

2008

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Dairy Adjustment Levy Termination Bill
2008**

No. , 2008

(Agriculture, Fisheries and Forestry)

**A Bill for an Act to amend the *Dairy Produce Act
1986*, and for related purposes**

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1 **A Bill for an Act to amend the *Dairy Produce Act***
2 ***1986, and for related purposes***

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Dairy Adjustment Levy Termination*
6 *Act 2008.*

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day after this Act receives the Royal Assent.	
2. Schedule 1	The day after this Act receives the Royal Assent.	
3. Schedule 2	The day after the day declared for the purposes of subclause 94(1) of Schedule 2 to the <i>Dairy Produce Act 1986</i> .	
4. Schedule 3, items 1 and 2	The day after this Act receives the Royal Assent.	
5. Schedule 3, item 3	Immediately after the day specified for the purposes of subclause 55(2) of Schedule 2 to the <i>Dairy Produce Act 1986</i> .	
6. Schedule 3, item 4	The day after this Act receives the Royal Assent.	
7. Schedule 4	The day after this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally
2 passed by both Houses of the Parliament and assented to. It will not be
3 expanded to deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table contains additional information that is not
5 part of this Act. Information in this column may be added to or
6 edited in any published version of this Act.

7 **3 Schedule(s)**

8 Each Act that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.

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2 **Schedule 1—Amendment of the Dairy Produce**
3 **Act 1986**

4 **Part 1—Winding up the Dairy Adjustment Authority**

5 **1 Clause 55 of Schedule 2**

6 Before “The”, insert “(1)”.

7 **2 At the end of clause 55 of Schedule 2**

8 Add:

9 (2) The Minister may, by legislative instrument, declare that the Dairy
10 Adjustment Authority ceases to exist immediately after a specified
11 day.

12 (3) A declaration under subclause (2) has effect accordingly.

13 **3 Applying provisions referring to the Dairy Adjustment**
14 **Authority after it ceases to exist**

15 (1) This item applies to a reference to the Dairy Adjustment Authority, to
16 the extent that the reference concerns a power or function of that body,
17 in any of the following:

18 (a) a provision of Schedule 2 to the *Dairy Produce Act 1986* or a
19 regulation made for the purposes of that Schedule;

20 (b) a provision of the DEP scheme, the DSAP scheme or the
21 SDA scheme (all within the meaning of that Schedule);

22 (c) a provision of another Act (other than this Act) or a
23 regulation made for the purposes of another Act.

24 (2) If, because of subclause 55(3) of Schedule 2 to the *Dairy Produce Act*
25 *1986*, the Dairy Adjustment Authority has ceased to exist after a
26 specified day, then, for the purposes of the provision referred to in
27 subitem (1) after that day, the reference is taken to be a reference to a
28 function or power performed or exercised by the Secretary of the
29 Department.

30 (3) To avoid doubt, if, because of subclause 55(3) of Schedule 2 to the
31 *Dairy Produce Act 1986*, the Dairy Adjustment Authority has ceased to
32 exist after a specified day:

Schedule 1 Amendment of the Dairy Produce Act 1986
Part 1 Winding up the Dairy Adjustment Authority

- 1 (a) a reference in subclause 73(1) of Schedule 2 to the *Dairy*
2 *Produce Act 1986* to the DAA's functions and powers; or
3 (b) a reference in subparagraph 79(i)(ii) of that Schedule to the
4 functions, or the powers, of the DAA;
- 5 is taken, after that day, to be a reference to the functions and the
6 powers, or the functions or the powers, of the Secretary of the
7 Department to the extent that the Dairy Adjustment Authority was,
8 before that day, capable of performing or exercising the power or
9 function.

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2 **Part 2—Terminating the dairy adjustment levy**

3 **4 After paragraph 79(i) of Schedule 2**

4 Insert:

5 (ia) in meeting the expenses incurred by the Commonwealth in
6 relation to the termination of the program known as the Dairy
7 Industry Adjustment Program; and

8 **5 After subclause 83(3) of Schedule 2**

9 Insert:

10 (3A) The Minister may, by legislative instrument, declare that
11 subclauses (1) and (2) do not apply to any amount received by the
12 Commonwealth after the day specified in the instrument. The day
13 specified must not be earlier than the day declared for the purposes
14 of subclause 94(1).

15 **6 Subclause 94(1) of Schedule 2**

16 Repeal the subclause, substitute:

17 (1) The Minister may, by legislative instrument, declare that the
18 seventh day after the day on which the instrument is registered on
19 the Federal Register of Legislative Instruments established under
20 the *Legislative Instruments Act 2003* is the *levy termination day*
21 for the purposes of this clause.

22 **7 Subclause 94(2) of Schedule 2**

23 Omit “is no reasonable likelihood of money being paid out of the Dairy
24 Structural Adjustment Fund, at any time after that 28th day, for any of”,
25 substitute “will be sufficient money in the Dairy Structural Adjustment
26 Fund after the day declared under subclause (1), for”.

1

2 **Part 3—Winding up the Dairy Structural Adjustment**
3 **Fund**

4 **8 After clause 77A of Schedule 2**

5 Insert:

6 **77AA Winding up the Dairy Structural Adjustment Fund**

- 7 (1) The Minister may, by written notice, specify a day or days on
8 which there is to be paid to the Commonwealth an amount
9 specified in the notice and standing, at the beginning of that day, to
10 the credit of the Dairy Structural Adjustment Fund.
- 11 (2) The amount specified in the notice and standing to the credit of the
12 Dairy Structural Adjustment Fund at the beginning of the day
13 specified in the notice is to be paid to the Commonwealth.
- 14 (3) If no amount is standing to the credit of the Dairy Structural
15 Adjustment Fund immediately after the time an amount has been
16 paid under subclause (2), that Fund is taken to be wound up
17 immediately after that time.
- 18 (4) A notice made under subclause (1) is not a legislative instrument.

19 **9 At the end of Part 4 of Schedule 2**

20 Add:

21 **132 Compensation for acquisition of property**

- 22 (1) If the operation of this Schedule would result in an acquisition of
23 property from a person otherwise than on just terms, the
24 Commonwealth is liable to pay a reasonable amount of
25 compensation to the person.
- 26 (2) If the Commonwealth and the person do not agree on the amount
27 of the compensation, the person may institute proceedings in a
28 court of competent jurisdiction for the recovery from the
29 Commonwealth of such reasonable amount of compensation as the
30 court determines.
- 31 (3) In this clause:

1 *acquisition of property* has the same meaning as in paragraph
2 51(xxxi) of the Constitution.

3 *just terms* has the same meaning as in paragraph 51(xxxi) of the
4 Constitution.

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Schedule 2—Repeal of Acts

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Dairy Adjustment Levy (Customs) Act 2000

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1 The whole of the Act

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Repeal the Act.

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Dairy Adjustment Levy (Excise) Act 2000

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2 The whole of the Act

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Repeal the Act.

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Dairy Adjustment Levy (General) Act 2000

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3 The whole of the Act

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Repeal the Act.

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Schedule 3—Consequential amendments

Income Tax Assessment Act 1997

1 Paragraph 118-37(1)(e)

Repeal the paragraph.

2 Application

The amendment of the *Income Tax Assessment Act 1997* made by this Schedule applies in relation to the 2009-2010 income year and later income years.

Remuneration Tribunal Act 1973

3 Paragraph 7(9)(ab)

Repeal the paragraph.

Social Security Act 1991

4 Subsection 23(1) (definition of *Farm Household Support Act 1992*)

Omit “the DEP scheme,”.

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Schedule 4—Regulations about transitional matters

1 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) In particular, regulations may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Act.