



Dairy Produce Levy (No. 1) Amendment Act 1995

No. 46 of 1995

An Act to amend the *Dairy Produce Levy (No. 1) Act 1986*

[Assented to 21 June 1995]

The Parliament of Australia enacts:

Short title

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

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.

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, a person who applies any process to relevant dairy produce is taken to use the relevant dairy produce in the manufacture of dairy produce unless:

- (a) the process consists only of chilling; and
- (b) the person is the producer of the relevant dairy produce.

“(3) For the purposes of this Act, a person is a prescribed exporter in relation to a financial year if:

- (a) the person has an export milk fat component or an export protein component, or both, within the meaning of section 7, for a month or months of the year; or
- (b) during the year, the person has exported dairy produce and:
 - (i) manufacturing milk levy was imposed on relevant dairy produce used, whether by that person or by another person, in the manufacture of the exported dairy produce; and
 - (ii) the export of the dairy produce has not been taken into account for the purposes of subsection 7(2).

“(4) For the purposes of this Act, an export of dairy produce constitutes a relevant export if:

- (a) the export of the dairy produce has been taken into account for the purposes of subsection 7(2); or
- (b) both of the following conditions are satisfied:

SCHEDULE—continued

- (i) manufacturing milk levy was imposed on relevant dairy produce used, whether by the person who exported the dairy produce or by another person, in the manufacture of the exported dairy produce;
- (ii) the export of the dairy produce has not been taken into account for the purposes of subsection 7(2).

“(5) For the purposes of this Act, the question whether a body corporate is related to another 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.”.

4. Part II:

Repeal the Part, substitute:

“PART II—LEVIES ON 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;
- other than dairy produce referred to in paragraph (a);
- (c) a levy to be known as the acquisition offset levy is imposed on the total quantity of dairy produce acquired by a prescribed exporter or, if the prescribed exporter is a body corporate, by a body corporate (other than a prescribed exporter) that is related to the prescribed exporter, during a financial year commencing on or after 1 July 1995, being dairy produce imported into Australia on or after 1 July 1995 and on which levy has not been paid, and is not payable, under section 8 or 9 of the *Dairy Produce Levy (No. 2) Act 1986*;
- (d) a levy to be known as the Corporation levy is imposed on relevant dairy produce produced on or after 1 July 1995;

SCHEDULE—continued

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

(f) 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.

“(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:

SCHEDULE—continued

- (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, 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.

Amount of acquisition offset levy

“8.(1) Subject to subsection (2), the amount of the levy imposed by paragraph 5(1)(c) on dairy produce acquired by a prescribed exporter or, if the prescribed exporter is a body corporate, by a body corporate that is related to the prescribed exporter, during a financial year is calculated as follows:

- (a) in respect of each quantity of dairy produce acquired:
 - (i) an amount is calculated at the milk fat rate for the month in which the dairy produce was acquired on the milk fat content of the dairy produce when acquired; and
 - (ii) an amount is calculated at the protein rate for the month in which the dairy produce was acquired on the protein content of the dairy produce when acquired;
- (b) the amount of the levy is an amount equal to the total of the amounts calculated under paragraph (a) in respect of dairy produce acquired during the year.

“(2) If, but for this subsection, the amount of the levy imposed by paragraph 5(1)(c) on dairy produce acquired by a prescribed exporter or, if the prescribed exporter is a body corporate, by a body corporate that is related to the prescribed exporter, during a financial year would exceed the maximum amount, the amount of the levy imposed in respect of that dairy produce is an amount equal to the maximum amount.

SCHEDULE—continued

“(3) Except in a case to which subsection (4) applies, the maximum amount of the levy imposed by paragraph 5(1)(c) on dairy produce acquired by a prescribed exporter or, if the prescribed exporter is a body corporate, by a body corporate that is related to the prescribed exporter, during a financial year is an amount calculated as follows:

- (a) in respect of each quantity of dairy produce the subject of a relevant export by the prescribed exporter during the financial year:
 - (i) an amount is calculated at the milk fat rate for the month in which the dairy produce was exported on the milk fat content of the dairy produce; and
 - (ii) an amount is calculated at the protein rate for the month in which the dairy produce was exported on the protein content of the dairy produce;
- (b) the amounts calculated under paragraph (a) are added together;
- (c) if levy has been paid, or is payable, by the prescribed exporter under section 8 of the *Dairy Produce Levy (No. 2) Act 1986* in respect of the importation, during the financial year, of any dairy produce and the amount so paid or payable is less than the amount arrived at under paragraph (b), the maximum amount is the amount equal to the difference between the amount arrived at under paragraph (b) and the amount of levy paid or payable;
- (d) if no deduction is made under paragraph (c), the total amount arrived at under paragraph (b) is the maximum amount.

“(4) If:

- (a) levy has been paid, or is payable, by the prescribed exporter under section 8 of the *Dairy Produce Levy (No. 2) Act 1986* in respect of the importation, during the financial year, of any dairy produce; and
- (b) the amount so paid or payable equals or exceeds the amount arrived at under paragraph (3)(b);

acquisition offset levy is not imposed on the acquisition of the dairy produce by the prescribed exporter or, if the prescribed exporter is a body corporate, by a body corporate related to that prescribed exporter.

“(5) In subsections (1) and (3), a reference to the milk fat rate or the protein rate for a month is a reference to the milk fat rate or the protein rate, as the case may be, prescribed in relation to the manufacturing milk levy for that month.

Amounts of other levies on relevant dairy produce

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

SCHEDULE—continued

- (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

“10. 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

Protein rate

“11. 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

“12.(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.

SCHEDULE—continued

“(3) The acquisition offset levy imposed on dairy produce acquired by a prescribed exporter or, if the prescribed exporter is a body corporate, by a body corporate that is related to the prescribed exporter, is payable by the prescribed exporter.

“(4) 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 9, the Governor-General must take into consideration any report relating to the proposed regulations made to the Minister by the executive of the Council.

“(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.”.

[Minister's second reading speech made in—
House of Representatives on 9 May 1995
Senate on 30 May 1995]