

1993-94

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time

*(Primary Industries and Energy)*

## A BILL

FOR

### **An Act to amend the *Primary Industries Levies and Charges Collection Act 1991*, and for related purposes**

The Parliament of Australia enacts:

#### **Short title etc.**

1.(1) This Act may be cited as the *Primary Industries Levies and Charges Collection Amendment Act 1994*.

5 (2) In this Act, "**Principal Act**" means the *Primary Industries Levies and Charges Collection Act 1991*<sup>1</sup>.

#### **Commencement**

2.(1) Sections 1, 2, 3 and 4 commence on the day on which the *Horticultural Levy Amendment Act 1994* commences.

10 (2) Section 5 is taken to have commenced on 1 July 1991.

## Definitions

**3.(1)** Section 4 of the Principal Act is amended:

(a) by inserting after paragraph (h) of the definition of “producer” in subsection (1) the following paragraph:

“(hb) in the case of a collection product that will, for the purpose of the imposition of levy under subsection 6(2) of the *Horticultural Levy Act 1987*, be presumed to have been produced in Australia—the person who would, if the collection product presumed to be produced were actually produced, be taken to be the grower of the product;”;

(b) by omitting the definition of “prescribed goods or services” from subsection (1) and substituting the following definition:

“**prescribed goods or services**”, in relation to collection products of a particular kind means:

(a) if those products are not products of a kind referred to in paragraph (b)—goods or services identified by the regulations as goods or services used in subjecting those products to a process in the course of:

(i) their production or their preparation for sale; or

(ii) their use in the production of other goods; or

(b) if those products are of a kind that will, for the purpose of the imposition of levy under subsection 6(2) of the *Horticultural Levy Act 1987*, be presumed to have been produced in Australia—goods identified by the regulations as goods used in the production of those products;”.

(2) Regulations in force for the purpose of the definition of “prescribed goods or services” in subsection 4(1) of the Principal Act immediately before the omission and substitution of that definition effected by paragraph (1)(b) of this section continue in force, on and after the omission and substitution of that definition, as if they had been made for the purposes of paragraph (a) of that definition as so substituted.

## Liability of sellers of prescribed goods or services

**4.** Section 9 of the Principal Act is amended:

(a) by inserting in subsection (1) “or (2A)” after “(2)”;

(b) by inserting in subsection (2) “(other than collection products of a kind dealt with in subsection (2A)),” after “of a particular kind”;

(c) by inserting after subsection (2) the following subsection:

5 “(2A) Subject to this section, a person to whom prescribed goods are sold in relation to collection products of a kind that will, for the purposes of the imposition of levy, be presumed to have been produced in Australia must, within a prescribed period after the purchase of those goods, pay to the person selling those goods:

- (a) an amount on account of the levy that will be payable by that first-mentioned person on products of that kind on their presumed production; and
- (b) an amount equal to the amount of any penalty payable by that first-mentioned person under section 15 in relation to levy because of a previous purchase of such prescribed goods.”;
- (d) by inserting in subsection (3) “(other than collection products of a kind dealt with in subsection (3A))” after “of a particular kind”;
- (e) by inserting after subsection (3) the following subsection:

15 “(3A) A person is not required to make a payment under paragraph (2A)(a) because of the purchase of prescribed goods in relation to collection products of a kind that will, for the purpose of the imposition of levy, be presumed to have been produced in Australia if he or she informs the person selling those goods, in writing, that he or she does not intend to use those goods in producing leviable products of that kind.”;

- (f) by inserting in subsection (4) “(other than collection products of a kind dealt with in subsection (4A))” after “of a particular kind”;
- (g) by inserting after subsection (4) the following subsection:

25 “(4A) If:

- (a) a person makes a payment to a seller of prescribed goods in relation to collection products; and
- (b) those collection products are products of a kind that will, for the purpose of the imposition of levy, be presumed to have been produced in Australia; and
- (c) the payment is a payment on account of levy that will be payable on products of that kind on their presumed production;

35 the first-mentioned person is, on making that payment, discharged from liability to pay levy on the presumed production of collection products of that kind but the liability of the seller under subsection (1) is not affected.”.

**Refund of levy, charge etc.**

5. Section 18 of the Principal Act is amended by omitting from subsection (2) “subsection 9” and substituting “section 9”.

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**NOTE**

1. No. 25, 1991, as amended. For previous amendments, see Nos. 20, 32, 59 and 247, 1992; and No. 94, 1993.

