

1990

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CATTLE AND BEEF LEVY COLLECTION BILL 1990

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Primary  
Industries and Energy, the Honourable John Kerin MP)

CATTLE AND BEEF LEVY COLLECTION BILL 1990OUTLINE

The purpose of this Bill is to provide collection mechanisms for levies and charge imposed under the Cattle Transaction Levy Bill 1990, the Beef Production Levy Bill 1990 and the Cattle Export Charge Bill 1990. These levies and charge are imposed to replace the levy and charge imposed on the slaughter and export of cattle under the Live-stock Slaughter Levy Act 1964 and the Live-stock Export Charge Act 1977.

The main provisions allow for the collection of levies and charge through intermediaries, such as selling agents, abattoir operators and feedlot operators. The Bill provides that any such intermediary may recover the cost of the levy or charge from the producer and an abattoir operator may refuse to slaughter or allow the slaughter of cattle unless the operator is first provided with funds to cover the cost of the levy.

The revised levy arrangements were developed by the industry to provide a more visible and equitable division of levy and charge payments by clarifying the relative contributions paid by each sector.

FINANCIAL IMPACT STATEMENT

The total revenue collected under the new arrangements will be approximately equal to that collected under the current arrangements.

Since the introduction of cost recovery for levy and charge collection in 1988, the Commonwealth is reimbursed for expenses incurred. Consequently there will be no net effect to revenue in the implementation of this legislation.

NOTES ON CLAUSES

Clause 1: Short Title

1. The Act will be called the Cattle and Beef Levy Collection Act 1990.

Clause 2: Commencement

2. Provides for commencement of the legislation on 1 January 1991.

Clause 3: Interpretation

3. Subclause 3(1) lists definitions of terms used in the Act, in particular, "Magistrate" has been defined to include a Justice of the Peace as in some States and Territories a Justice of the Peace may perform the judicial functions of a Magistrate, particularly for the purpose of issuing search warrants in more remote areas of northern and western Australia.

4. Subclause 3(2) provides that offences against this Act include references to inchoate offences such as those included in the Crimes Act 1914 involving conspiracy, accessories after the fact, and inciting or urging to commit an offence.

5. Subclause 3(3) provides for the interpretation of words and expressions contained in levy or charge imposition Acts but not included in this Act.

Clause 4: Act to bind the Crown

6. Act binds Crown.

Clause 5: When levy or charge due for payment

7. The due dates for levy or charge to be remitted to the Commonwealth are to be prescribed by regulation to permit different collection periods depending upon from whom the levy or charge is to be collected and the amount to be collected.

Clause 6: Liabilities of intermediaries

8. Sets out the responsibilities of intermediaries such as selling agents, processors, feedlot operators and exporting agents who, for the better securing of the payment of the levies and charge, will pay money to the Commonwealth on behalf of producers.

Clause 7: Liability of intermediaries - ancillary provisions

9. This clause allows for intermediaries to deduct amounts from proceeds that would otherwise be available to be paid to the producer. This is to ensure that funds are provided to the intermediary for levy or charge payments to be made on behalf of the producer. An abattoir operator may refuse to slaughter or permit the slaughter of cattle owned by another person unless that other person first provides the funds necessary to cover the levy payable on those cattle or cattle previously slaughtered by the operator.

Clause 8: Penalty for non-payment

10. Sets the penalty to apply to late payment of levy or charge at a compounding rate of 2% per calendar month. Penalty ceases to accumulate when only penalty remains outstanding.

Clause 9: Remission of penalty

11. Provides that the Minister or an authorised person may remit the whole or part of an amount of penalty. An authorised person may not remit an amount greater than \$2000, or such lower figure as is specified in the authorisation.

Clause 10: Recovery of levy, charge and other amounts

12. Provides for the recovery of levy, charge and penalties as debts due to the Commonwealth.

Clause 11: Refund of levy, charge etc.

13. Provides, in the case of overpayments of levy, charge and penalties, for refunds to be made.

Clause 12: Powers of authorised person to enter, search and seize

14. Sets out the powers of an authorised person undertaking duties to determine compliance with this Act. The Act empowers an authorised person to enter and search premises and to seize anything found during the search that the person has reasonable grounds for believing will afford evidence of the contravention of a provision of this Act. Entry, search or seizure may only be made with the consent of the occupier or person in charge of the premises, or under a warrant issued under clause 13.

Clause 13: Warrant to enter premises

15. Enables the provision of a warrant to an authorised person to search premises and to seize anything which will afford evidence of a contravention of the Act. The Magistrate must be satisfied that the issue of the warrant is based on reasonable grounds before issuing it. The warrant must state its purpose, date of expiry, and the times during which entry may be effected. The maximum period for a warrant to be in force is set at 14 days.

Clause 14: Retention and return of seized property

16. Details the conditions under which property seized may be retained. Provision is also made to allow for inspection, under certain circumstances, whilst the property is held.

Clause 15: Identity cards

17. Provides for the issue of identity cards to, and use by, authorised persons.

Clause 16: Power to require returns etc.

18. Subclause 16(1) provides that an authorised person may write to a person requiring, within a specified time, information or returns needed to give effect to the Act.

19. Subclause 16(2) provides that where a property is sold inclusive of cattle, but the contract does not specify the number of cattle sold, the purchaser is required to prepare and give to a person specified in the regulations a statement of the number of cattle sold and to verify the statement by statutory declaration. The regulations will specify that the person to whom the statement must be given will be either the agent facilitating the sale, and who will be responsible for remitting the amount of levy to the Commonwealth, or an authorised officer of the Australian Public Service.

Clause 17: Offences in relation to returns etc.

20. Details offences of and penalties for failing to submit or provide a return or information as required under the Act. In addition penalties are prescribed for presenting false or misleading information.

Clause 18: Conduct of directors, servants and agents

21. Stipulates that, subject to certain conditions, (a) conduct of directors, servants and agents of a body corporate may be taken as that of the body corporate and (b) conduct of agents acting for a person other than a body corporate may be taken to be that of the other person.

Clause 19: Appointment of authorised persons

22. Provides that the Secretary may appoint an officer of the Australian Public Service to be an authorised person for a specific provision of this Act, including section 16. Any appointment under this section must be in writing.

Clause 20: Reconsideration and review of remission decisions

23. Subclause 20(1) allows for a person who is dissatisfied with a "remission decision" to request the Minister, within 28 days of the decision coming to his or her notice, to reconsider the decision.

24. Subclause 20(2) stipulates that such a request must set out the reasons for making the request.

25. Subclause 20(3) requires the Minister, within 45 days of receiving a request, to reconsider the relevant decision and make a decision either in place of the original decision (whether in the same terms or not) or to revoke it.

26. Subclause 20(4) provides that after reconsidering the relevant decision the Minister must inform, in writing, the person requesting the review of the result.

27. Subclauses 20(5), (6) and (7) provide that application may be made to the Administrative Appeals Tribunal (AAT) for a review of a relevant decision. Any notice advising a person of a relevant decision must include a reference to the fact that a review by the AAT is available to that person if desired.

28. Subclause 20(8) provides that failure to include advice that AAT review is available to a person will not invalidate the decision.

Clause 21: Delegation by Secretary

29. This clause provides that the Secretary may delegate any or all of his or her powers under this legislation, other than the power of delegation, to an officer of the Department. A delegate when exercising a delegated power is subject to the direction of the Secretary.

Clause 22: Regulations

30. Provides for the Governor-General to make regulations under the Act.



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