



New South Wales

# Agricultural Livestock (Disease Control Funding) Regulation 2011

under the

Agricultural Livestock (Disease Control Funding) Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Agricultural Livestock (Disease Control Funding) Act 1998*.

KATRINA HODGKINSON, MP  
Minister for Primary Industries

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Agricultural Livestock (Disease Control Funding) Regulation 2006*, which is repealed on 1 September 2011 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the records to be kept in relation to transaction based contributions,
- (b) the powers of the Director-General of the Department of Primary Industries with respect to the collection and recovery of industry levies,
- (c) the records to be kept by the Director-General in relation to industry levies,
- (d) the power of the Director-General to waive, refund or write off industry levies,
- (e) savings and formal matters.

This Regulation is made under the *Agricultural Livestock (Disease Control Funding) Act 1998*, including sections 12C (2) (c), 24 (2) and (3) and 33 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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## Agricultural Livestock (Disease Control Funding) Regulation 2011

under the

Agricultural Livestock (Disease Control Funding) Act 1998

### 1 Name of Regulation

This Regulation is the *Agricultural Livestock (Disease Control Funding) Regulation 2011*.

### 2 Commencement

This Regulation commences on 1 September 2011 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *Agricultural Livestock (Disease Control Funding) Regulation 2006* which is repealed on 1 September 2011 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

(1) In this Regulation:

*the Act* means the *Agricultural Livestock (Disease Control Funding) Act 1998*.

(2) Notes included in this Regulation do not form part of this Regulation.

### 4 Record of collection of transaction based contributions

(1) For the purposes of section 12C (2) (c) of the Act, a collection agent for a transaction based contribution scheme must keep records of the following in relation to a transaction based contribution from a livestock producer:

- (a) the name of the livestock producer,
- (b) the livestock transaction concerned,
- (c) the amount of the contribution concerned and the date on which it was collected.

(2) A copy of the receipt issued to the livestock producer under section 12C (3) of the Act in respect of the livestock transaction concerned is a sufficient record for the purposes of this clause.

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### 5 Exercise of certain functions by Director-General

- (1) The Director-General may, for the purpose of the collection of industry levies under Part 5 of the Act, exercise the functions of a livestock health and pest authority under Divisions 2, 3, 6 and 8 (other than section 80 (1) (a)) of Part 7 and Divisions 1 and 3 of Part 13 of the *Rural Lands Protection Act 1998* and Schedule 5 to that Act.
- (2) For that purpose:
  - (a) a reference in those provisions to a livestock health and pest authority is to be read as a reference to the Director-General, and
  - (b) a reference in Part 7 to an occupier is taken to be a reference to an occupier as defined in section 58 of the *Rural Lands Protection Act 1998*.
- (3) Section 63 (3) of the *Rural Lands Protection Act 1998* does not apply to or in respect of any function exercised by the Director-General under this clause, and the following provisions apply instead:
  - (a) the Director-General is to serve a notice (***an industry levy notice***) on the occupier of ratable land who is liable to pay an industry levy,
  - (b) the industry levy is due and payable to, and recoverable by, the Director-General on the date that is 30 days after the date of service of the industry levy notice, or on such later date as may be specified in the industry levy notice,
  - (c) if there is more than one occupier of ratable land, service of the industry levy notice on at least one of the occupiers is taken to be service on all the occupiers of the land.
- (4) Section 79 (1) of the *Rural Lands Protection Act 1998* does not apply to or in respect of any function exercised by the Director-General under this clause.
- (5) This clause:
  - (a) does not apply in respect of an industry levy that a livestock health and pest authority is directed to collect under section 23 of the *Agricultural Livestock (Disease Control Funding) Act 1998*, and
  - (b) does not affect the functions of a livestock health and pest authority under section 22 of the *Agricultural Livestock (Disease Control Funding) Act 1998*.

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**6 Industry levy records**

- (1) The Director-General must keep a record (an *industry levy record*) of every industry levy that is recoverable by the Director-General under clause 5.
- (2) An industry levy record may be kept in a written or electronic form and is to include the following:
  - (a) particulars of each parcel of ratable land on which the industry levy is imposed and of the occupier or owner of the land,
  - (b) particulars of the amounts of industry levies imposed in respect of the parcel and of the dates on which the notices demanding payment of the industry levies were served,
  - (c) particulars of amounts of industry levies paid (including dates of payment), and of amounts of industry levies outstanding, in respect of the parcel.
- (3) The Director-General may make such amendments to an industry levy record as may be appropriate (including rectifying any omissions).
- (4) An amendment of an industry levy record made in respect of the occupier of ratable land is taken to be a determination by the Director-General of the amount levied on and payable by that occupier in respect of the ratable land.
- (5) Subclause (4) does not apply to an amendment made necessary as a result of a review by the Administrative Decisions Tribunal.
- (6) In any legal proceedings for the recovery of an industry levy:
  - (a) an entry in the industry levy record is evidence of the matters contained in the record, and
  - (b) a copy of an entry in the industry levy record is evidence of the entry and of the matters contained in the record.

**7 Modification of Rural Lands Protection Act 1998**

Section 80 (1) (b)–(d) of the *Rural Lands Protection Act 1998* does not apply for the purposes of the collection of an industry levy, and the following provisions apply instead:

- (a) only the Director-General may waive payment of, or refund, an industry levy or part of an industry levy,
- (b) an amount of any industry levy so waived or refunded is taken to be written off,

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- (c) the Director-General may also write off an amount owing for an overdue industry levy if:
  - (i) the whole of the amount owing does not exceed \$10, or
  - (ii) the Director-General is satisfied that the amount is not recoverable.

### 8 Saving

Any act, matter or thing that, immediately before the repeal of the *Agricultural Livestock (Disease Control Funding) Regulation 2006*, had effect under that Regulation continues to have effect under this Regulation.