



New South Wales

Agricultural Livestock (Disease Control Funding) Amendment Bill 2004

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Agricultural Livestock (Disease Control Funding) Act 1998*:

- (a) to provide for the collection of transaction based contributions from livestock producers to fund the provision of livestock disease control programs established under the Act, and
- (b) to provide for the refund of such contributions and for the review of decisions concerning such contributions by the Administrative Decisions Tribunal, and
- (c) to provide for the appointment of fund administrators for industry funds for livestock disease control programs established under the Act (*industry funds*), and
- (d) to make further provision with respect to the establishment, purposes, operation and winding up of industry funds, and

- (e) to require the Minister to have the benefit of certain expert advice before imposing an industry levy for payment into an industry fund or fixing such a levy, and
- (f) to make provision for matters of savings and transitional nature.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the *Agricultural Livestock (Disease Control Funding) Act 1998* set out in Schedule 1.

Schedule 1 Amendments

Definitions

Schedule 1 [1] amends section 3 of the *Agricultural Livestock (Disease Control Funding) Act 1998* to insert definitions for new terms used in provisions to be inserted in the Act and to omit or replace several existing definitions.

In particular, a *livestock transaction* is defined to mean the purchase or sale of livestock or any product made or derived from livestock.

Schedule 1 [19] makes an amendment to section 15 consequent on the insertion in section 3 of a definition of *financial year*.

Disease control programs

Currently, section 5 of the Act defines the expression *disease control service* for the purposes of the Act.

Schedule 1 [3] amends section 5 to replace this expression with the concept of a *disease control program*. A disease control program is defined to mean an agricultural program for livestock producers comprising a service, or series of services, for the control of a particular disease in livestock. **Schedule 1 [2], [5] and [6]** make consequential amendments to the Act.

Schedule 1 [4] amends section 6 of the Act to require the Minister to be satisfied that the rationale for a disease control program is soundly based, the objectives of the program are reasonably achievable and the program is financially viable before approving the funding of the program under the Act.

Industry advisory committees

Currently, section 8 of the Act provides for the Minister to establish an industry advisory committee for each disease control service established under the Act for livestock.

Schedule 1 [7] amends section 8 of the Act to provide that one of the functions of an industry advisory committee for a disease control program established under the Act is to give advice to the Minister on the establishment and operation of transaction based contribution schemes for funding the program.

Industry funds

Currently, the Act provides for the establishment of two industry funds for each disease control service established under the Act.

An industry contribution fund is established for such a service to provide a means by which voluntary contributions to fund the service may be made by relevant livestock producers and other persons and bodies.

If an industry levy is also imposed to fund the service, the Act requires the establishment of a second industry levy fund into which such levies are to be paid.

Both industry contribution funds and industry levy funds are administered by the Director-General of the Department of Agriculture (the *Director-General*).

Schedule 1 [8]–[14] amend Part 3 of the Act so as to create a new Division 1 dealing with the establishment and operation of industry funds. The principal features of the amended provisions are as follows:

- (a) There will be a single industry fund for each disease control program established under the Act. However, each fund will have the following 4 separate accounts:
 - (i) an account for non-transaction based contributions to the fund,
 - (ii) an account for transaction based contributions to the fund,
 - (iii) an account for industry levies that are paid into the fund,
 - (iv) an account for any other money paid into the fund.
- (b) Each fund will be administered by a fund administrator appointed by the Minister who may (but need not) be the Director-General. The Minister may appoint a corporation or trustees to administer a fund instead of the Director-General. However, in that event, the Director-General will be under a duty to keep under review the activities of such administrators and to make regular reports to the Minister on the administration of industry funds by such administrators.

- (c) The Minister will be empowered to approve policy and priority guidelines for each industry fund by reference to which funds will be expended to provide the relevant disease control program.

Schedule 1 [21] consequentially omits sections 17–20, which deal with the establishment and operation of industry levy funds. **Schedule 1 [22], [24], [26], [28] and [29]** make consequential amendments to the Act.

Schedule 1 [27] inserts a new section 26A in the Act to make it an offence for a fund administrator for an industry fund to make payments out of the fund if the fund is in deficit, or would be in deficit if the payments were made, unless the fund administrator has first obtained the written approval of the Minister. The maximum penalty for such an offence will be 100 penalty units (currently, \$11,000).

Schedule 1 [30] inserts a new section 28A in the Act to require a fund administrator (other than the Director-General) to prepare and forward to the Director-General a report on the operation of the fund during a financial year no later than 1 August immediately following the end of that financial year.

Schedule 1 [31] inserts a new section 30A in the Act to enable the Minister to direct the fund administrator for an industry fund to wind up the affairs of the fund if the Minister is satisfied that it is in the best interests of the livestock industry for which the fund is established for it to be wound up. The Minister may also give directions about the payment of surplus funds to other persons or bodies.

Contributions to industry funds

Schedule 1 [15] inserts a new Division 2 in Part 3 of the Act dealing with the funding of disease control programs by contributions from livestock producers and other persons and bodies.

The new Division recognises 2 kinds of contributions, namely, non-transaction based contributions and transaction based contributions.

A non-transaction based contribution is a monetary contribution made (or to be made) to an industry fund for a disease control program established under the Act otherwise than under a transaction based contribution scheme for the fund. Such contributions may be made by livestock producers and other persons or bodies. They may be made as often and in such amounts as a contributor wishes. In particular, the new Division authorises rural lands protection boards, local councils and other public or local authorities to make non-transaction based contributions to an industry fund if they wish to do so.

A transaction based contribution is a monetary contribution made (or to be made) to an industry fund under a transaction based contribution scheme for the fund.

A transaction based contribution scheme for a fund will be a scheme established by the Minister, by order published in the Gazette, for the collection from certain livestock producers of contributions based on their livestock transactions for payment into the industry fund. The order establishing the scheme will need to provide for the following matters:

- (a) the livestock transactions by reference to which contributions under the scheme are to be collected,
- (b) the designated livestock producers from whom contributions are to be collected under the scheme,
- (c) the amount of a contribution (or the manner in which the amount of a contribution is to be calculated) under the scheme,
- (d) the times and manner in which contributions are to be collected under the scheme and paid into the industry fund concerned,
- (e) the collection agents who are authorised to collect contributions for the scheme.

Any such order will need to be tabled before Parliament and will be disallowable in the same way as a statutory rule.

The new Division authorises a collection agent for a transaction based contribution scheme to collect any contribution payable under the scheme in connection with a livestock transaction from a designated livestock producer to which the scheme applies. However, the new Division also makes it an offence for a collection agent not:

- (a) to collect contributions from the proceeds of any livestock transaction of a livestock producer to which the scheme applies as provided by the scheme, or
- (b) to pay any contribution collected under the scheme to the fund administrator for the appropriate industry fund as provided by the scheme, or
- (c) to keep such records concerning the collection and payment of such contributions as may be prescribed by the regulations, or
- (d) to provide the livestock producer from whom the contribution was collected with a written receipt for the contribution, or
- (e) to produce to the Director-General or the relevant fund administrator, if requested to do so, records of the collection agent concerning the collection or payment of contributions under the scheme.

The maximum penalty for any such offence will be 100 penalty units (currently, \$11,000).

The new Division enables a transaction based contributor to obtain a refund of a transaction based contribution paid during a financial year if the application for the refund is made to the fund administrator to whom it was paid no later than 7 days (or such greater period as may be specified under the transaction based contribution scheme concerned) after the end of the financial year during which the contribution was made. However, a person who obtains such a refund will not be entitled to receive certain services under the designated disease control program concerned. Only those livestock producers who have paid a transaction based contribution during the previous financial year and have not obtained a refund will be entitled to receive these services in the next financial year.

Industry levies

Schedule 1 [16] converts Part 4 of the Act (which deals with industry levies for disease control services) into Division 3 of Part 3.

Schedule 1 [17] amends section 13 of the Act to provide that the Minister may authorise the imposition of an industry levy for payment into an industry fund for a disease control program only if:

- (a) the Minister is satisfied, having regard to advice of the industry advisory committee concerned, that the relevant industry fund may not be sufficient to fund the necessary program, and
- (b) the Minister is satisfied that the relevant livestock industry has been consulted concerning the imposition of the levy.

Schedule 1 [20] amends section 16 of the Act to make similar provision in relation to fixing the rate of a levy in a subsequent order of the Minister.

Currently, sections 14 and 17 of the Act provide that if a minimum voluntary contribution is made to an industry contribution fund during a levy period by a livestock producer, the producer is entitled to a refund of an industry levy paid by the producer into the industry levy fund during that period. **Schedule 1 [18] and [21]** remove this entitlement. **Schedule 1 [24]** makes a consequential amendment to section 25.

Review of funding decisions by Administrative Decisions Tribunal

Schedule 1 [23] creates a new Part 5A dealing with reviews of funding decisions by the Administrative Decisions Tribunal. Section 25, which currently provides for reviews of certain decisions of the Director-General concerning industry levies, will be located in the new Part.

Schedule 1 [25] inserts a new section 25A in the new Part. It provides for the review by the Administrative Decisions Tribunal of certain decisions of the Director-General or fund administrators in respect of transaction based contributions.

Offences

Schedule 1 [32] amends section 31 of the Act to make it clear that nothing in the Act renders the Director-General or the Crown liable to prosecution for an offence.

Schedule 1 [33] inserts a new section 31A in the Act. The new section contains the standard provisions with respect to the liability of directors and managers of corporations for contraventions of the Act or the regulations by corporations.

Audit of accounts and records of collection agents

Schedule 1 [34] amends section 33 of the Act to enable the regulations to make provision for or with respect to the auditing of the accounts and records of collection agents for transaction based contribution schemes in relation to the collection and payment of transaction based contributions.

Savings and transitional provisions

Schedule 1 [36] amends Schedule 2 to the Act to enable the Governor to make regulations for matters of a savings or transitional nature consequent on the amendment of the Act.

Schedule 1 [37] inserts a new Part in Schedule 2 to the Act that contains savings and transitional provisions consequent on the amendment of the Act by the proposed Act. **Schedule 1 [35]** inserts a Part heading in Schedule 2 that is consequential on the insertion of the new Part.

First print



New South Wales

Agricultural Livestock (Disease Control Funding) Amendment Bill 2004

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New South Wales

Agricultural Livestock (Disease Control Funding) Amendment Bill 2004

No. , 2004

A Bill for

An Act to amend the Agricultural Livestock (Disease Control Funding) Act 1998 to make further provision with respect to the funding of disease control services in respect of livestock; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
<i>This Act is the Agricultural Livestock (Disease Control Funding) Amendment Act 2004.</i>	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of Agricultural Livestock (Disease Control Funding) Act 1998 No 139	7 8
<i>The Agricultural Livestock (Disease Control Funding) Act 1998 is amended as set out in Schedule 1.</i>	9 10

Schedule 1 Amendments

(Section 3)

[1] Section 3 Definitions

Omit the definitions of *control*, *designated disease*, *designated disease control service*, *designated livestock producers*, *disease control service*, *industry contribution fund*, *industry fund*, *industry levy* and *industry levy fund*.

Insert in alphabetical order:

approved policy and priority guidelines for an industry fund means guidelines approved for the fund under section 12.

collection agent for a transaction based contribution scheme means:

(a) any auctioneer, stock and station agent or stock and station salesperson within the meaning of the *Property, Stock and Business Agents Act 2002*, or

(b) any other person,

involved in livestock transactions to which the scheme relates who is authorised under the scheme to collect contributions for the scheme.

control a disease includes prevent, eradicate or manage the disease.

designated disease, *designated disease control program*, *designated livestock producers*—see section 6.

disease control program—see section 5.

financial year means the year commencing 1 July.

fund administrator for an industry fund means a person or persons appointed to administer the fund under section 8A.

industry fund means a fund established under Division 1 of Part 3.

industry levy means a levy imposed under Division 3 of Part 3.

livestock transaction means the purchase or sale of livestock or any product made or derived from livestock.

	<i>non-transaction based contribution</i> means a monetary contribution made (or to be made) to an industry fund otherwise than under a transaction based contribution scheme for the fund.	1 2 3 4
	<i>relevant transaction based scheme</i> , in relation to a transaction based contribution, means the transaction based contribution scheme under which the contribution is collected.	5 6 7 8
	<i>Rural Assistance Authority</i> means the New South Wales Rural Assistance Authority constituted under the <i>Rural Assistance Act 1989</i> .	9 10 11
	<i>transaction based contribution</i> means a monetary contribution made (or to be made) to an industry fund under a transaction based contribution scheme for the fund.	12 13 14
	<i>transaction based contribution scheme</i> means a scheme established under section 12B.	15 16
	<i>transaction based contributor</i> means a designated livestock producer who has made a transaction based contribution to an industry fund.	17 18 19
[2]	Part 2, heading	20
	Omit “services”. Insert “programs”.	21
[3]	Section 5 Nature of disease control program	22
	Omit section 5 (1). Insert instead:	23
	(1) For the purposes of this Act, a <i>disease control program</i> is an agricultural program for livestock producers comprising a service, or series of services, for the control of a particular disease in livestock.	24 25 26 27
[4]	Section 6 Approval of funding under this Act for disease control program	28 29
	Insert after section 6 (2) (a):	30
	(a1) the rationale for the disease control program is soundly based, the objectives of the program are reasonably achievable and the program is financially viable, and	31 32 33

[5] Sections 6 (1), (2) and (4), 7 (3), 8 (1) and (4), 13 (1) and 14 (1)	1
Omit “service” and “services” wherever occurring.	2
Insert instead “program” and “programs” respectively.	3
[6] Section 8 Industry advisory committees	4
Omit “programs” from section 8 (4) (a) (i). Insert instead “services”.	5
[7] Section 8 (4) (a) (iv)	6
Insert after section 8 (4) (a) (iii):	7
(iv) the establishment and operation of any	8
transaction based contribution scheme to fund the	9
designated disease control program,	10
[8] Part 3, heading	11
Omit the heading. Insert instead:	12
Part 3 Industry funding	13
Division 1 Industry funds	14
8A Fund administrators	15
(1) The Minister may, in an order made under section 6 or by	16
subsequent order published in the Gazette, appoint any of the	17
following to be the fund administrator for an industry fund	18
established (or to be established) for a designated disease	19
control program if satisfied that the person or persons is or are	20
qualified to administer the fund:	21
(a) the Director-General,	22
(b) the Rural Assistance Authority,	23
(c) a statutory corporation or any other body corporate,	24
(d) the trustees of a trust (but only if the Minister is	25
satisfied that the trust deed makes appropriate provision	26
for the trustees to administer the fund).	27
(2) For the purposes of this Act, if the fund administrator for an	28
industry fund consists of more than one trustee:	29

(a)	any function conferred or imposed by or under this Act on the fund administrator is taken to be conferred or imposed on each trustee, and	1 2 3
(b)	if a decision is not supported by all the trustees—a decision of the majority of the trustees is taken to be the decision of the fund administrator, and	4 5 6
(c)	any trustee who knowingly authorised or permitted a contravention of a provision of this Act or the regulations by another trustee is also taken to have contravened the provision and is liable on conviction to any penalty specified for a contravention of the provision.	7 8 9 10 11 12
(3)	A fund administrator for an industry fund is subject to the direction and control of the Minister except in relation to any advice or report given to the Director-General or Minister concerning the operation of the fund.	13 14 15 16
(4)	Nothing in subsection (3) authorises the Minister to direct a fund administrator for an industry fund who administers the fund as a trustee to do an act, or omit to do an act, that would constitute a breach of the trust concerned.	17 18 19 20
(5)	If a fund administrator for an industry fund is not the Director-General, it is the duty of the Director-General to keep under review the activities of the administrator and to make regular reports to the Minister on the administration of the fund by the administrator.	21 22 23 24 25
[9]	Section 9 Establishment of industry fund for designated disease control programs	26 27
	Omit section 9 (1). Insert instead:	28
(1)	An industry fund is to be established for each designated disease control program.	29 30
(1A)	The fund administrator for an industry fund is to establish the fund.	31 32
[10]	Section 9 (2) and (3)	33
	Omit “Director-General” and “industry contribution fund” wherever occurring.	34 35
	Insert instead “fund administrator” and “industry fund” respectively.	36

[11] Section 9 (2A)	1
Insert after section 9 (2):	2
(2A) A separate account is to be maintained in an industry fund in relation to each of the following:	3
(a) non-transaction based contributions to the fund,	4
(b) transaction based contributions to the fund,	5
(c) industry levies that are paid into the fund,	6
(d) any other money paid into the fund.	7
[12] Section 10	8
Omit the section. Insert instead:	9
10 Purpose of industry fund	10
The purpose of an industry fund is to provide a means by which contributions and other payments can be made to the fund by relevant designated livestock producers and other persons and bodies to fund the provision of services under a designated disease control program.	11
[13] Section 11	12
Omit the section. Insert instead:	13
11 Payments into industry fund	14
There is payable into an industry fund:	15
(a) money received from non-transaction based contributions to the fund by the relevant designated livestock producers, and	16
(b) money received from non-transaction based contributions to the fund by any other person or body, and	17
(c) money received from transaction based contributions collected under a transaction based contribution scheme established for the fund, and	18
(d) money received from an industry levy under this Part for the designated disease control program concerned, and	19

(e) money advanced (if any) by the Treasurer for the fund, and	1 2
(f) money appropriated (if any) by Parliament for the purposes of the fund, and	3 4
(g) money required by law to be paid to the fund.	5
[14] Section 12	6
Omit the section. Insert instead:	7
12 Payments out of industry fund	8
(1) There is payable from an industry fund:	9
(a) the costs of the relevant designated disease control program paid in accordance with any approved policy and priority guidelines for the fund, and	10 11 12
(b) the costs of administration of the fund including (but not limited to) the following:	13 14
(i) the allowances payable to members of the relevant industry advisory committee and any other expenses of the committee,	15 16 17
(ii) the costs of collection of transaction based contributions and industry levies payable to the fund,	18 19 20
(iii) the payment of fees to collection agents for a transaction based contribution scheme for the fund for the collection of transaction based contributions (but only where such payment is authorised under the scheme), and	21 22 23 24 25
(c) the refund to persons of the whole or part of their transaction based contributions under section 12E that have been paid into the fund, and	26 27 28
(d) money required by law to be paid from the fund.	29
(2) For the purposes of subsection (1) (a), <i>approved policy and priority guidelines</i> for a fund are any guidelines about the policies and priorities for expenditure from the fund that have been approved by the Minister from time to time.	30 31 32 33
(3) Without limiting subsection (2), any approved policy and priority guidelines for a fund may deal with any or all of the following matters:	34 35 36

(a)	the manner in which the service or services that comprise the designated disease control program will be funded,	1 2 3
(b)	the funding priorities of the fund and who should receive funding,	4 5
(c)	the services under the designated disease control program to which transaction based contributors are to be entitled.	6 7 8
(4)	Before approving any policy and priority guidelines for a fund, the Minister is to have regard to any advice of the industry advisory committee for the designated disease control program concerned and the fund administrator about the policies and priorities for expenditure from the fund.	9 10 11 12 13
[15]	Part 3, Division 2	14
	Insert before Part 4:	15
	Division 2 Contribution based funding	16
	Subdivision 1 Non-transaction based contributions	17
12A	Making of non-transaction based contributions	18
(1)	A non-transaction based contribution to an industry fund may be made by any designated livestock producer or other person or body that wishes to do so.	19 20 21
(2)	In particular, rural lands protection boards, local councils and other public or local authorities are authorised by this section to make non-transaction based contributions to an industry fund if they wish to do so.	22 23 24 25
	Subdivision 2 Transaction based contribution schemes	26 27
12B	Establishment of transaction based contribution schemes	28
(1)	The Minister may, by order published in the Gazette, establish a scheme for the collection from designated livestock producers of contributions based on their livestock transactions for payment into the industry fund for the designated disease control program concerned (a <i>transaction based contribution scheme</i>).	29 30 31 32 33 34

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- (2) A transaction based contribution scheme is to make provision for or with respect to the following matters:
- (a) the livestock transactions by reference to which contributions under the scheme are to be collected,
 - (b) the designated livestock producers from whom contributions are to be collected under the scheme,
 - (c) the amount of a contribution (or the manner in which the amount of a contribution is to be calculated) under the scheme,
 - (d) the times and manner in which contributions are to be collected under the scheme and paid into the industry fund for which the scheme is established,
 - (e) the collection agents who are authorised to collect contributions for the scheme.
- (3) A transaction based contribution scheme may also:
- (a) extend the period within which a transaction based contributor may apply for a refund of a transaction based contribution for the purposes of section 12E (1), and
 - (b) authorise the payment of fees to collection agents for the scheme out of the industry fund concerned and specify the fees that are payable.
- (4) The Minister may not establish a transaction based contribution scheme for an industry fund unless:
- (a) the Minister has been advised by the industry advisory committee concerned that the scheme is necessary to provide sufficient funds to provide the designated disease control program concerned, and
 - (b) the Minister is satisfied that the relevant livestock industry has been consulted concerning the establishment of the scheme.
- (5) A statement in an order made under this section that the Minister has complied with the requirements of subsection (4) is conclusive evidence of compliance with those requirements.
- (6) Sections 40 (Notice of statutory rules to be tabled) and 41 (Disallowance of statutory rules) of the *Interpretation*

Act 1987 apply to an order made under this section in the same way as they apply to a statutory rule.

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12C Collection of transaction based contributions

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(1) A collection agent for a transaction based contribution scheme is authorised to collect any contribution payable under the scheme in connection with a livestock transaction from a designated livestock producer to which the scheme applies.

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(2) A collection agent for a transaction based contribution scheme must:

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(a) collect from the proceeds of any livestock transaction of a designated livestock producer to which the scheme applies such contributions as may be provided by the scheme at such times and in such manner as may be provided by the scheme, and

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(b) pay any contribution the agent collects under the scheme to the fund administrator for the industry fund for which the scheme was established at the time and in the manner provided by the scheme, and

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(c) keep such records concerning the collection and payment of such contributions as may be prescribed by the regulations.

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Maximum penalty: 100 penalty units.

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(3) A collection agent for a transaction based contribution scheme who collects a transaction based contribution from a livestock producer must provide the livestock producer from whom the contribution was collected with a written receipt (whether on the document evidencing the livestock transaction concerned or otherwise) immediately after the collection of the contribution that indicates the following:

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(a) the name of the livestock producer,

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(b) the livestock transaction concerned,

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(c) the amount of the contribution concerned and the date on which it was collected,

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(d) the name of the collection agent.

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Maximum penalty: 100 penalty units.

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- (4) A collection agent for a transaction based contribution scheme must produce any records concerning the collection or payment of contributions under the scheme in accordance with any written request of the Director-General or fund administrator for the industry fund for which the scheme was established within the period of 7 days after receiving the request. 1
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- Maximum penalty: 100 penalty units. 8
- 12D Entitlements to services under designated disease control program** 9
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- (1) A transaction based contributor to an industry fund is entitled during any financial year to receive such services under a designated disease control program as may be specified for such a contributor in the approved policy and priority guidelines for the fund if: 11
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- (a) the contributor has paid at least one transaction based contribution under the relevant transaction based contribution scheme during the previous financial year, and 16
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- (b) the contributor has not obtained a refund of any transaction based contribution paid by the contributor under the relevant transaction based contribution scheme during the previous financial year. 20
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- (2) A receipt of the kind referred to in section 12C (3) is evidence that the livestock producer named in the receipt made the transaction based contribution specified in the receipt on the date specified in the receipt. 24
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- (3) Despite subsection (1), a fund administrator for an industry fund for a designated disease control program may refuse to provide a service to a designated livestock producer if the fund administrator is satisfied that the producer negligently or intentionally contributed to the outbreak or the spread of the designated disease for which the service is sought. 28
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- (4) Nothing in this section prevents a person who is not a transaction based contributor to an industry fund or any other person from receiving a service under a designated disease control program if the fund administrator decides to provide the service to that person. 34
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12E Refunds of transaction based contributions	1
(1) A transaction based contributor to an industry fund during a financial year is entitled to a refund of the contribution from the fund administrator if the contributor makes an application to the fund administrator no later than 7 days (or such greater period as may be specified under the relevant transaction based contribution scheme) after the end of the financial year during which the contribution was made.	2 3 4 5 6 7 8
(2) The fund administrator for the industry fund to which the transaction based contribution was made is responsible for making refunds under this section.	9 10 11
(3) Applications for, and payment of, the refund are to be made in accordance with such procedures as the Minister determines from time to time.	12 13 14
[16] Part 3, Division 3, heading	15
Omit the heading to Part 4. Insert instead:	16
Division 3 Industry levy based funding	17
[17] Section 13 Imposition of industry levy	18
Omit section 13 (2). Insert instead:	19
(2) The Minister may give such an authorisation if:	20
(a) the Minister is satisfied, having regard to advice of the industry advisory committee concerned, that the relevant industry fund may not be sufficient to fund the necessary program, and	21 22 23 24
(b) the Minister is satisfied that the relevant livestock industry has been consulted concerning the imposition of the levy.	25 26 27
[18] Section 14 Liability to pay industry levy	28
Omit section 14 (2) and (3).	29
[19] Section 15 Levy period	30
Omit “commencing 1 July” from section 15 (1).	31

[20] Section 16 Amount of industry levy	1
Insert after section 16 (1):	2
(1A) The Minister may make a subsequent order fixing a rate under subsection (1) if:	3
(a) the Minister is satisfied, having regard to advice of the industry advisory committee concerned, that the amount of the levy to be fixed is appropriate, and	4
(b) the Minister is satisfied that the relevant livestock industry has been consulted concerning the amount of the levy.	5
(1B) A statement in an order giving any such authorisation that the Minister has complied with the requirements of subsection (1A) is conclusive evidence of compliance with those requirements.	6
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[21] Sections 17–20	15
Omit the sections.	16
[22] Section 21 Application	17
Omit “Part 4”. Insert instead “Division 3 of Part 3”.	18
[23] Part 5A, heading	19
Insert before section 25:	20
Part 5A Review of funding decisions by Administrative Decisions Tribunal	21
	22
[24] Section 25 Review of industry levy based funding decisions	23
Omit section 25 (1) (c).	24
[25] Section 25A	25
Insert after section 25:	26
25A Review of transaction based contribution funding decisions	27
(1) A person from whom a transaction based contribution to an industry fund has been or may be collected under this Act may apply to the Administrative Decisions Tribunal for a review	28
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of any of the following decisions of the Director-General or the fund administrator for the fund with respect to the contribution:	1
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(a) a decision that the contribution is to be collected from the person,	4
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(b) a decision as to the amount of the contribution that is to be collected from the person,	6
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(c) a decision not to make a refund to the person under section 12E,	8
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(d) a decision that the person is not entitled to receive a service under the designated disease control program.	10
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(2) If a collection agent for the relevant transaction based contribution scheme makes a decision of the kind referred to in subsection (1) (a) or (b), the Director-General is taken to have made that decision for the purposes of an application under subsection (1).	12
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(3) If a fund administrator for an industry fund has not determined an application for a refund of a transaction based contribution to the fund within 28 days after the application is made, the fund administrator is taken to have refused to make the refund for the purposes of an application to the Tribunal under subsection (1).	17
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[26] Section 26 Investment of money in industry funds	23
Omit “The Minister is to invest money in an industry fund” and “power on the Minister” from section 26 (1).	24
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Insert instead “The fund administrator for an industry fund is (subject to any directions of the Minister) to invest money in the fund” and “power on the fund administrator” respectively.	26
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[27] Section 26A	29
Insert after section 26:	30
26A Deficits in industry funds	31
A fund administrator for an industry fund must not make payments out of the fund if the fund is in deficit, or would be in deficit if the payments were made, unless the fund	32
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	administrator has first obtained the written approval of the Minister.	1 2
	Maximum penalty: 100 penalty units.	3
[28]	Section 27 Internal loans between industry funds	4
	Omit section 27 (2).	5
[29]	Section 28 Appointment of agents to administer expenditure from industry funds	6 7
	Insert “for which the Director-General is fund administrator” after “fund”.	8
[30]	Section 28A	9
	Insert after section 28:	10
28A	Fund administrator to provide report to Director-General for operations for each financial year	11 12
	If the fund administrator for an industry fund is not the Director-General, the fund administrator must prepare and forward to the Director-General a report on the operation of the fund during a financial year no later than 1 August immediately following the end of that financial year.	13 14 15 16 17
[31]	Section 30A	18
	Insert after section 30:	19
30A	Winding up of industry funds	20
(1)	The Minister may, by order in writing, direct the fund administrator for an industry fund to wind up the affairs of the fund if the Minister is satisfied that it is in the best interests of the livestock industry for which the fund is established for it to be wound up.	21 22 23 24 25
(2)	The Minister may give a direction under subsection (1) if:	26
(a)	the Minister is satisfied, having regard to advice of the industry advisory committee concerned, that the relevant industry fund is not viable or is no longer required, and	27 28 29 30
(b)	the Minister is satisfied that the relevant livestock industry has been consulted concerning the closure of the fund.	31 32 33

<p>(3) A statement in an order under subsection (1) that the Minister has complied with the requirements of subsection (2) is conclusive evidence of compliance with those requirements.</p> <p>(4) The Minister may, by order in writing, direct that any money standing to the credit of any such fund may be applied for the benefit of such persons or bodies representing the livestock industry concerned (including for the purpose of payment into another industry fund established for the industry) as the Minister may direct from time to time.</p> <p>(5) The regulations may make provision for or with respect to the winding up of industry funds.</p> <p>(6) The regulations may declare any matter concerning the winding up of an industry fund under this section to be an excluded matter for the purposes of section 5F of the <i>Corporations Act 2001</i> of the Commonwealth in relation to:</p> <p style="padding-left: 2em;">(a) the whole of the Corporations legislation to which Part 1.1A of the <i>Corporations Act 2001</i> of the Commonwealth applies, or</p> <p style="padding-left: 2em;">(b) a specified provision of that legislation, or</p> <p style="padding-left: 2em;">(c) that legislation other than a specified provision, or</p> <p style="padding-left: 2em;">(d) that legislation otherwise than to a specified extent.</p> <p>Note. Section 5F of the <i>Corporations Act 2001</i> of the Commonwealth provides that if a State law declares a matter to be an excluded matter for the purposes of that section in relation to all or part of the Corporations legislation of the Commonwealth, then the provisions that are the subject of the declaration will not apply in relation to that matter in the State concerned.</p> <p>[32] Section 31 Act to bind the Crown</p> <p>Insert at the end of the section (but before the note):</p> <p style="padding-left: 2em;">(2) However, nothing in this Act renders the Director-General or the Crown liable to prosecution for an offence.</p> <p>[33] Section 31A</p> <p>Insert after section 31:</p> <p>31A Offences by corporations</p> <p style="padding-left: 2em;">(1) If a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p>
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management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.	1 2 3
(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or has been convicted under the provision.	4 5 6 7
(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Act or the regulations.	8 9 10
[34] Section 33 Regulations	11
Insert after section 33 (1):	12
(1A) Without limiting subsection (1), the regulations may make provision for or with respect to the auditing of the accounts and records of collection agents for transaction based contribution schemes in relation to the collection and payment of transaction based contributions.	13 14 15 16 17
[35] Schedule 2 Savings, transitional and other provisions	18
Insert before clause 1:	19
Part 1 General	20
[36] Schedule 2	21
Insert at the end of clause 1 (1):	22
<i>Agricultural Livestock (Disease Control Funding) Amendment Act 2004</i>	23 24

[37] Schedule 2, Part 2	1
Insert after clause 2:	2
Part 2 Provisions consequent on enactment of Agricultural Livestock (Disease Control Funding) Amendment Act 2004	3 4 5
3 Definitions	6
In this Part:	7
<i>amending Act</i> means the <i>Agricultural Livestock (Disease Control Funding) Amendment Act 2004</i> .	8 9
<i>commencement day</i> means the day on which the amending Act commences.	10 11
4 Existing orders	12
(1) Any order in force under section 6 or 13 immediately before the commencement day ceases to have effect on that day.	13 14
(2) Nothing in subclause (1) affects:	15
(a) any liability of any person to pay an industry levy that accrued before the commencement day and that remained unpaid on that day, or	16 17 18
(b) any right of a person to obtain a refund under section 17 as in force immediately before its repeal by the amending Act.	19 20 21
5 Existing industry contribution funds and industry levy funds	22
(1) Any industry contribution fund or industry levy fund in existence immediately before the commencement day is closed on the commencement day.	23 24 25
(2) Any money standing to the credit of any such fund may be applied for such purposes as the Minister may direct from time to time (including for the purpose of payment into an industry fund established on or after the commencement day).	26 27 28 29

6 Existing industry advisory committees	1
(1) Any industry advisory committee for a designated disease control service that is in existence immediately before the commencement day is dissolved on that day.	2 3 4
(2) Any person who, immediately before the commencement day, held office as a member of an industry advisory committee ceases to hold office on that day.	5 6 7
(3) A person to whom subclause (2) applies is not entitled to any remuneration or compensation because of the loss of office but is, if qualified, eligible for appointment to another industry advisory committee established on or after the commencement day.	8 9 10 11 12
7 Appointment of industry advisory committee in respect of Ovine Johne’s Disease	13 14
(1) In this clause:	15
<i>former committee</i> means any industry advisory committee established for a designated disease control service for Ovine Johne’s Disease that was in existence immediately before the commencement day.	16 17 18 19
<i>former member</i> of a former committee means any person who was a member of the committee immediately before the commencement day.	20 21 22
<i>6-month transitional period</i> means the period commencing on the commencement day and ending on expiry of the period of 6 months after that day.	23 24 25
(2) In establishing an industry advisory committee during the 6-month transitional period for a designated disease control program for Ovine Johne’s Disease, the Minister is taken to have made an appointment of a member to the committee in compliance with section 8 (3) (b), (c) or (d) if:	26 27 28 29 30
(a) the Minister appoints a former member of a former committee who had been appointed to the former committee under paragraph (b), (c) or (d) (as the case may be), or	31 32 33 34

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- (b) if any such former member declines appointment or is otherwise unavailable for appointment, the Minister appoints another person who the Minister considers would represent:
 - (i) in the case of an appointment under paragraph (b) or (d)—designated livestock producers, or
 - (ii) in the case of an appointment under paragraph (c)—the Rural Lands Protection Board Association.

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8 Consultation on transaction based contribution schemes

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Any consultation undertaken by the Minister, the Director-General or an industry advisory committee before the commencement day in respect of the establishment of a scheme for the collection of transaction based contributions to fund the provision of a disease control program for a particular disease is taken to constitute consultation for the purposes of section 12B (4) (b) (as inserted by the amending Act) in respect of a scheme established on or after that day for that disease.

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