

Dairying Research Levy Collection

No. 32 of 1972

An Act relating to the Collection of Levy under the
Dairying Research Levy Act 1972.

[Assented to 26 May 1972]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title.

1. This Act may be cited as the *Dairying Research Levy Collection Act 1972.*

Commencement.

2. This Act shall come into operation on a date to be fixed by Proclamation.

Definitions.

3. In this Act, unless the contrary intention appears—

“ authorized person ” means—

(a) a person for the time being authorized by the Minister, by instrument in writing, to be an authorized person for the purposes of the provision in which the expression occurs; or

(b) a person included in a class of persons for the time being authorized by the Minister, by instrument in writing, to be authorized persons for the purposes of the provision in which the expression occurs;

“levy” means an amount of the levy imposed by the *Dairying Research Levy Act 1972*;

“month” means one of the twelve months of the year;

“the Secretary” means the Secretary to the Department of Primary Industry.

4. This Act binds the Crown in right of a State.

Act to bind
Crown.

5. Levy on any whole milk or butter fat is due and payable upon the expiration of twenty-eight days after the last day of the month in which the whole milk or butter fat is sold by the producer of the whole milk or butter fat.

Due date
of payment.

6.—(1.) For the better securing of the payment of levy, a person who purchases whole milk or butter fat from the producer of the whole milk or butter fat is liable to pay to the Commonwealth an amount equal to any levy on the whole milk or butter fat, as the case may be, that has become payable by the producer but has not been paid to the Commonwealth by or on behalf of the producer or recovered from the producer by the Commonwealth.

Liability of
purchaser
from producer.

(2.) A person who purchases whole milk or butter fat from the producer of the whole milk or butter fat may, on behalf of the producer, pay to the Commonwealth any levy payable in respect of the whole milk or butter fat, as the case may be.

(3.) A person may, notwithstanding any law of a State or Territory of the Commonwealth or any contract entered into before the commencement of this Act, refuse to purchase whole milk or butter fat from the producer of the whole milk or butter fat unless the producer first provides the first-mentioned person with the funds necessary for the due payment, on behalf of the producer, of levy in respect of the whole milk or butter fat, as the case may be.

(4.) Where—

(a) any levy payable by the producer of the whole milk or butter fat has been paid to the Commonwealth on behalf of the producer by another person; or

(b) an amount in respect of any levy so payable has been recovered by the Commonwealth from a person by virtue of sub-section (1.) of this section,

the producer is liable to pay to the other person an amount equal to the amount so paid or recovered, less any amount already paid by the producer to the other person in respect of that levy.

(5.) Where, at any time, the producer of whole milk or butter fat who has sold the whole milk or butter fat to another person pays to the other person in an amount respect of levy in respect of the whole milk or butter fat, as the case may be, the producer is discharged from liability to pay that levy to the same extent as if the payment had been made by him at that time to the Commonwealth, but the discharge does not affect any liability of the other person under sub-section (1.) of this section.

(6.) The last preceding sub-section does not apply where, before the payment is made to the person who purchased the whole milk or butter fat, the producer making the payment has been notified in writing by or on behalf of the Minister that the Minister requires the producer to pay direct to the Commonwealth any levy in respect of which the payment is made.

(7.) Where, under this section, levy is paid on behalf of the producer of whole milk or butter fat by, or an amount in respect of levy payable by the producer of whole milk or butter fat is recovered by the Commonwealth from, another person, the producer is, to the extent of the amount so paid or recovered, discharged from so much of his liability to the Commonwealth to pay that levy as has not previously been discharged by virtue of sub-section (5.) of this section.

(8.) Where the Minister is satisfied that it would, by reason of special circumstances, be unreasonable to require a person to pay, or to pay in full, an amount payable by him under sub-section (1.) of this section, the Minister may release that person in whole or in part from his liability, but such a release does not affect the liability of any other person.

(9.) In this section, a reference to levy shall be read as including a reference to an amount that has become payable by way of penalty under sub-section (1.) of the next succeeding section by reason of default in payment of that levy.

Penalty for
non-payment.

7.—(1.) Where the liability of a person to pay levy is not discharged at or before the time when that levy is due and payable there is payable by that person to the Commonwealth by way of penalty, in addition to that levy, an amount calculated at the rate of ten per centum per annum upon that levy or upon that part of that levy from time to time remaining unpaid, to be computed from the time when that levy became payable.

(2.) Where—

- (a) a person has received from the producer of whole milk or butter fat an amount in respect of levy payable by the producer; and
- (b) that levy is due and payable but has not been paid in full to the Commonwealth,

there is payable by the first-mentioned person to the Commonwealth by way of penalty, in addition to the amount of that levy, an amount calculated at the rate of ten per centum per annum upon the amount so

received by him, less any part of that levy paid by him on behalf of the producer, to be computed from the time when that levy became payable or from the time when he received that amount, whichever is the later.

(3.) The Minister or, subject to the next succeeding sub-section, an authorized person may, in a particular case, for reasons that the Minister or the authorized person, as the case may be, in his discretion thinks sufficient, remit the whole or a part of an amount payable under this section.

(4.) A remission granted under the last preceding sub-section by an authorized person shall not exceed Ten dollars.

8.—(1.) The following amounts may be recovered by the Commonwealth as debts due to the Commonwealth:— Recovery of levy.

- (a) levy that is payable;
- (b) an amount that is payable to the Commonwealth under section 6 of this Act; and
- (c) an amount that is payable by way of penalty under the last preceding section.

(2.) In proceedings for the recovery of an amount referred to in the last preceding sub-section, an averment or statement in the complaint, claim or declaration of the plaintiff is evidence of the matter so averred or stated.

9.—(1.) A person shall not— Offences.

- (a) fail or neglect duly to furnish a return or information that he is required under the regulations to furnish; or
- (b) furnish, in pursuance of the regulations, a return or information that, to his knowledge, is false or misleading in a material particular.

Penalty: Two hundred dollars.

(2.) A prosecution for an offence against this section may be commenced at any time within three years after the commission of the offence.

10.—(1.) An authorized person may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the functions of an authorized person under this section. Access to premises.

(2.) Where an authorized person has reason to believe that there are on any premises books, documents or papers relating to the production, sale or purchase of whole milk or butter fat in respect of which levy is, or may be, payable, the authorized person may make application to a Justice of the Peace for a warrant authorizing the authorized person to enter the premises for the purposes of exercising the functions of an authorized person under this section.

(3.) If, on an application under the last preceding sub-section, the Justice of the Peace is satisfied, by information on oath—

- (a) that there is reasonable ground for believing that there are on the premises to which the application relates any books, documents or papers relating to the production, sale or purchase of whole milk or butter fat in respect of which levy is, or may be, payable; and
- (b) that the issue of the warrant is reasonably required for the purposes of this Act,

the Justice of the Peace may grant a warrant, in accordance with the prescribed form, authorizing the authorized person, with such assistance as he thinks necessary, to enter the premises, during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising the functions of an authorized person under this section.

(4.) Where an authorized person has entered any premises in pursuance of sub-section (1.) of this section or in pursuance of a warrant granted under the last preceding sub-section, he may exercise the functions of an authorized person under this section.

(5.) A person shall not, without reasonable excuse, obstruct or hinder an authorized person acting in pursuance of a warrant granted under sub-section (3.) of this section or in pursuance of the last preceding sub-section.

Penalty: Two hundred dollars.

(6.) The functions of an authorized person under this section are to search for, inspect, take extracts from and make copies of any books, documents or papers relating to the production, sale or purchase of whole milk or butter fat in respect of which levy is, or may be, payable.

Regulations.

11. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act or for facilitating the collection or recovery of any debt due to the Commonwealth under this Act and, in particular—

- (a) providing for the manner of payment of levy and other moneys payable to the Commonwealth under this Act;
- (b) requiring persons to keep records relating to the production, sale or purchase of whole milk or butter fat;
- (c) requiring persons who have purchased whole milk or butter fat from the producer of the whole milk or butter fat to furnish returns or information relating to that purchase; and
- (d) prescribing penalties not exceeding a fine of Two hundred dollars for offences against the regulations.