

1993-94-95

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 *Dairy Produce Levy (No. 1) Act 1986***

The Parliament of Australia enacts:

#### **Short title**

1. This Act may be cited as the *Dairy Produce Levy (No. 1) Amendment Act 1995*.

#### **5 Commencement**

2. This Act commences on 1 July 1995.

**Amendments**

**3.** The *Dairy Produce Levy (No. 1) Act 1986* is amended as indicated in the Schedule.

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SCHEDULE

Section 3

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

Omit the definitions.

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

Insert the following definitions:

“ ‘**Australian Bureau of Agricultural and Resource Economics**’ means the organisation established within the Department under that name;

‘**Council**’ means the association by the name of the Australian Dairy Industry Council Inc. that is incorporated under the *Associations Incorporation Act 1981* of the State of Victoria;

‘**manufacturer**’ means a person who carries on a business that consists of, or includes, the manufacture of dairy produce;

‘**month**’ means any of the 12 months of the calendar year;”.

**3. Subsections 4(2) to (7):**

Omit the subsections, substitute:

“(2) For the purposes of this Act, the application of any process (including a process that consists only of chilling) to relevant dairy produce by a person other than the producer constitutes the use by that person of that relevant dairy produce in the manufacture of dairy produce.”.

**4. Part II:**

Repeal the Part, substitute:

**“PART II—LEVIES ON RELEVANT DAIRY PRODUCE**

**Imposition of levies**

“5.(1) Levies are imposed as follows:

(a) a levy to be known as the market milk levy is imposed on relevant dairy produce processed, during a month ending before 1 July 2000, as liquid milk for human consumption and sold or distributed in Australia as liquid milk for human consumption;

(b) a levy to be known as the manufacturing milk levy is imposed on relevant dairy produce:

(i) delivered to a manufacturer by the producer during a month ending before 1 July 2000; or

(ii) produced by a manufacturer and used by the manufacturer, during a month ending before 1 July 2000, in the manufacture of dairy produce;

**SCHEDULE—continued**

other than dairy produce referred to in paragraph (a);

- (c) a levy to be known as the Corporation levy is imposed on relevant dairy produce produced on or after 1 July 1995;
- (d) a levy to be known as the promotion levy is imposed on relevant dairy produce produced on or after 1 July 1995;
- (e) a levy to be known as the research levy is imposed on relevant dairy produce produced on or after 1 July 1995.

“(2) If a levy is imposed by a paragraph of subsection (1) on particular relevant dairy produce, the paragraph does not have the effect of imposing any further levy on:

- (a) that relevant dairy produce; or
- (b) relevant dairy produce produced by modifying, or extracting material from, the first-mentioned relevant dairy produce.

**Amount of market milk levy**

“6. The amount of the market milk levy imposed by section 5 on relevant dairy produce processed during a month is the total of:

- (a) an amount calculated at the milk fat rate prescribed in relation to that levy for that month on the milk fat content of the relevant dairy produce; and
- (b) an amount calculated at the protein rate prescribed in relation to that levy for that month on the protein content of the relevant dairy produce.

**Amount of manufacturing milk levy**

“7.(1) In this section:

‘**milk fat rate**’, in relation to a month, means the milk fat rate prescribed in relation to the manufacturing milk levy for that month;

‘**protein rate**’, in relation to a month, means the protein rate prescribed in relation to the manufacturing milk levy for that month.

“(2) The amount of the manufacturing milk levy imposed by section 5 on relevant dairy produce delivered to, or used by, a manufacturer during a month is the total of:

- (a) an amount calculated at the milk fat rate for the month on the milk fat content of the relevant dairy produce; and
- (b) an amount calculated at the protein rate for the month on the protein content of the relevant dairy produce;

less the total of:

- (c) the manufacturer’s export milk fat component for the month; and
- (d) the manufacturer’s export protein component for the month.

**SCHEDULE—continued**

“(3) A manufacturer’s export milk fat component for a month is the amount calculated at the milk fat rate for the month on the milk fat content of:

- (a) dairy produce exported by the manufacturer during the month; and
- (b) dairy produce manufactured by the manufacturer and exported, during the month, by another person.

“(4) A manufacturer’s export protein component for a month is the amount calculated at the protein rate for the month on the protein content of:

- (a) dairy produce exported by the manufacturer during the month; and
- (b) dairy produce manufactured by the manufacturer and exported, during the month, by another person.

“(5) If, in relation to a particular manufacturer and a particular month and after any application of subsection (7), the total of the amounts referred to in paragraphs (2)(c) and (d) exceeds the total of the amounts referred to in paragraphs (2)(a) and (b), no manufacturing milk levy is payable by the manufacturer in relation to the month.

“(6) If, during a month ending before 1 July 2000 in which a manufacturer exports dairy produce, the manufacturer or a body corporate that is related to the manufacturer imports dairy produce or acquires dairy produce that has been imported, subsection (2) has effect as if the total of the components referred to in paragraphs (2)(c) and (d) in relation to that month were reduced by an amount equal to the total of:

- (a) an amount calculated at the milk fat rate for the month on the milk fat content of the dairy produce imported or acquired; and
- (b) an amount calculated at the protein rate for the month on the protein content of the dairy produce imported or acquired.

“(7) If, in relation to a month, the total of the amounts referred to in paragraphs (6)(a) and (b) (including such a total ascertained as a result of the operation of paragraphs (b) and (c) of this subsection) exceeds the total of the amounts referred to in paragraphs (2)(c) and (d), the following provisions have effect:

- (a) the excess is ignored for the purposes of the operation of subsection (6) in relation to the month;
- (b) the amount of the excess is added to the total of the amounts referred to in paragraphs (6)(a) and (b) in relation to the next month during which the manufacturer exports dairy produce;

**SCHEDULE—continued**

- (c) if, during the month referred to in paragraph (b), neither the manufacturer nor a body corporate related to the manufacturer has imported dairy produce or acquired dairy produce that has been imported, subsection (6) has effect as if the manufacturer had imported dairy produce during that month and as if the amount of the excess were the total of the amounts referred to in paragraphs (6)(a) and (b) in relation to dairy produce so imported;
- (d) for the purposes of the operation of this section in relation to a month after the month referred to in paragraph (b), the total arrived at, in relation to the month referred to in paragraph (b), by the operation of paragraphs (b) and (c) is taken to relate to dairy produce imported by the manufacturer during the latter month.

“(8) For the purposes of this section, the question whether a body corporate is related to a manufacturer that is a body corporate is to be determined in the same way as the question whether bodies corporate are related to each other is determined for the purposes of the Corporations Law.

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

“8. The amount of a levy imposed by paragraph 5(1)(c), (d) or (e) on relevant dairy produce is the total of:

- (a) an amount calculated at the milk fat rate prescribed in relation to that levy on the milk fat content of the dairy produce; and
- (b) an amount calculated at the protein rate prescribed in relation to that levy on the protein content of the dairy produce.

**Milk fat rate**

“9. The milk fat rate prescribed in relation to the levy specified in Column 1 of an item in the following table must not exceed the rate specified in Column 2 of the item.

Item	Column 1	Column 2
1	Market milk levy	15.750 cents per kilogram
2	Manufacturing milk levy	45.000 cents per kilogram
3	Corporation levy	0.875 cents per kilogram
4	Promotion levy	2.800 cents per kilogram
5	Research levy	0.875 cents per kilogram

**SCHEDULE—continued**

**Protein rate**

“10. The protein rate prescribed in relation to the levy specified in Column 1 of an item in the following table must not exceed the rate specified in Column 2 of the item.

Item	Column 1	Column 2
1	Market milk levy	38.39060 cents per kilogram
2	Manufacturing milk levy	110.00000 cents per kilogram
3	Corporation levy	2.13281 cents per kilogram
4	Promotion levy	6.82500 cents per kilogram
5	Research levy	2.13281 cents per kilogram

**By whom levies payable**

“11.(1) The market milk levy imposed on relevant dairy produce is payable by the producer of the relevant dairy produce.

“(2) The manufacturing milk levy imposed on relevant dairy produce delivered to, or used by, a manufacturer of dairy produce is payable by the manufacturer.

“(3) The following levies imposed on relevant dairy produce are payable by the producer of the relevant dairy produce:

- (a) the Corporation levy;
- (b) the promotion levy;
- (c) the research levy.”

**5. Part III:**

Repeal the Part.

**6. Section 12:**

Repeal the section.

**7. Section 14:**

Omit subsections (2), (3) and (4), substitute:

“(2) Before making regulations prescribing a rate for the purposes of section 6 or 8, the Governor-General must take into consideration any report relating to the proposed regulations made to the Minister by the executive of the Council.

**SCHEDULE—continued**

“(3) Before making regulations prescribing a rate for the purposes of subsection 7(1), the Governor-General must take into consideration any report relating to the proposed regulations made to the Minister by the Executive Director of the Australian Bureau of Agricultural and Resource Economics.”.

