

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

PASTURE SEED LEVY BILL 1989

PASTURE SEED LEVY COLLECTION BILL 1989

EXPLANATORY MEMORANDUM

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

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GENERAL OUTLINE

These Bills give effect to the establishment of a pasture seed research scheme announced by the Minister for Primary Industries and Energy in the context of the Commonwealth Government's 25 May 1988 Economic Statement's research initiatives. The Pasture Seed Levy Bill 1989 provides for the imposition of a levy on certain pasture seed produced in Australia to finance the industry's contribution to the scheme. The Pasture Seed Levy Collection Bill 1989 provides the machinery necessary for collection of the levy. The legislation is similar in content to Research Acts already in operation for other rural industries.

2. The levy will apply initially to certified seed only of medic, clover and lucerne cultivars harvested by growers on or after the date the Acts receive Royal Assent. There is, however, provision to add other species and cultivars to the scheme by instrument authorised by the Minister.

3. The initial rate of levy for medic, clover and lucerne cultivars will be \$7.50, \$10.00 and \$12.50 per tonne respectively. The Minister can alter these rates and add new rates by way of instrument having regard to recommendations made by the growers organisation.

4. The maximum rate for any leviabale cultivar is \$50.00 per tonne, also based on a recommendation by the growers organisation, but which can only be amended by Parliament.

5. The levy is payable by the grower. For ease of administration and operation, the legislation provides for State and Territory Government Departments responsible for seed certification to collect the levy on the Commonwealth's behalf. Collection arrangements will be the subject of industry specific Commonwealth/State or Territory agreements.

6. Levies will be paid into the Australian Special Rural Research Fund which is established under the Rural Industries Research Act 1985 and provides administrative and organisational arrangements for those industries with an insufficient level of levy income to justify the expense of administering an individual research fund.

Financial Impact Statement

7 Research expenditure under the scheme will begin in the financial year immediately following the payment into the Fund of industry moneys. The Commonwealth will match expenditure of industry moneys from the Fund dollar for dollar up to a limit of 0.5% of the average Gross Value of Production of leviable pasture seed. It is estimated that the initial Commonwealth contribution will be \$106,000.

PASTURE SEED LEVY BILL 1989NOTES ON INDIVIDUAL CLAUSESClause 1: Short Title

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

Clause 2: Commencement

9. Clause 2 provides for all sections of the Act to commence on Royal Assent.

Clause 3: Acts to be read as one

10. The Pasture Seed Levy Collection Act 1989 is to be read as one with this Act.

Clause 4: Interpretation

11. This clause provides a definition and interpretation of the terms "leviable seed" and "specified cultivar".

Clause 5: Act to bind Crown

12. Provides that this Act binds the Crown in right of each of the States, Northern Territory and Australian Capital Territory.

Clause 6: Imposition of Levy

13. Subclause 6(a) provides for a levy to be imposed on seed of certain pasture seed cultivars harvested after commencement of this Act. The names of the pasture seed cultivars are listed in the Schedule attached to the Act.
14. Subclause 6(b) specifies that the seed levied under 6(a) must be certified under a State Government seed certification scheme. Seed owned by States will be exempt from the levy.

Clause 7: Rate of Levy

15. This clause refers to the Schedule to the Act which sets the rates of levy for leviable seed.

Clause 8: By whom levy payable

16. This clause establishes the liability for payment of the levy.

Clause 9: Variation of Schedule

17. This clause sets out the procedure to be followed by the Minister in amending the Schedule and establishes the maximum rate of levy.
18. Subclause 9(1) provides for the Minister to amend the schedule by instrument. This would allow for cultivars to be added or deleted, operative levy rates to be changed and new levies to be prescribed. Any amendments and declaration must be published in the Gazette.
19. Subclause 9(2) requires that the Minister take into consideration relevant recommendations made by the growers organisation defined in the Pasture Seed Levy Collection Act, before amending the Schedule under 9(1).
20. Subclause 9(3) limits the amount of any individual levy rate in the Schedule to \$50.00 per tonne.
21. Subclause 9(4) gives Parliament the right to disallow the Ministerial instrument under Clause 46A of the Acts Interpretation Act 1901.
22. Subclause 9(5) links subclause 9(1) of this Act with clause 8 of the Acts Interpretation Act 1901 regarding repeals.

Schedule to the Act

23. The Schedule sets out leviable pasture seed cultivars under the Act and the rate of levy applicable to each cultivar.

PASTURE SEED LEVY COLLECTION BILL 1989
NOTES ON INDIVIDUAL CLAUSES

Clause 1: Short Title

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

Clause 2: Commencement

25. The Act commences on the same day the Pasture Seed Levy Act 1989 commences.

Clause 3: Interpretation

26. This clause provides a definition and interpretation of various terms used in this Act and the associated Levy Act.

Clause 4: Act to bind Crown

27. Provides that this Act binds the Crown, in right of each of the States, Northern Territory and Australian Capital Territory.

Clause 5: Time for payment of levy

28. Subclause 5(1) establishes the number of payments to be made each year and the final date for such payments.
29. Subclause 5(2) provides a definition of "quarter". The period to which the initial payment relates will depend on the date of Royal Assent. This is covered in 5(2)(a).

Clause 6: Arrangements for collection of levy by State
 certifying Departments

30. Subclause 6(1) refers to arrangements between the Commonwealth and State or Territory certifying Departments in respect of levy collection.
31. Subclause 6(2) sets out the matters that may be covered in the Commonwealth/State or Territory arrangements including the maintaining of records and accounts for the levy, payment of levy to the Commonwealth, information on the payments to the Commonwealth and inspection and audit of records and accounts.
32. Subclause 6(3) requires that the Commonwealth not discriminate or give preferential treatment between or within States when making arrangements under subclause 6(1).

Clause 7: Notice of making of arrangement

33. Subclause 7(1) requires the Secretary of the Commonwealth Department to make public notice of establishing Commonwealth/State or Territory arrangements under clause 6.
34. Subclause 7(2) sets out the procedure to be followed by the Secretary in giving a notice under subclause 7(1).

Clause 8: Collection of levy

35. Subclause 8(1) makes clear the authority for State or Territory certifying Departments to collect the levy from growers.
36. Subclause 8(2) establishes that the grower's liability to pay levy to the Commonwealth is discharged when the levy is paid to the certifying Department of the State or Territory.

Clause 9: Application of Audit Act

37. Subclause 9(1) exempts State or Territory certifying Departments from the Audit Act 1901 in respect of amounts of levy collected.
38. Subclause 9(2) provides for the Audit Act 1901 to apply in respect of money paid by a certifying Department to the Commonwealth.

Clause 10: Penalty for Non-payment

39. Subclause 10(1) provides for a definition and interpretation of "authorised person" for the purposes of clause 10.
40. Subclause 10(2) provides for a penalty of 20% per annum to be imposed if the levy is not paid by the due date. The amount unpaid, plus interest for the period of the overdue payment, is to be paid to the Commonwealth.
41. Subclause 10(3) provides that all or part of the penalty may be remitted by the Minister, the Secretary or an authorised person.
42. Subclause 10(4) limits the maximum amount that may be remitted by the Secretary or an authorised person to \$500.

Clause 11: Recovery of Levy

43. This clause provides that debts due to the Commonwealth by way of levy or penalty under clause 10 may be recovered by the Commonwealth.

Clause 12: Refund of levy etc

- 44. Subclause 12(1) requires over-payments of levy and penalties to be refunded by the Commonwealth to the grower.
- 45. Subclause 12(2) provides the authority for refunds to be paid out of the Rural Industries Research Act 1985 fund from which the levy is attached at the time of the refund.
- 46. Subclause 12(3) provides for expressions used in subclause 12(2) to have the same meaning as in the Rural Industries Research Act 1985.

Clause 13: Review of decisions

- 47. Subclause 13(1) provides that application may be made to the Administrative Appeals Tribunal for review of a decision to refuse to remit all or part of a penalty.
- 48. Subclause 13(2) sets out the procedure to be followed by the Secretary, Minister or authorised person when giving notice in writing of a decision under Clause 10 in relation to remitting part or all of the penalty. This procedure requires persons affected by the decision be informed of their rights in regard to a review of the decision.
- 49. Subclause 13(3) provides that failure to comply with the procedural arrangements under subclause 13(2) does not affect the validity of the decision.

Clause 14: Publication of amended Schedule to Levy Act

- 50. This clause ensures the public is informed on amendments to the Schedule.

Clause 15: Regulations

- 51. Subclause 15(1) provides for the making of regulations by the Governor-General to prescribe matters necessary to give effect to the Act. These matters include the manner of payment of levy and other money to the Commonwealth and prescribing penalties for offences against the regulations.