7 of Schedule 22 to the *Primary Industries Levies and Charges Collection Regulations 1991*; and
- (b) after the commencing day, the person is not granted an exemption from lodging quarterly returns under clause 8.8C of the Schedule;

then, on 28 February 2007, the amount due under the annual return is taken to be the amount payable in respect of the first 2 quarters of 2006.

**5 Definition**

In these Regulations:

***commencing day*** means the day these Regulations commence.

**6      Amendment of *Primary Industries Levies and Charges Collection Regulations 1991***

Schedule 1 amends the *Primary Industries Levies and Charges Collection Regulations 1991*.

**Schedule 1      Amendments**

(regulation 6)

**[1]      Schedule 22, clause 7.5**

*substitute*

**7.5      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 citrus for a quarter is due for payment on the last day on which the quarterly return for the quarter must be lodged under clause 7.7.

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

**[2]      Schedule 22, clause 7.6, heading**

*substitute*

**7.6      Who must lodge a quarterly return**

**[3]      Schedule 22, subclause 7.6 (1)**

*omit each mention of*

month

*insert*

quarter

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**[4] Schedule 22, subclause 7.6 (2)**

*omit*

monthly

*insert*

quarterly

**[5] Schedule 22, clause 7.7**

*substitute*

**7.7 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.

**[6] Schedule 22, clause 7.8, heading**

*substitute*

**7.8 What must be included in a quarterly return — first purchasers and agents**

**[7] Schedule 22, clause 7.8**

*omit everything before paragraph (a), insert*

In addition to the information required by regulation 10, a return for a quarter lodged by a first purchaser, buying agent or selling agent must state, in respect of the quarter:

**[8] Schedule 22, clause 7.9, heading**

*substitute*

**7.9 What must be included in a quarterly return — persons who export citrus**

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**[9] Schedule 22, clause 7.9**

*omit everything before paragraph (a), insert*

In addition to the information required by regulation 10, a return for a quarter lodged by a person who exports citrus must state, in respect of the quarter:

**[10] Schedule 22, clause 7.10**

*substitute*

**7.10 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 citrus 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 7.12.

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

**[11] Schedule 22, subclause 7.11 (2)**

*omit*

monthly

*insert*

quarterly

**[12] Schedule 22, subclause 7.11 (3)**

*omit*

monthly

*insert*

quarterly

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**[13] Schedule 22, subclause 7.11 (4)**

*omit*

monthly

*insert*

quarterly

**[14] Schedule 22, clause 7.16, heading**

*substitute*

**7.16 Exemption from lodging quarterly returns**

**[15] Schedule 22, subclause 7.16 (1)**

*omit*

monthly

*insert*

quarterly

**[16] Schedule 22, subclause 7.16 (2)**

*omit*

monthly

*insert*

quarterly

**[17] Schedule 22, subclause 7.19 (1)**

*omit*

monthly

*insert*

quarterly

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- [18] **Schedule 22, clause 7.20, heading**  
*substitute*
- 7.20 When must quarterly returns be lodged if exemption refused or not continued**
- [19] **Schedule 22, clause 7.20**  
*omit*  
must lodge a return for each month  
*insert*  
must lodge a return for each quarter
- [20] **Schedule 22, paragraph 7.20 (a)**  
*omit*  
month  
*insert*  
quarter
- [21] **Schedule 22, paragraph 7.20 (b)**  
*omit*  
month.  
*insert*  
quarter to which the return relates.
- [22] **Schedule 22, subclause 7.22 (1)**  
*omit*  
month:  
*insert*  
quarter:

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**[23] Schedule 22, subclause 7.23 (1)**

*omit*

month,

*insert*

quarter,

**[24] Schedule 22, subclause 7.24 (1)**

*omit*

month,

*insert*

quarter,

**[25] Schedule 22, subclause 7.25 (1)**

*omit*

month:

*insert*

quarter:

**[26] Schedule 22, clause 8.2, definition of *retail sale***

*substitute*

***retail sale*** means a sale of any custard apples by a producer, but does not include a sale to a first purchaser or through a selling agent, a buying agent or an exporting agent.



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**[27] Schedule 22, after clause 8.3**

*insert*

**8.3A What is not a process**

For the definition of *process* in subsection 4 (1) of the Collection Act, the following operations are prescribed for custard apples:

- (a) fruit conditioning processes including storage and ripening;
- (b) cleaning;
- (c) sorting;
- (d) grading;
- (e) packing.

**8.3B Who is a processor**

Custard apples are 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.

**[28] Schedule 22, clause 8.5**

*substitute*

**8.5 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 custard apples for a quarter is due for payment on the last day on which the quarterly return for the quarter must be lodged under clause 8.6A.

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

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**[29] Schedule 22, clause 8.6***substitute***8.6 Who must lodge a quarterly return**

- (1) The following persons must lodge a return for custard apples for a quarter:
- (a) a first purchaser who, in the course of business, buys custard apples in the quarter (except by a retail sale);
  - (b) a buying agent who, in the course of business, buys custard apples in the quarter (except by a retail sale);
  - (c) a selling agent who sells custard apples in the quarter;
  - (d) an exporter who exports custard apples in the quarter;
  - (e) an exporting agent who exports custard apples in the quarter;
  - (f) a producer who sells custard apples in the quarter, other than by retail sale or by selling directly to a processor for processing.
- Note* For offences in relation to returns, see section 24 of the Collection Act.
- (2) However, a person does not have to lodge quarterly returns for a levy year if:
- (a) the person has applied for an exemption under clause 8.8A for the levy year and has not received notice of the Secretary's decision; or
  - (b) the Secretary has granted the person an exemption for the levy year under clause 8.8C, or has continued the person's exemption for the levy year under clause 8.8D; or
  - (c) the Secretary is required, under clause 8.8D, to decide whether to continue the person's exemption and the person has not received notice of the Secretary's decision.

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**[30] Schedule 22, after clause 8.6**

*insert*

**8.6A When must a quarterly return be lodged**

A return for a quarter 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.

**8.6B 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 custard apples 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 8.7.

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

**8.6C Who must lodge an annual return**

An annual return for a levy year must be lodged by a person who:

- (a) is described in subclause 8.6 (1); and
- (b) is exempt from lodging quarterly returns for the levy year under clause 8.8C or 8.8D.

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

**[31] Schedule 22, clause 8.7, heading**

*substitute*

**8.7 When must an annual return be lodged**

**[32] Schedule 22, clause 8.8**

*omit everything before paragraph (a), insert*

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:

**[33] Schedule 22, after clause 8.8**

*insert*

**8.8A Exemption from lodging quarterly returns**

A person may apply for exemption from the requirement to lodge quarterly returns for a levy year if the person has reasonable grounds for believing that the sum of levy and charge payable by the person for the year is, or is likely to be, less than \$500.

**8.8B Form of application for exemption**

- (1) An application must include:
  - (a) the following details:
    - (i) the applicant's full name;
    - (ii) the applicant's business or residential address (not the address of a post office box or post office bag);
    - (iii) if the applicant has a post office box or post office bag address — that address;
    - (iv) the applicant's ABN, if any;
    - (v) if the applicant is a company and does not have an ABN — its ACN; and
  - (b) a statement to the effect that the applicant believes that the applicant has incurred, or is likely to incur, a liability to pay levy or charge for the levy year to which the application relates; and
  - (c) a statement to the effect that the applicant believes that the amount of the liability is, or is likely to be, less than \$500.
- (2) An application must be sent to the Secretary's postal address.

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**8.8C Grant or refusal of exemption**

- (1) The Secretary must, within 14 days after receiving an application:
  - (a) decide whether to grant the exemption; and
  - (b) give the applicant written notice of the decision.
- (2) In deciding to grant an exemption, the Secretary must have regard to:
  - (a) information available to the Secretary about the amount of the levy or charge that the applicant is, or is likely to be, liable to pay for the levy year; and
  - (b) the amount of levy or charge that the applicant was liable to pay for the immediately preceding levy year.

**8.8D Continuation of exemption**

- (1) If a person who is exempt from lodging quarterly returns for a levy year lodges an annual return for the year, the Secretary must, within 14 days after receiving the return:
  - (a) decide whether to continue the exemption for the next levy year; and
  - (b) give the person written notice of the decision.
- (2) In deciding whether to continue an exemption, the Secretary must have regard to:
  - (a) information available to the Secretary about the amount of levy or charge that the person is, or is likely to be, liable to pay for the next levy year; and
  - (b) the amount of levy or charge that the person was liable to pay for the levy year to which the annual return relates.

**8.8E When must a quarterly return be lodged if exemption refused or not continued**

A person who receives notice of a refusal to grant, or of a refusal to continue, an exemption for a levy year must lodge a return for each quarter of the year:

- (a) if the quarter ended before the person received the notice — within 28 days of receiving the notice; and

- (b) otherwise — within 28 days after the end of the quarter to which the return relates.

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

**[34] Schedule 22, subclause 8.9 (1)**

*substitute*

- (1) The following persons must keep records showing, for a levy year, the details mentioned in subclause (2):
- (a) a person mentioned in subclause 8.6 (1);
  - (b) a producer.

Penalty: 10 penalty units.

**[35] Schedule 22, after clause 8.9**

*insert*

**8.10 Review of decisions**

A person may apply to the Administrative Appeals Tribunal for the review of a decision of the Secretary:

- (a) refusing under paragraph 8.8C (1) (a) to grant an exemption; or
- (b) refusing under paragraph 8.8D (1) (a) to continue an exemption.

**[36] Schedule 22, clause 11.5**

*substitute*

**11.5 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 nashi for a quarter is due for payment on the last day on which the quarterly return for the quarter must be lodged under clause 11.7.

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

**[37] Schedule 22, clause 11.6, heading**  
*substitute*

**11.6 Who must lodge a quarterly return**

**[38] Schedule 22, subclause 11.6 (1)**  
*omit each mention of*  
month  
*insert*  
quarter

**[39] Schedule 22, subclause 11.6 (2)**  
*omit*  
monthly  
*insert*  
quarterly

**[40] Schedule 22, clause 11.7**  
*substitute*

**11.7 When must a quarterly return be lodged**

A return for a quarter 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.

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**[41] Schedule 22, clause 11.8, heading**

*substitute*

**11.8 What must be included in a quarterly return**

**[42] Schedule 22, clause 11.8**

*omit everything before paragraph (a), insert*

In addition to the information required by regulation 10, a return for a quarter must state, in respect of the quarter:

**[43] Schedule 22, clause 11.9**

*substitute*

**11.9 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 nashi 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 11.11.

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

**[44] Schedule 22, subclause 11.10 (2)**

*omit*

monthly

*insert*

quarterly



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**[45] Schedule 22, subclause 11.10 (3)**

*omit*

monthly

*insert*

quarterly

**[46] Schedule 22, subclause 11.10 (4)**

*omit*

monthly

*insert*

quarterly

**[47] Schedule 22, clause 11.15, heading**

*substitute*

**11.15 Exemption from lodging quarterly returns**

**[48] Schedule 22, subclause 11.15 (1)**

*omit*

monthly

*insert*

quarterly

**[49] Schedule 22, subclause 11.15 (2)**

*omit*

monthly

*insert*

quarterly

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**[50] Schedule 22, subclause 11.18 (1)**

*omit*

monthly

*insert*

quarterly

**[51] Schedule 22, clause 11.19, heading**

*substitute*

**11.19 When must quarterly returns be lodged if exemption refused or not continued**

**[52] Schedule 22, clause 11.19**

*omit each mention of*

month

*insert*

quarter

**[53] Schedule 22, subclause 11.21 (1)**

*omit*

month:

*insert*

quarter:

**[54] Schedule 22, subclause 11.22 (1)**

*omit*

month:

*insert*

quarter:

**[55] Schedule 22, subclause 11.23 (1)***omit*

month:

*insert*

quarter:

**[56] Schedule 22, subclause 11.24 (1)***omit*

month:

*insert*

quarter:

**[57] Schedule 22, clause 23.9***substitute***23.9 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 lychees for a quarter is due for payment on the last day on which the quarterly return for the quarter must be lodged under clause 23.11.

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

**[58] Schedule 22, clause 23.10, heading***substitute***23.10 Who must lodge a quarterly return**

**[59] Schedule 22, clause 23.10**

*omit each mention of*

month

*insert*

quarter

**[60] Schedule 22, clause 23.11**

*substitute*

**23.11 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.

**[61] Schedule 22, clause 23.12**

*substitute*

**23.12 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 lychees 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 23.14.

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

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**[62] Schedule 22, clause 23.15**

*omit everything before paragraph (a), insert*

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:

**[63] Schedule 22, subclause 23.16 (1)**

*omit*

month,

*insert*

quarter,

**[64] Schedule 22, subclause 23.17 (1)**

*omit everything before paragraph (a), insert*

- (1) A first purchaser, a selling agent, a buying agent or a processor who deals in leviable or chargeable lychees in a quarter must keep records showing, in respect of the quarter:

**[65] Schedule 22, subclause 23.18 (1)**

*omit everything before paragraph (a), insert*

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

**[66] Schedule 22, clause 24.6**

*omit*

clause 24.9.

*insert*

clause 24.8.

**[67] Schedule 22, clause 24.9***omit*

clause 24.12.

*insert*

clause 24.11.

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).