

# Dried Vine Fruits Levy Collection

No. 132 of 1971

An Act relating to the Collection of Levy imposed on certain Dried Vine Fruits.

[Assented to 16 December 1971]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

**Short title.** 1. This Act may be cited as the *Dried Vine Fruits Levy Collection Act 1971*.

**Commencement.** 2. This Act shall come into operation on the day on which it receives the Royal Assent.

**Interpretation.** 3.—(1.) In this Act, unless the contrary intention appears—  
 “month” means one of the twelve months of the year;  
 “provisional levy” means an amount of the provisional levy imposed by the Levy Act;  
 “the Secretary” means the Secretary to the Department of Primary Industry.

(2.) Section 4 of the *Dried Vine Fruits Stabilization Act 1971* shall, for the purposes of the interpretation of this Act, be read as one with this Act.

**Provisional levy.** 4.—(1.) This section applies only so long as provisional levy is imposed by the Levy Act.

(2.) The purpose of this section is to secure the collection of levy that may become payable, and the powers of the Minister under this section shall be exercised only to such extent and in such manner as appear to him to be necessary for that purpose.

(3.) Before, or at any time during, a season, the Minister may, by notice published in the *Gazette*, declare that provisional levy is payable on dried fruit received for packing during that season and on or after a date specified in the notice (not being a date earlier than the date on which the notice is published in the *Gazette*) and, thereupon, provisional levy is payable, in respect of any dried fruit to which the notice is applicable, at a rate applicable in accordance with the next two succeeding sub-sections.

(4.) The regulations may, for the purposes of the last preceding sub-section, fix a rate of provisional levy in respect of dried fruit that is received for packing on or after a specified date (not being a date earlier

than the date of notification in the *Gazette* of the regulation by which the rate is fixed), and the rate so fixed is, subject to the next succeeding sub-section, the rate of provisional levy applicable to the dried fruit.

(5.) A rate of provisional levy fixed by a regulation in force under the last preceding sub-section ceases to apply to dried fruit if another rate of provisional levy applies to the dried fruit by virtue of a later regulation made under that sub-section.

(6.) Provisional levy in respect of any dried fruit is payable by the person who will, if any levy becomes payable in respect of the dried fruit, be liable to pay that levy.

(7.) Provisional levy in respect of any dried fruit becomes due and payable at the expiration of fifteen days after the end of the month next succeeding the month in which the dried fruit is received for packing.

(8.) The Secretary may extend the time for payment of provisional levy in respect of any dried fruit in order that the proceeds of the sale of the packed dried fruit derived from the dried fruit may be available for payment of the provisional levy or for any other reason that appears to him to be sufficient.

(9.) Unpaid provisional levy in respect of any dried fruit ceases to be payable when levy in respect of the dried fruit becomes due and payable.

(10.) Where a person has made arrangements that, in the opinion of the Minister or of an authorized person, are adequate to ensure that any levy that may become payable by that person will be duly paid, the Minister or the authorized person may, by writing under his hand, exempt that person from liability to pay provisional levy.

5.—(1.) Where—

- (a) a person has paid provisional levy in respect of any dried fruit; and
- (b) levy is not payable in respect of the dried fruit,

that provisional levy shall be refunded to that person.

(2.) Where—

- (a) levy becomes due and payable on any dried fruit; and
- (b) the person liable to pay that levy has paid provisional levy in respect of the dried fruit that exceeds that levy,

that levy shall be deemed to have been paid and the excess shall be refunded to that person.

(3.) Where—

- (a) levy becomes due and payable in respect of any dried fruit; and
- (b) the person liable to pay that levy has paid provisional levy in respect of the dried fruit that is equal to, or less than, that levy,

that levy shall be deemed to have been paid or to have been paid to the extent of an amount equal to that provisional levy, as the case may be.

Adjustment of  
provisional levy.

Declaration that levy is payable.

6. Where levy imposed by the Levy Act is found to be payable in respect of any dried fruit harvested during a season, the Minister shall, by notice published in the *Gazette*, declare that levy is so payable and shall specify in the notice the rate of that levy.

Time for payment of levy.

7. Levy in respect of any dried fruit becomes due and payable upon the expiration of fifteen days after the end of the month next succeeding the month in which a notice under the last preceding section that is applicable to the dried fruit is published.

Manner of payment of levy, &c.

8. Levy and provisional levy shall be paid to the Secretary at Canberra.

Penalty for non-payment.

9.—(1.) Where the liability of a person to pay levy or provisional levy is not discharged on or before the time when it is payable, there is payable by that person to the Commonwealth by way of penalty, in addition to that levy or provisional levy an amount calculated at the rate of ten per centum per annum upon that levy or provisional levy or upon that part of it from time to time remaining unpaid, to be computed from the time when it became payable.

(2.) The Minister or, subject to the next succeeding sub-section, an authorized person may, for reasons that the Minister or the authorized person in his discretion thinks sufficient, remit the whole or a part of an amount payable under this section.

(3.) A remission granted under the last preceding sub-section by an authorized person shall not exceed Ten dollars.

Recovery of levy, &c.

10.—(1.) The following amounts may be recovered by the Commonwealth as debts due to the Commonwealth:—

- (a) levy and provisional levy that is due and payable;
- (b) an amount payable by way of penalty under the last preceding section.

(2.) In proceedings for the recovery of an amount referred to in the last preceding sub-section, an averment or statement in the complaint, claim or declaration of the plaintiff is evidence of the matter so averred or stated.

Packer may recover levy from grower.

11. Where a packer has paid levy in respect of dried fruit, he is entitled to recover an amount equal to that levy from the grower of the fruit as a debt due to the packer from the grower.

Refund of levy, &c., paid.

12.—(1.) Subject to this section, where any levy or provisional levy has been overpaid, the amount overpaid shall be refunded.

(2.) A refund shall not be made to a packer in respect of any dried fruit unless the Minister is satisfied that the packer has not recouped himself to the extent of the amount of the refund from the grower of the dried fruit or, if he has so recouped himself, that he has since paid the amount to the grower.

13. An authorized person may, by notice in writing, require a person to furnish to him, within the time specified in the notice, such return or information in relation to matters relevant to the operation of this Act or the Levy Act as is specified in the notice, including a return or information verified by statutory declaration.

Power to call for returns.

14.—(1.) A person shall not—

- (a) fail or neglect duly to furnish a return or information that he is required under this Act or the regulations to furnish; or
- (b) furnish, in pursuance of this Act or the regulations, a return or information that is false or misleading in a material particular.

Offences in relation to returns.

Penalty: Two hundred dollars.

(2.) A prosecution for an offence against this section may be commenced at any time within three years after the commission of the offence.

15.—(1.) An authorized person may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the functions of an authorized person under this section.

Access to premises.

(2.) Where an authorized person has reason to believe that there are on any premises books, documents or papers relating to dried fruit in respect of which levy is, or may be, payable, the authorized person may make application to a Justice of the Peace for a warrant authorizing the authorized person to enter the premises for the purpose of exercising the functions of an authorized person under this section.

(3.) If, on an application under the last preceding sub-section, the Justice of the Peace is satisfied, by information on oath—

- (a) that there is reasonable ground for believing that there are on the premises to which the application relates any books, documents or papers relating to dried fruit in respect of which levy is, or may be, payable; and
- (b) that the issue of a warrant is reasonably required for the purposes of this Act,

the Justice of the Peace may grant a warrant, in accordance with the prescribed form, authorizing the authorized person, with such assistance as he thinks necessary, to enter the premises, during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising the functions of an authorized person under this section.

(4.) Where an authorized person has entered any premises in pursuance of sub-section (1.) of this section or in pursuance of a warrant granted under the last preceding sub-section, he may exercise the functions of an authorized person under this section.

(5.) A person shall not, without reasonable excuse, obstruct, or hinder an authorized person acting in pursuance of a warrant granted under sub-section (3.) of this section or in pursuance of the last preceding sub-section.

Penalty: Two hundred dollars.

(6.) The functions of an authorized person under this section are to search for, inspect, take extracts from and make copies of any books, documents or papers relating to dried fruit in respect of which levy is, or may be, payable.

(7.) In this section, "occupier", in relation to premises, includes the person in charge of the premises.

**Regulations.**

**16.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act or for facilitating the collection or recovery of any debt due to the Commonwealth under this Act and, in particular—

- (a) providing for the manner of payment of levy, provisional levy and other moneys payable to the Commonwealth under this Act;
  - (b) requiring packers of dried fruit in respect of which levy is, or may be, payable to keep records relating to, and to furnish, to such persons as are prescribed, returns or information relating to, that dried fruit; and
  - (c) prescribing penalties, not exceeding a fine of Two hundred dollars, for offences against the regulations.
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