

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time, 4 October 1989

*(Minister for Primary Industries and Energy)*

**A BILL**

FOR

**An Act providing for the collection of levy imposed by the  
*Pasture Seed Levy Act 1989***

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

**Short title**

- 5      1. This Act may be cited as the *Pasture Seed Levy Collection Act 1989*.

**Commencement**

2. This Act commences on the day on which the *Pasture Seed Levy Act 1989* commences.

**Interpretation**

- 10      3. In this Act, unless the contrary intention appears:  
    “**certification scheme**”, in relation to a State, means a scheme for the testing and certification of seed by the State;

**“certifying Department”**, in relation to a State means the Department of the State that is responsible for the certification of pasture seed under the certification scheme of the State;

**“grower”**, in relation to leviable seed, means the person who was growing the seed immediately before harvesting; 5

**“growers organisation”** means the organisation known as the Grains Council of Australia or, if the regulations prescribe another organisation, that other organisation;

**“levy”** means an amount of levy imposed by the *Pasture Seed Levy Act 1989*; 10

**“pasture seed”** means the seed of a plant used, or capable of being used, as pasture;

**“Secretary”** means the Secretary to the Department;

**“State”** includes the Australian Capital Territory and the Northern Territory. 15

### Act to bind Crown

4. This Act binds the Crown in right of each of the States.

### Time for payment of levy

5. (1) Levy on leviable seed is due for payment at the end of the period of 28 days immediately after the end of the quarter in which the seed is certified under a certification scheme. 20

(2) In this section:

**“quarter”** means:

- (a) the period commencing on the commencement of this Act and ending on the last day of March, June, September or December, whichever occurs first after the commencement of this Act; and 25
- (b) each later period of 3 months ending on the last day of any of those months in any year.

### Arrangements for collection of levy by State certifying Departments 30

6. (1) For the purpose of the payment of levy to the Commonwealth, the Commonwealth may make an arrangement with a State for the collection of levy in the State by the certifying Department of the State.

(2) Without limiting the generality of the matters which may be provided for in an arrangement, an arrangement may provide for: 35

- (a) the keeping by the certifying Department of the State of accounts and records in relation to amounts of levy collected by the certifying Department;
- (b) the payment by the certifying Department to the Commonwealth of amounts of levy collected by the certifying Department; 40
- (c) the giving by the certifying Department to the Minister of information with respect to amounts of levy collected by the

certifying Department and of amounts paid by the certifying Department to the Commonwealth; and

(d) the inspection and audit of the accounts and records referred to in paragraph (a).

(3) The Commonwealth shall not, in exercising its powers under subsection (1):

(a) discriminate between States or parts of States within the meaning of paragraph 51 (ii) of the Constitution; or

(b) give preference to one State or any part thereof over another State or any part thereof within the meaning of section 99 of the Constitution.

#### **Notice of making of arrangement**

7. (1) The Secretary must give notice in the *Gazette* of the making of an arrangement under section 6.

(2) The notice shall be given within 14 days of the making of the arrangement, and shall name the State with which the arrangement is made.

#### **Collection of levy**

8. (1) While an arrangement under section 6 entered into with a State is in force, payment of an amount of levy that is payable in respect of leviable seed certified in that State shall be made to the certifying Department of the State.

(2) Where a person pays an amount of levy in accordance with subsection (1), the person is, to the extent of the amount so paid, discharged from liability to pay levy to the Commonwealth.

#### **Application of Audit Act**

9. (1) The *Audit Act 1901* does not apply in relation to amounts of levy collected by a certifying Department.

(2) Subsection (1) does not affect the operation of the *Audit Act 1901* in relation to money paid by a certifying Department to the Commonwealth.

#### **Penalty for non-payment**

10. (1) In this section:

“authorised person” means a person holding or performing the duties of an office in the Department appointed by the Secretary, in writing, to be an authorised person for the purposes of this section.

(2) Where the liability of a person to pay levy is not discharged at or before the time when the levy is payable, there is payable by the person to the Commonwealth, by way of a penalty, in addition to the amount of levy, an amount calculated at the rate of 20% per annum upon the amount of levy from time to time remaining unpaid, to be calculated from the time when the levy became payable.

(3) Subject to subsection (4), the Minister, the Secretary or an authorised person may remit the whole or part of an amount payable under this section.

(4) An amount remitted by the Secretary or an authorised person under subsection (3) must not exceed \$500.

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### Recovery of levy

11. The following amounts may be recovered by the Commonwealth as debts dues to the Commonwealth:

- (a) levy that is due and payable;
- (b) an amount payable under section 10.

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### Refund of levy etc.

12. (1) Where there has been an overpayment in respect of an amount referred to in section 11, the amount overpaid must be refunded by the Commonwealth.

(2) Where an amount that is to be refunded by the Commonwealth under subsection (1) has been taken into account under paragraph 7 (1) (a) or 34 (ca) of the *Rural Industries Research Act 1985* in calculating an amount to be paid into a Fund, the amount of the refund is to be paid from the Fund to which the levy is attached when the refund is paid.

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(3) An expression has the same meaning in subsection (2) as in the *Rural Industries Research Act 1985*.

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### Review of decisions

13. (1) Subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for a review of a decision to refuse to remit under subsection 10 (3) the whole or part of an amount.

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(2) Where the Minister, the Secretary or an authorised person within the meaning of section 10 makes a decision referred to in subsection (1) and gives to the person whose interests are affected by the decision notice in writing of the decision, that notice is to include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal, by or on behalf of any person whose interests are affected by the decision for a review of the decision.

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(3) A failure to comply with the requirements of subsection (2) in relation to a decision does not affect the validity of the decision.

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### Publication of amended Schedule to Levy Act

14. The Secretary must take all necessary action to ensure that, where the Schedule to the *Pasture Seed Levy Act 1989* is taken to be amended under subsection 9 (1) of that Act, a copy of the Schedule as taken to be

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amended is available for inspection by the public at the prescribed places, at the prescribed times and on payment of the prescribed fee (if any).

**Regulations**

- 5      **15.** The Governor-General may make regulations, not inconsistent with this Act, 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;
- and in particular prescribing:
- 10      (c) the manner of payment of levy and other money payable to the Commonwealth under this Act; and
- (d) penalties, not exceeding, in the case of a natural person, a fine of \$1,000 and, in the case of a body corporate, a fine of \$5,000, for offences against the regulations.





