

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

GRAIN LEGUMES LEVY BILL 1985

GRAIN LEGUMES LEVY COLLECTION BILL 1985

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister
for Primary Industry the Hon. John Kerin, MP)

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OUTLINE

Grain legumes have become increasingly important in Australia as crops in their own right and as replacements for traditional pasture legumes in cereal crop rotation programs.

The main grain legumes are lupins and field peas. Research into these crops has been for the most part on an ad hoc basis although Western Australia currently has a State statutory research scheme for lupins funded by growers in that State.

If the full potential of grain legumes as rotational and alternative crops is to be realised there needs to be an increased research effort into the production, processing, storage, transport and marketing of these crops. The grain legume industry recognised this need and sought a national grain legumes scheme as the basis for an expanded research effort.

The Grain Legumes Levy Bill and the Grain Legumes Levy Collection Bill are similar in content to Research Acts already in operation for other rural industries such as oilseeds and cotton. The legislation provides for the imposition and collection of a levy on growers of grain legumes to finance the Grain Legumes Research Scheme. The levy will be applied to leviable grain legumes processed or delivered on or after the date of Proclamation.

The initial rate of the levy will be set at a \$0.75/tonne with a provision for the rate to be varied to a maximum of \$2.60/tonne. The grower is to be liable to pay the levy but for ease of administration it will be collected by the receiver or purchaser.

The Rural Industries Research Bill 1985 which has been already introduced into the Parliament, establishes the administrative and organisational arrangements necessary for this scheme. The more important features of that legislation are

- the research scheme will be administered by a Research Council whose members will be selected by an independent Selection Committee comprising up to three members provided by the grain legumes industry
- the research scheme will have clearly identified goals to be encompassed in a 5 year strategic plan which will be developed in consultation with the industry and approved by the Minister

- the Research Council through its Chairman, will be required to report annually to a meeting of industry representatives.

Financial Statement

If levy collections begin with the 1985 harvest, research expenditure under the scheme will begin in 1986/87. The Commonwealth will match expenditure of industry moneys from the Trust Fund up to a limit of 0.5% of the average annual Gross Value of Production of leviabale grain legumes. The Commonwealth's contribution is not expected to exceed \$250,000 in 1986/87. If present production levels of grain legumes continue, the annual Commonwealth contribution will rise to about \$500,000.

The Commonwealth will meet half the costs of administering the Trust Fund, providing secretariat services and selecting members to the Research Council. The Commonwealth's share of these costs have been estimated at \$11,000 for 1985/86.

GRAIN LEGUMES LEVY BILL 1985

NOTES ON CLAUSES

Clause 1: Short Title

1. This clause provides the mode of citation of the Act.

Clause 2: Commencement

2. Sub-clause 2(1) provides that Sections 1 and 2 are to come into operation when the Bill receives Royal Assent.
3. Sub-clause 2(2) provides that all other provisions of this Bill will come into operation on a day to be fixed by Proclamation.

Clause 3: Acts to be read as one

4. The Grain Legumes Levy Collection Act 1985 is to be read as one with this Act.

Clause 4: Interpretation

5. This clause provides definitions and interpretations of various terms used in the Bill.
6. Sub-clause 4(1) provides for definitions of grower, growers' organisation, leviable grain legumes, leviable weight, levy, levy year, marketing law, and processing.
7. Sub-clause 4(2) Delivery shall be deemed to have taken place where the grain legumes are delivered to another person or where they are allowed to be removed from possession or control of the grower; and where the grain legumes are taken out of the possession or control of the grower under a State or Territory marketing law.
8. Sub-clause 4(3) provides a definition of "delivered" where the grain legumes are consigned to a person for carriage to another party.
9. Sub-clause 4(4) provides a definition of "ownership" of the grain legumes in the case where the grain legumes are grown under contract.
10. Sub-clause 4(5) provides for the commencement of levy collections on other grain legumes which may be prescribed by regulation.

Clause 5: Act to bind Crown

11. Standard provision.

Clause 6: Imposition of levy

12. Sub-clause 6(1) Levy is to be imposed on leviabale grain legumes produced in Australia on or after the commencement date of the legislation.
13. Sub-clause 6(2) Levy is not payable on leviabale grain legumes unless the grower makes delivery to another person for purposes other than storage; or processes the grain legumes.
14. Sub-clause 6(3) provides interpretation of "relevant date" in relation to the commencement of the levy.

Clause 7: Rate of levy

15. The rate of levy to be imposed is to be set initially at \$0.75/tonne but may be varied up to \$2.60 by way of regulation.

Clause 8: By whom levy payable

16. Levy is payable by the grower.

Clause 9: Exemption from levy

17. Sub-clause 9(1) Levy is not imposed on delivered grain legumes unless in a levy year the leviabale weight is reached.
18. Sub-clause 9(2) Levy is not imposed where leviabale grain legumes produced by the grower are processed by or for the grower's use.
19. Sub-clause 9(3) Excluding those grain legumes which come under the exemption provision of sub-clause 9(2), (see item 18) the grower is exempt from paying levy on grain legumes processed by the grower if the leviabale weight is not reached.

Clause 10: Regulations

20. Sub-clause 10(1) The Governor-General may make regulations necessary for the administration of the Act.
21. Sub-clause 10(2) Before making regulations which amend the definition of "leviabale weight" or "leviabale grain legumes" or which alter the rate of the levy the Governor-General is to take into consideration recommendations to the Minister from the growers' organisation.

GRAIN LEGUMES LEVY COLLECTION BILL 1985

NOTES ON CLAUSES

Clause 1: Short Title

1. The clause provides the mode of citation of the Act.

Clause 2: Commencement

2. The Bill commences on the same day that the Grain Legumes Levy Bill 1985 commences.

Clause 3: Interpretation

3. This clause provides definitions and interpretations of various terms used in the Bill.
4. Sub-clause 3(1) provides definitions of the terms "appoint" and "authorised person".
5. Sub-clause 3(2) provides definitions of the terms "purchaser" and "receiver".

Clause 4: Act to bind Crown

6. Standard provision.

Clause 5: Time for payment of levy

7. Sub-clause 5(1) Levy is to be payable within 28 days or such time prescribed by regulations after the last day of the quarter - in which the grain legumes are delivered; in which the leviable weight is reached; or in which processing occurs, if the grower processes the grain legumes.
8. Sub-clause 5(2) refers to a quarter as a period of 3 months ending on the last day of December, March, June or September.
9. Sub-clause 5(3) recognises that the first quarter after Proclamation may be less than 3 months.

Clause 6: Liability of Purchaser or Receiver

10. For administrative convenience the purchaser or receiver is liable for payment to the Commonwealth of amounts equal to the levy and is authorised to deduct relevant amounts from payments to growers. Where a purchaser or receiver deducts such an amount, the grower is discharged from liability to pay the levy.

Clause 7: Penalty for non-payment

11. Sub-clause 7(1) A penalty of 20% per annum is imposed in addition to the levy if the levy is not paid by the due date.
12. Sub-clause 7(2) and 7(3) provide interpretation of who is liable for payment of the penalty
13. Sub-clause 7(4) and 7(5) Penalty may be remitted by the Minister, or if it does not exceed \$500, by a person authorised by the Minister.

Clause 8: Recovery of Levy etc

14. This clause provides that debts due to the Commonwealth by way of levy or penalty may be recovered by the Commonwealth.

Clause 9: Refund of Levy

15. Sub-clause 9(1) provides for levy which has been overpaid to be refunded by the Commonwealth.
16. Sub-clause 9(2) enables refund from the Research Fund of amounts which have been overpaid.

Clause 10: Power to call for information

17. This clause empowers an authorised person to call for returns or information relevant to the operation of this Act. Such returns or information may require verification by statutory declaration.

Clause 11: Access to Premises

18. Sub-clause 11(1) enables an authorised person to enter premises with the consent of the occupier.
19. Sub-clause 11(2) enables the authorised person to seek a warrant if that person believes that documents exist in relation to grain legumes or that grain legumes are produced, stored or processed on those premises.
20. Sub-clause 11(3) Where a Justice of the Peace is satisfied that reasonable grounds exist for the authorised person to be issued with a warrant the Justice of the Peace may grant a warrant which will enable the authorised person to enter such premises where the consent of the occupier is not given.
21. Sub-clause 11(4) A warrant so granted is to be effective for a maximum period of 1 month from the date of issue.
22. Sub-clause 11(5) provides that where an authorised person has entered premises, he may search for and take stock of grain legumes and to examine or copy any documents relevant to grain legumes.

- 23. Sub-clause 11(6) provides a penalty for obstruction of the authorised person in the exercise of powers under sub-clause 11(1) or 11(3) (see items 18 and 20).
- 24. Sub-clause 11(7) provides a definition of what is meant by "examinable documents".

Clause 12: Offences in relation to returns etc

- 25. Sub-clause 12(1) provides that it is an offence without reasonable excuse to fail to furnish a return or provide information required under the Act.
- 26. Sub-clause 12(2) provides that a person is not excused from submitting a return or providing information if by doing so the person might tend to be incriminated. Any return or information submitted cannot be used as evidence in proceedings for recovery of a penalty under clause 7 (see items 11 to 13) or in criminal proceedings against the person except in relation to an offence against sub-clauses 12(1) or 12(3) (see items 25 and 27).
- 27. Sub-clause 12(3) provides for penalties in relation to false or misleading statements or documents.

Clause 13: Appointment of Authorised Persons

- 28. This clause provides that the Minister may appoint in writing a person to be an authorised person.

Clause 14: Review of Decisions

- 29. This clause provides for the review by the Administrative Appeals Tribunal of a decision made under sub-clause 7(4) in relation to the remission of penalties for the late payment of levy (see item 13).

Clause 15: Regulations

- 30. This clause provides for the making of regulations by the the Governor General to prescribe matters necessary to give effect to the Act. These matters include requiring the keeping of records, manner of payment of levies and other moneys, requiring the furnishing of returns, and prescribing penalties for offences against the regulations.

