

1986

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

GRAPE RESEARCH LEVY BILL 1986
GRAPE RESEARCH LEVY COLLECTION BILL 1986

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Minister for Primary Industry
the Hon John Kerin, MP)

GRAPE RESEARCH LEVY BILL 1986

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OUTLINE

The purpose of the Grape Research Levy Bill 1986 and the Grape Research Levy Collection Bill 1986 is to provide a statutory basis for contributions by grape growers to grape research through a levy on grapes and grape juice delivered to a processing establishment.

The Grape Research Levy Bill and the Grape Research Levy Collection Bill are similar in content to research levy Acts already in operation for a number of other rural industries.

The industry funds raised are to be paid into a Research Fund to be administered by a Research Council each of which is to be established under the Rural Industries Research Act 1985. These funds will attract matching Commonwealth contributions up to a limit of 0.5% of the average annual gross value of production of leviable grapes as provided in that Act.

GRAPE RESEARCH LEVY BILL 1986

This Bill provides for the imposition of a levy on prescribed goods (fresh and dried grapes and grape juice produced in Australia) which are delivered to a processing establishment. The grower of the prescribed goods will be liable for the levy.

The maximum rate of levy is specified at \$0.50 per tonne for fresh grapes or an equivalent amount in the case of dried grapes and grape juice calculated in accordance with conversion factors specified in the Collection Bill. The operative rate of levy will be set by Regulations taking into account the views of relevant industry organisations.

The Bill provides for exemptions from the levy to ensure that the number of collection points is such that the collection of levy is cost effective; that dried grapes on which levy is payable under the Dried Fruits Levy Act 1971 are not subject to this levy; and that grape juice is not levied twice.

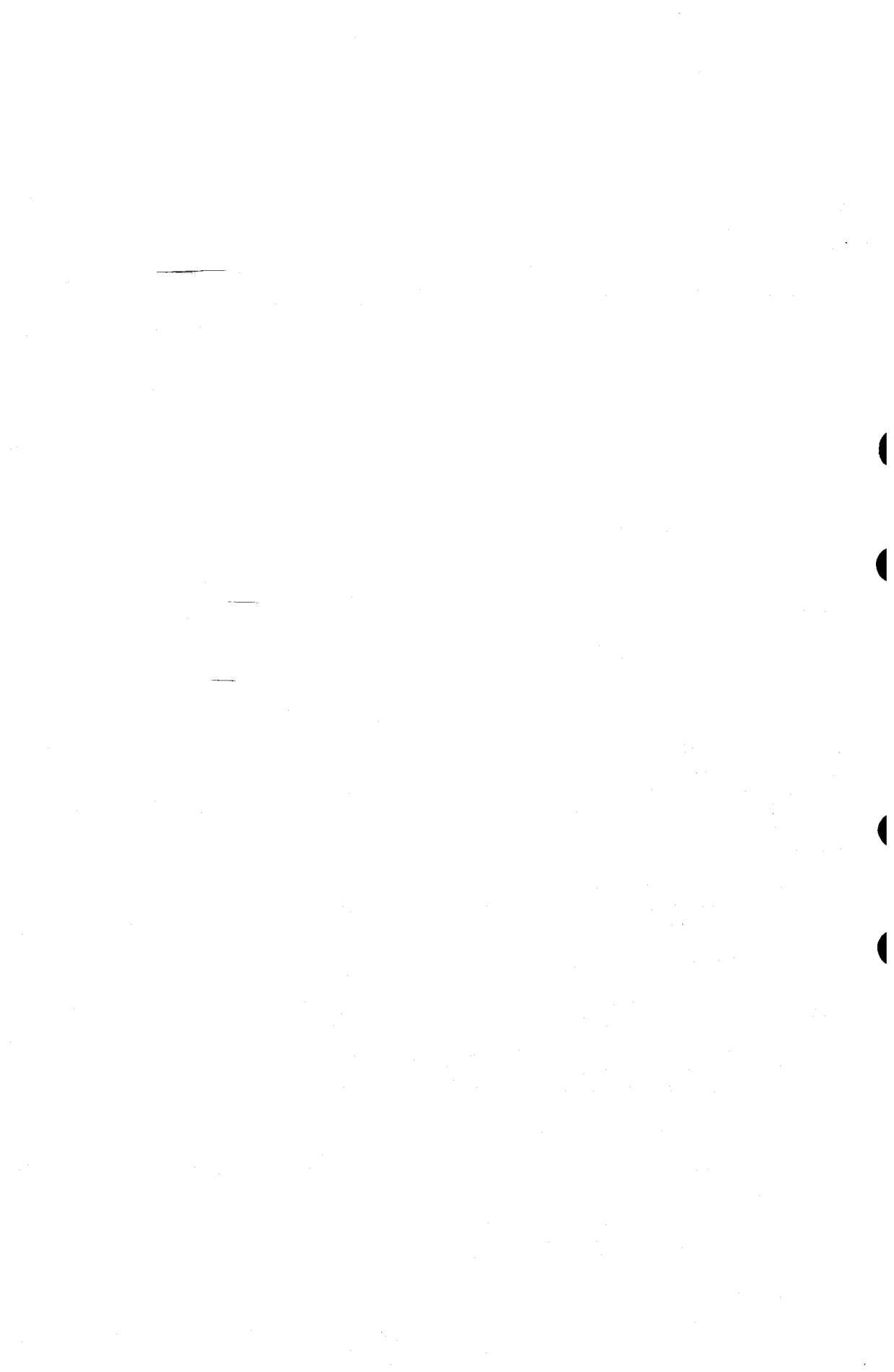
GRAPE RESEARCH LEVY COLLECTION BILL 1986

This Bill establishes arrangements for collection of the research levy imposed under the Grape Research Levy Bill 1986.

To facilitate its collection the levy will be payable annually by the processors to whom the prescribed goods are delivered. These processors may recover the levy from the grower by set-off or otherwise.

FINANCIAL STATEMENT

The levy is to commence on 1 July 1986 and based on a proposed initial operative rate of \$0.30 per tonne, the levy will raise around \$150,000 annually on a normal vintage. In 1987-88, the first year in which levy proceeds will be collected, expenditure from the Fund and matching contribution from the Commonwealth is likely to be of the order of \$100,000 only.



GRAPE RESEARCH LEVY BILL 1986

NOTES ON CLAUSES

Clause 1: Short title

1. Provides for the title of the Act to be the Grape Research Levy Act 1986.

Clause 2: Commencement

2. Provides for the Act to come into operation on 1 July 1986.

Clause 3: Collection Act

3. Establishes that the Grape Research Levy Collection Act 1986 is to be read in conjunction with this Act.

Clause 4: Interpretation

4. For the purpose of the Act defines the meaning of "levy" as "levy imposed by this Act".

Clause 5: Act to bind Crown

5. This ensures that instrumentalities of the States, the Northern Territory and Norfolk Island are subject to the requirements of the Act.

Clause 6: Imposition of levy

6. This provides for the imposition of levy on prescribed goods (fresh and dried grapes and grape juice) delivered to a processing establishment in Australia on or after 1 July 1986.

Clause 7: Rate of levy

7. Provides for an operative rate of levy to be prescribed up to a maximum of \$0.50 per tonne of fresh grapes or fresh grape equivalent. The factors for converting dried grapes and grape juice to a fresh grape equivalent are specified in sub-clause 3(3) of the related Grape Research Levy Collection Bill.

Clause 8: By whom levy payable

8. Levy is to be payable by the grower. Clause 6 of the Grape Research Levy Collection Bill provides that the levy will be collected from processing establishments on the growers behalf.

Clause 9: Exemptions from levy

Sub-clauses 9(1) and 9(2)

9. The levy is not payable in respect of prescribed goods delivered to a processing establishment which uses less than 20 tonnes in the year in question. (defined by Sub-clause 9(2) as an exempt processing establishment). This reduces levy collection to those points that are cost-effective. It does not necessarily exempt growers of less than 20 tonnes of grapes from liability to pay levy.
10. Provides that dried grapes will not be subject to this levy if levy is payable under the Dried Fruits Levy Act 1971.
11. Provides for the exemption of grape juice from levy if grapes from which the juice was derived had been previously levied, or had at the initial delivery point been exempt from levy.

Sub-clause 9(3)

12. Enables further exemptions of other prescribed goods to be specified by regulation.

Clause 10: Regulations

Sub-clause 10(1)

13. Provides that the Governor-General may make regulations under the Act.

Sub-clause 10(2)

14. Ensures that the views of the relevant industry organisation (or organisations) will be taken into consideration when operative rates of levy are being determined.

GRAPE RESEARCH LEVY COLLECTION BILL 1986

NOTES ON CLAUSES

Clause 1: Short title

1. Provides for the title of the Act to be the Grape Research Levy Collection Act 1986.

Clause 2: Commencement

2. The Act comes into operation on 1 July 1986 concurrently with the related Grape Research Levy Act 1986.

Clause 3: Interpretation

3. This clause defines a number of terms used in the Bill, including the following:

Sub-clause 3(1)

4. "fresh grape equivalent" of dried grapes and grape juice means the equivalent amount of fresh grapes calculated according to the conversion factors specified in sub-clause 3(5).
5. "grower" means owner of prescribed goods immediately prior to delivery to the processing establishment, except if the producer of the goods is also the processor in which case the latter is deemed to be the "grower". This definition ensures that grapes grown by processors are also subject to the levy.
6. "leviable goods" means fresh grapes, dried grapes and grape juice subject to levy.
7. "prescribed goods" means fresh and dried grapes and grape juice produced in Australia.
8. "processing" is defined to give meaning to the term "processing establishment".
9. "processor" is defined to identify the proprietor of the processing establishment as the person by whom levy is payable on the grower's behalf.
10. "proprietor" means the person who carries on the processing of prescribed goods at that processing establishment and includes the personal representative of a deceased proprietor.
11. "year" means the year commencing on 1 July 1986 and each succeeding year.

Sub-clause 3(2)

12. This establishes where fresh grapes are purchased under an agreement by one processing establishment but delivered to another the levy will be payable by the proprietor of the first processing establishment. This clarifies the obligations of parties involved in agreements where grapes are processed on a fee for service basis by one processing establishment for another.

Sub-clause 3(3)

13. Provides the mechanism to convert dried grapes and grape juice to a fresh grape equivalent.

Sub-clause 3(4)

14. Deems premises, which use not less than 5 tonnes of prescribed goods (expressed in fresh grape equivalent) in the processing of prescribed goods in a year or either of the immediately preceding two years, to be a "processing establishment" in that year. This identifies those premises from which returns may be required for the purpose of establishing whether prescribed goods delivered to those premises are leviable.

Clause 4: Act to bind Crown

15. This is an identical provision to that contained in the Grape Research Levy Bill. It ensures that instrumentalities of the States, the Northern Territory and Norfolk Island are subject to the requirements of the Act.

Clause 5: Time for payment of levy

16. Provides for the payment of levy on the 30 September which follows the July/June year during which liability for levy is incurred.

Clause 6: Liability of processor

Sub-clauses 6(1), 6(2), 6(3) and 6(4)

17. For administrative convenience the processor of leviable goods is to be liable for payment of levy to the Commonwealth of an amount equal to the levy and authorises the processor to deduct an equivalent amount from payments to growers. Where a processor deducts such an amount, the grower is discharged for liability to pay the levy. Liability remains with the processor.

Clause 7: Penalty for non-payment

Sub-clause 7(1)

18. Provides that where the liability of the grower to pay levy has not been discharged by the due date, the grower is liable to a penalty of 20% per annum in addition to the levy.

Sub-clause 7(2)

19. Provides that the processor is liable to the penalty for non-payment if the processor has deducted the levy from the payment to the grower and has not paid the levy to the Commonwealth by the due date.

Sub-clauses 7(3) and 7(4)

20. Provides that penalty may be remitted by the Minister, or if it does not exceed \$500, by a person authorised by the Minister.

Clause 8: Recovery of levy and other amounts

21. Facilitates legal action to recover amounts owing to the Commonwealth by defining the amounts which may be recovered by the Commonwealth as debts due to the Commonwealth.

Clause 9: Refund of Levy

22. Requires the Commonwealth to refund amounts which have been overpaid and that such refunds be paid out of the Research Fund.

Clause 10: Power to call for returns

23. Empowers an authorised person to call for returns or information relevant to the operation of the Act. Such returns or information may require verification by statutory declaration.

Clause 11: Access to premises

Sub-clause 11(1)

24. Enables an authorised person to enter premises with the consent of the occupier for the purpose of exercising his/her powers under the Act.

Sub-clause 11(2)

25. Enables an authorised person to seek a warrant from a Justice of the Peace authorising entry to premises if the authorised person believes that prescribed goods are produced, stored or processed on the premises or that there are examinable documents on the premises.

Sub-clause 11(3)

26. Specifies the circumstances in which a Justice of the Peace may grant a warrant enabling an authorised person to enter premises for the purpose of exercising his/her powers in the circumstances described in sub-clause 11(2) without the consent of the occupier (see Item 25).

Sub-clause 11(4)

27. Makes it compulsory for the warrant to specify a date after which it ceases to have effect.

Sub-clause 11(5)

28. Provides that where an authorised person has entered premises, he/she may search for and take stock of any prescribed goods and examine, take extracts from and copy any examinable documents.

Sub-clause 11(6)

29. Provides for a penalty of \$1000 or imprisonment for six months, or both, for obstruction of an authorized person in the exercise of powers relating to the Act (see Items 24, 25, 26, 28).

Sub-clause 11(7)

30. Defines examinable documents.

Clause 12: Offences in relation to returns, etc

Sub-clause 12(1)

31. Provides that it is an offence without reasonable excuse to fail to furnish a return or provide information required under the Act.

Sub-clause 12(2)

32. Provides that a person is not excused from submitting a return or providing information if by doing so the person might tend to be incriminated. Any return or information submitted cannot be used as evidence in proceedings for recovery of a penalty under Clause 7 (see Items 18 to 20) or in criminal proceedings against the person except in relation to an offence against sub-clauses 12(1) or 12(3) (see Items 31 and 33).

Sub-clause 12(3)

33. Provides for penalties in relation to false or misleading statements or documents.

Clause 13: Appointment of authorised persons

34. Provides that the Minister may appoint in writing a person to be an authorised person for a specified provision of this Act.

Clause 14: Review of decisions

35. Provides for the review by the Administrative Appeals Tribunal of a decision made under sub-section 7(3) in relation to the remission of penalties for the late payment of levy (see Item 20).

Clause 15: Regulations

36. Provides for the making of regulations by the Governor-General to prescribe matters necessary to give effect to the Act. In particular, providing for the manner of payment of levy and other money and the keeping of records, the furnishing of returns, and the prescribing of penalties for offences against the regulations.

