

1995

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

DAIRY PRODUCE LEVY (No. 1) AMENDMENT BILL 1995

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Primary Industries and Energy, Senator  
the Hon Bob Collins)





## DAIRY PRODUCE LEVY (No. 1) AMENDMENT BILL 1995

### GENERAL OUTLINE

1. The purpose of this Act is to impose levies on market milk and manufacturing milk produced in Australia. The levy will be paid by the producer, in the case of the market milk levy, and by the manufacturer in the case of the manufacturing milk levy. The appropriate amount of the levy will be determined by rate based on milk fat and protein content.
2. This Act works in conjunction with the *Dairy Produce Act (1986)*, the *Dairy Produce Levy (No. 2) Act 1986* and the *Primary Industries Levies and Charges Collection Act (1991)*.
3. The *Dairy Produce Levy (No 1) Amendment Act 1995* changes the nature of the market support levy from one based on milk fat content to one based on the milk fat and protein components of dairy produce. This reflects a change from the previous legislation, brought about because milk companies now pay milk producers on this basis.
4. The new domestic market support mechanism requires that the current all milk levy be replaced by two separate levies. The first of these levies provides for the imposition of a market milk levy on the producer of market milk to be collected by milk manufacturers. The second levy is a manufacturing milk levy on all milk used in the manufacture of milk products, other than market milk, and is imposed on manufacturers. The manufacturing levy is therefore an input levy rather than a product levy. The amount of both levies will be determined by rate based on the milk fat and protein content of the relevant produce. Levy paid on milk used in manufacture which is subsequently exported will be rebated upon proof of export or alternatively used to reduce the manufacturer's gross levy liability for the month of export.
5. An acquisition offset levy (ie a duty of excise) is imposed on imported dairy product which is acquired by prescribed exporters (or related companies) after import up to the level of the levy payer's export credit, net of any import offset levy already paid. This levy and the import offset levy imposed under the *Dairy Produce Levy (No 2) Amendment Act 1995* are designed to prevent exporters manipulating the market support arrangements for financial gain. They are offsets against export credits or export rebates rather than general import duties and will not affect normal trade.
6. The other existing milk levies, Corporation, promotion and research and development, will continue however the amount of levy payable will be determined on the two component basis of milk fat and protein after 30 June 1995. The EXANDIS (Exotic Animal Disease Preparedness Consultative Council) levy expires on 30th June 1995 but action will continue beyond that date to collect outstanding levy. The market milk and manufacturing milk levies only will terminate on 30 June 2000, although levies incurred prior to that date will continue to be collected beyond 30 June 2000.

## FINANCIAL IMPACT STATEMENT

7. There are no direct financial implications of this Act for the Commonwealth as the domestic market support scheme is funded by industry to extract a consumer transfer from the domestic market. The annual amount of revenue and outlays under the new scheme will be approximately equal, being similar to those existing under the current market support scheme.
  
8. The amounts raised by the offset levies will not increase the level of support to the industry. As the import offset and acquisition offset levies will offset rebates of manufacturing milk levy (which generates the consumer transfer from domestic consumers to manufacturing milk producers) due to exports generated directly or indirectly by imports of dairy products, they will act to preserve that support.

## NOTES ON INDIVIDUAL CLAUSES

### **Clause 1 - Short title**

9. This Act will be called the *Dairy Produce Levy (No. 1) Amendment Act 1995*.

### **Clause 2 - Commencement**

10. The *Dairy Produce Levy (No. 1) Amendment Act 1995* will commence on 1 July 1995.

### **Clause 3 - Amendments**

11. The *Dairy Produce Levy (No. 1) Act 1986* is subsequently amended as set out in the Schedule.

## **SCHEDULE**

### **1. Subsection 4(1) (definitions of "authorised person", "butter", "butteroil", "cheese", "cream", "dairy product", "milk fat levy", "relevant owner"):**

12. The above mentioned definitions are omitted.

### **2. Subsection 4(1):**

13. Subsection 4(1) of the *Dairy Produce Levy (No. 1) Act 1986* is amended, as set out in the schedule, to provide definition of four terms (Australian Bureau of Agricultural and Resource Economics, Council, manufacturer and month) which are fundamental to the interpretation of this Act.

### **3. Subsection 4(2) to (7):**

14. Subsections 4(2) to 4(7) of the *Dairy Produce Levy (No. 1) Act 1986* are omitted and substituted with the new subsections 4(2) to 4(5). The new subsection 4(2) defines the use of relevant dairy produce in the manufacture of dairy produce. Subsection 4(3) is inserted, defining a prescribed exporter for the purpose of imposition of acquisition offset levy in relation to a particular financial year as a company which has benefited from a reduction of manufacturing milk levy liability or a rebate of manufacturing milk levy as a result of the export of dairy produce during that financial year. Subsection 4(4) is inserted, defining relevant exports to be any exports of dairy produce for which a reduction could be made in a manufacturing levy liability imposed by the *Dairy Produce Levy (No. 1) Act 1986*, or for which a person could claim a rebate of manufacturing milk levy under section 108E of the *Dairy Produce Act 1986*. Subsection 4(5) defines related companies for the purposes of the *Dairy Produce Levy (No. 1) Act 1986*.

### **4. Part II:**

15. Part II of the *Dairy Produce Levy (No. 1) Act 1986* is repealed, to provide for a new mechanism of levy imposition, and replaced by the following:

## PART II - LEVIES ON DAIRY PRODUCE

### Imposition of levies

16. Section 5 states that the market milk, manufacturing milk, Corporation, promotion and research and development levies will be imposed on relevant dairy produce. The market milk and manufacturing milk levies will cease to be imposed on 30 June 2000. Paragraph 5(1)(c) provides for an acquisition offset levy to be imposed on the total quantity of imported dairy produce acquired by a prescribed exporter or a related company (which is not a prescribed exporter) during a particular financial year, providing levy has not been imposed by section 8 or section 9 of the *Dairy Produce Levy (No. 2) Act 1986* on that dairy produce. Subsection 5(2) limits the levies applicable under this Act to those mentioned under subsection 5(1). Each of these levies can only be applied once for any quantity of produce, even after further modification or transformation in the manufacturing process. The market milk levy, the manufacturing milk levy and the acquisition offset levy are mutually exclusive, whereas the Corporation, promotion and research and development levies apply to all milk produced in Australia.

### Amount of market milk levy

17. Section 6 provides for the market milk levy to be levied on the relevant milk fat and protein content of market milk, at the prescribed rates applying at the time, for these components of market milk.

### Amount of manufacturing milk levy

18. Subsection 7(1) provides for the manufacturing milk levy to be levied on the relevant milk fat and protein content of dairy produce used by a manufacturer at the prescribed rates applying at the time for those components of manufacturing milk. In the case of imported produce, the amount of levy offset against the export rebate is calculated in the same manner.
19. Subsection 7(2) allows for manufacturers to pay a monthly gross levy which is defined as the amount of manufacturing levy payable on the milk fat and protein content of product for a particular month less any rebates owed on product that has been exported in that month. The export rebate owed to a manufacturer for a particular month is detailed in subsections 7(3) and 7(4) as the volumetric totals of the milk fat and protein of exported produce for that month multiplied by the relevant prescribed rates applying at the time. The manufacturer need not also be the exporter of that dairy produce in order to claim a rebate on the exported milk fat and protein content of that produce.
20. If the export milk fat and protein components of a manufacturer's exported dairy produce exceed the amount of manufacturing milk levy payable for any particular month, subsection 7(5) states that no manufacturing milk levy is payable in that month.

#### Amount of acquisition offset levy

21. Subsection 8(1) provides for the acquisition offset levy to be levied, at the rates prescribed for manufacturing milk levy applying at the time of acquisition, on the milk fat and protein content of the imported dairy produce.
22. Subsections 8(2), (3), (4) and (5) provide that the maximum amount of acquisition offset levy which a prescribed exporter is required to pay (in relation to a particular financial year) is that amount which does not exceed the total amount of benefit (reduction of manufacturing milk levy liability, or rebate of manufacturing milk levy) to which that prescribed exporter is entitled (in relation to the same financial year), net of any amount of levy imposed (in relation to the same financial year) on that prescribed exporter by section 8 of the *Dairy Produce Levy (No. 2) Act 1986*.

#### Amounts of other levies on relevant dairy produce

23. Section 9 states that the amount of levy payable for each of the Corporation, promotion and research and development levies for a particular quantity of dairy produce is calculated by using the prescribed rates for milk fat and protein at that time in cents per kilogram and multiplying each by the relevant milk fat or protein content of that quantity of dairy produce. The amount of levy payable is thus the sum of the levy payable on the milk fat component and the levy payable on protein component of any particular quantity of dairy produce.

#### Milk fat rate

24. Section 10 specifies the maximum milk fat rate for each of the dairy levies in cents per kilogram of milk fat.

#### Protein rate

25. Section 11 specifies the maximum protein rate for each of the dairy levies in cents per kilogram of protein.

#### By whom levies payable

26. The market milk, Corporation, promotion and research and development levies are payable by the producer of the relevant dairy produce (subsections 12(1) and 12(4)), while the manufacturing milk levy is imposed directly on the manufacturer as defined (subsection 12(2)). Subsection 12(3) provides that the acquisition offset levy is payable by the prescribed exporter who has benefited from a reduction of manufacturing milk levy liability or from a rebate of manufacturing milk levy as a result of the export of dairy produce.

#### **5. Part III:**

27. Part III is repealed as it relates to the Supplementary Market Support Payment Scheme which has been terminated and wound-up.

**6. Section 12:**

28. Section 12 is repealed as the appointment of authorised persons is no longer necessary.

**7. Section 14:**

29. Section 14 provides for regulations to be made setting the operational rates for each levy.
30. Subsections 14 (2), 14(3) and 14(4) are omitted and substituted by the following:
31. Before making regulations prescribing the appropriate levy rates, the Governor-General must consider any recommendation on the setting of levy rates for the market milk, Corporation, promotion and research and development levies made to the Minister by the executive of the Australian Dairy Industry Council (Subsection 14(2)).
32. The rate of levy on manufacturing milk required to deliver the level of support which would have been provided had the current market support arrangements continued to 30 June 2000 will be calculated annually by the Australian Bureau of Agricultural and Resource Economics (ABARE) and taken into consideration in the recommendation by the Minister for Primary Industries and Energy to the Governor-General (Subsection 14(3)).