AGRICULTURE, FISHERIES AND FORESTRY
LEGISLATION AMENDMENT (2007 MEASURES No 1) BILL 2007

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Agriculture, Fisheries and Forestry,
the Hon Peter McGauran MP)
AGRICULTURE, FISHERIES AND FORESTRY LEGISLATION AMENDMENT (2007 MEASURES No 1) BILL 2007

GENERAL OUTLINE

The Australian Meat and Live-stock Industry Act 1997 (the AMLI Act) provides the legislative framework for the structural and funding arrangements of the red meat industry and its marketing and research and development activities. The purpose of this bill is to give effect to the meat processor sector’s request to introduce statutory levies on the slaughter of cattle, sheep and goats and for the levy funds to be directed to its existing services body.

Since the 1998 red meat industry restructure, the meat processor sector has funded its marketing and research commitments through a voluntary contributions system. This system will cease to operate on 1 July 2007. The Government supports the red meat industry’s view that collective funding for marketing and research and development is necessary for the sustained productivity of the meat processor sector. Consequently, the Government has agreed to put in place a statutory levy to enable the sector to continue its whole-of-industry commitment to undertake marketing and research and development (R&D) programmes. All sectors of the red meat industry have supported directing the funding to the existing services company, Australian Meat Processor Corporation Ltd (AMPC) and the Government does not object to this approach.

The current AMLI Act constrains the disbursement of levies and charges, collected under complementary legislation, to declared bodies. The AMLI Act also only allows for meat processor industry funding to be directed to the industry marketing and industry research body (currently Meat & Livestock Australia Ltd (MLA)) in the event a statutory levy is imposed. The amendment bill will provide the flexibility to allow a body to be declared by the Minister as being eligible to receive the meat processor levies and to direct funding to that body.

AMPC conducts marketing and R&D on behalf of the processing sector or directs these funds to MLA to carry out agreed projects as required under the red meat industry’s Memorandum of Understanding. The amendment bill will not affect the existing arrangements for Commonwealth matching funds because meat processor industry research activities will continue to be directed to the body determined to be the industry research body, which is currently MLA.

The Primary Industries (Excise) Levies Act 1999 (the Excise Act) and its subordinate legislation provide for the levy to be imposed and identifies the bodies pursuant to the AMLI Act that are destined to receive the revenue. This revenue is to be used by these bodies for marketing and R&D purposes, with eligible research expenditure being matched by the Commonwealth under conditions prescribed in the AMLI Act.

The current Excise Act’s subordinate legislation sets the meat processor sector’s operating levy rates at zero to accommodate the operation of the voluntary contributions system. Amendment to the relevant regulations will remove the zero rate and allow for a new rate, as determined by industry and agreed to by the Government, to be imposed.

There is no legislation that allows disaggregated levy payer information to be passed to the red meat industry. In anticipation of amendment to other legislation to allow the information to be disseminated to the red meat industry, the Government believes this amendment bill should provide the legislative opportunity for appropriate controls over who has access to that information and for what purpose. The provisions closely mirror those that apply to the dairy industry.
FINANCIAL IMPACT STATEMENT

The bill will require no additional Commonwealth expenditure. The process where the Commonwealth may have to introduce a compulsory levy to fund meat processor or livestock exporter initiatives was considered when the 1998 red meat industry restructure was implemented and legislation was prepared for such an event. The levy amount was set at zero and in lieu processors and livestock exporters paid a voluntary contribution to their service companies to fund their sector’s marketing activities and research projects and to offset operating costs. This arrangement gave control over levy expenditure to the meat processor and livestock exporter sectors.

This arrangement also included for contributions, whether from voluntary or statutory sources, to be matched by the Commonwealth for agreed research projects that were managed by MLA. The levels of levy funds directed to MLA by the meat processor research body for research activities will be similar to those made under the voluntary contribution arrangements and will be well within the matching fund limit of 0.5% of the annual Gross Value of Production for the red meat industry. The 0.5% limit, as set under section 66(3) of the AMLI Act, will not change.

A regulatory impact statement is not required. A Cost Recovery Impact Statement has been prepared and existing industry and Commonwealth structures will be used to collect and disburse the funds. Associated administrative costs to the Commonwealth will be met from the levies on a fee-for-service basis.
AGRICULTURE, FISHERIES AND FORESTRY AMENDMENT BILL (No. 1) 2007

NOTES ON CLAUSES

Clause 1 – Short Title
1. Clause 1 is a formal provision specifying that the Act may be cited as the Agriculture, Fisheries and Forestry (2007 Measures No 1) Act 2007.

Clause 2 – Commencement
2. Clause 2 sets out the commencement date for the Act.

Clause 3 – Schedule
3. Clause 3 provides that the amendment of each Act specified in the Schedule to the bill and any other item in the Schedule will have effect according to its terms.

SCHEDULE 1 – AMENDMENTS

Australian Meat and Live-stock Industry Act 1997

Item 1
4. This item inserts a definition for a “meat processor marketing body” in section 58 of the Australian Meat and Live-stock Industry Act 1997.

Item 2
5. This item inserts a definition for a “meat processor research body” in section 58 of the Australian Meat and Live-stock Industry Act 1997.

Item 3
6. This item deletes the redundant term “in writing” in section 60 and substitutes “by legislative instrument”. This item also amends the heading of section 60 to make it more streamlined.

Item 4
7. This item inserts additional subsections to section 60, which provides the Minister with the power to declare a body to be the meat processor marketing body and a body to be the meat processor research body to distinguish these bodies from other marketing and research bodies.

Item 5
8. This item amends the introductory sentence at subsection 60(3B) to refer to more than two combinations of marketing and research bodies so that meat processor body, as the third body, can be included.

Item 6
9. This item provides the Minister with the power at subsection 60(3B) to declare the same body to be both the meat processor marketing body and the meat processor research body.
Item 7
10. This item, subsection 60(3B), ensures the Minister cannot declare bodies to represent sectors in the red meat industry other than their own.

Item 8
11. This item, subsection 60(3B), ensures the Minister cannot declare two or more marketing or two or more research bodies to represent an industry sector at the same time.

Item 9
12. This item removes the redundant term “memorandum and articles of association” in section 60 and substitutes “constitution” to reflect the term used in the Corporations Act 2001.

Item 10
13. This item repeals subsection 60(6), a provision on disallowable instruments, which has been superseded by the Legislative Instruments Act 2003. The new subsection 60(6) extends section 60 to include the meat processor body when describing the conditions that must satisfy the Minister before he may declare a body to be a marketing body or a research body.

Item 11
14. This item deletes the redundant term “in writing” in section 61(1) and substitutes “by legislative instrument”.

Item 12
15. This item removes the redundant term “memorandum and articles of association” in section 61(2)(b) and substitutes “constitution” to reflect the term used in the Corporations Act 2001.

Item 13
16. This item repeals subsection 61(3), a provision on disallowable instruments, which has been superseded by the Legislative Instruments Act 2003.

Item 14
17. This item alters the heading of section 62 to more accurately reflect the contents due to the substitution of the term “constitution” for “memoranda and articles of association”. It also inserts a reference to the meat processor marketing and meat processor research body as a body that must inform the Minister of changes to its constitution.

Item 15
18. This item removes the redundant term “memorandum and articles of association” in section 62 and substitutes “constitution” to reflect the term used in the Corporations Act 2001.

Items 16 and 17
19. These items remove the paragraphs in sections 63 and 64 that require slaughter levies to be paid to the industry marketing body and the industry research body. The removed paragraphs have been placed in another area of section 64 (see Item 18) to allow for slaughter levy payments to be paid to the meat processor marketing body and meat processor research body.
Item 18

20. This item is an extension to Items 16 and 17. It inserts a new section 64C, which identifies the payments to be made to the meat processor marketing body under Schedule 1 and Schedule 17 of the Primary Industries (Excise) Levies Act 1999. This item also inserts a new section 64D, which identifies the payments to be made to the meat processor research body under Schedule 1 and Schedule 17 of the Primary Industries (Excise) Levies Act 1999. Standing appropriations for the meat processor levies already exist in the Australian Meat and Live-stock Industry Act 1997 (sections 63 and 64). The amendment will remove these levies from the list of payments to the industry marketing and research body and use a standing appropriation to redirect them to the meat processor marketing body and meat processor research body. There is no financial impact to the Commonwealth from this change.

Items 19, 20 and 21

21. These items update subsection 65(1) by removing references of slaughter levies to the industry marketing body and industry research body and inserting references of slaughter levies to the meat processor marketing body and the meat processor research body.

Item 22

22. This item repeals subsection 67(3)(a), a provision on disallowable instruments, which has been superseded by the Legislative Instruments Act 2003.

Item 23

23. This item inserts new subsections to section 67 that limits the meat processor marketing body and the meat processor research body in spending levy funds to industry marketing and research and development activities and enables the Commonwealth to recover costs associated with the levy collection and administration.

Item 24

24. This item repeals subsection 67(4), a provision on disallowable instruments, which has been superseded by the Legislative Instruments Act 2003.

Item 25

25. This item amends section 68 to include the meat processor marketing body and the meat processor research body as a body that is cross-referenced to the appropriate sections that refer to reimbursements to the Commonwealth.

Item 26

26. This item inserts a new division (Division 5 – Use of Information) pursuant to section 27 of the Primary Industries Levies and Charges Collection Act 1991 to provide for the control of the dissemination of disaggregated levy payer information to declared red meat industry bodies. The provisions ensure the use of the information is limited and mirror the restrictions that apply to the dairy industry.
Item 27
27. This item adds the meat processor marketing body and the meat processor research body to those bodies identified in subsection 69(8) as prescribed bodies under Part 3 of the Australian Meat and Live-stock Industry Act 1997. This amendment falls within the scope of the offence provision at subsection 69(2) but does not alter the offence provision itself.

Primary Industries (Excise) Levies Act 1999

Items 28 and 29
28. These items repeal the definition of “industry marketing body” and “industry research body” in clause 1 of Schedule 1. The definition of “meat processor marketing body” and “meat processor research body” is covered under the Australian Meat and Live-stock Industry Act 1997.

Item 30
29. This item deletes “industry marketing body” and substitutes “body declared under section 60 of that Act to be the meat processor marketing body” in note 1 of subclause 3(1) of Schedule 1. The effect is to allow for the levy funding to be directed to the meat processor marketing body and not to the industry marketing body.

Item 31
30. This item deletes “industry research body” and substitutes “body declared under section 60 of that Act to be the meat processor research body” in note 2 of subclause 3(1) of Schedule 1. The effect is to allow for the levy funding to be directed to the meat processor research body and not to the industry research body.

Item 32
31. This item repeals clauses 6 and 7 in Schedule 1, which relate to transitional provisions that refer to an Act that has been superseded by the Primary Industries (Excise) Levies Act 1999.

Items 33 and 34
32. These items repeal the definition of “industry marketing body” and “industry research body” in clause 1 of Schedule 17. The definition of “meat processor marketing body” and “meat processor research body” is covered under the Australian Meat and Live-stock Industry Act.

Item 35
33. This item deletes “industry marketing body” and substitutes “body declared under section 60 of that Act to be the meat processor marketing body” in note 1 of subclause 3(1) of Schedule 17. The effect is to allow for the levy funding to be directed to the meat processor marketing body and not to the industry marketing body.

Item 36
34. This item deletes “industry research body” and substitutes “body declared under section 60 of that Act to be the meat processor research body” in note 2 of subclause 3(1) of Schedule 17. The effect is to allow for the levy funding to be directed to the meat processor research body and not to the industry research body.
Item 37
35. This item deletes “industry marketing body” and substitutes “body declared under section 60 of that Act to be the meat processor marketing body” in note 1 of subclause 3(2) of Schedule 17. The effect is to allow for the levy funding to be directed to the meat processor marketing body and not to the industry marketing body.

Item 38
36. This item deletes “industry research body” and substitutes “body declared under section 60 of that Act to be the meat processor research body” in note 2 of subclause 3(2) of Schedule 17. The effect is to allow for the levy funding to be directed to the meat processor research body and not to the industry research body.

Item 39
37. This item deletes “industry marketing body” and substitutes “body declared under section 60 of that Act to be the meat processor marketing body” in note 1 of subclause 3(3) of Schedule 17. The effect is to allow for the levy funding to be directed to the meat processor marketing body and not to the industry marketing body.

Item 40
38. This item deletes “industry research body” and substitutes “body declared under section 60 of that Act to be the meat processor research body” in note 2 of subclause 3(3) of Schedule 17. The effect is to allow for the levy funding to be directed to the meat processor research body and not to the industry research body.

Item 41
39. This item repeals clauses 6 and 7 in Schedule 17, which related to transitional provisions that refer to an Act that has been superseded by the Primary Industries (Excise) Levies Act 1999.