



Dairy Produce Levy (No. 2) Amendment Act 1995

No. 47 of 1995

An Act to amend the *Dairy Produce Levy (No. 2) Act 1986*

[Assented to 21 June 1995]

The Parliament of Australia enacts:

Short title

1. This Act may be cited as the *Dairy Produce Levy (No. 2) Amendment Act 1995*.

Commencement

2. This Act commences on 1 July 1995.

Dairy Produce Levy (No. 2) Amendment No. 47, 1995

Amendments

3. The *Dairy Produce Levy (No. 2) Act 1986* is amended as indicated in the Schedule.

SCHEDULE

1. Section 4:

Add at the end:

“(2) For the purposes of this Act, a person is a prescribed exporter in relation to a financial year if:

(a) the person has an export milk fat component or an export protein component, or both, within the meaning of section 7 of the *Dairy Produce Levy (No. 1) Act 1986*, for a month or months of the year; or

(b) during the year, the person has exported dairy produce and:

(i) relevant dairy produce used, whether by that person or by another person, in the manufacture of the exported dairy produce has been taken into account in the calculation of manufacturing milk levy; and

(ii) the export of the dairy produce has not been taken into account for the purposes of subsection 7(2) of the *Dairy Produce Levy (No. 1) Act 1986*.

“(3) For the purposes of this Act, an export of dairy produce constitutes a relevant export if:

(a) the export of the dairy produce has been taken into account for the purposes of subsection 7(2) of the *Dairy Produce Levy (No. 1) Act 1986*; or

(b) both of the following conditions are satisfied:

(i) manufacturing milk levy was imposed on relevant dairy produce used, whether by the person who exported the dairy produce or by another person, in the manufacture of the exported dairy produce;

(ii) the export of the dairy produce has not been taken into account for the purposes of subsection 7(2) of the *Dairy Produce Levy (No. 1) Act 1986*.

“(4) For the purposes of this Act, the question whether a body corporate is related to another body corporate is to be determined in the same way as the question whether bodies corporate are related to each other is determined for the purposes of the Corporations Law.”.

2. Part II:

Repeal the Part.

3. Part III:

Repeal the Part, substitute:

SCHEDULE—continued

“PART III—LEVIES ON CERTAIN IMPORTED DAIRY PRODUCE

Levy on re-importation of exported dairy produce

“8. If:

(a) dairy produce is exported from Australia; and

(b) one of the following conditions is satisfied:

(i) an amount has been paid, or is payable, to a person by way of a market support payment under the *Dairy Produce Act 1986* in respect of the dairy produce;

(ii) the export of the dairy produce has been taken into account for the purposes of subsection 7(2) of the *Dairy Produce Levy (No. 1) Act 1986*;

(iii) a person has been paid, or is entitled to be paid, a manufacturing milk levy rebate under section 108E of the *Dairy Produce Act 1986* in relation to the export of the dairy produce; and

(c) the dairy produce is subsequently imported into Australia in the same form, or substantially the same form, as it was exported;

levy is imposed on the dairy produce.

Import offset levy

“9. Levy is imposed on the total quantity of dairy produce imported into Australia by a prescribed exporter during a financial year commencing on or after 1 July 1995 or, if the prescribed exporter is a body corporate, by a body corporate (other than a prescribed exporter) that is related to the prescribed exporter, not being dairy produce in relation to which levy has been paid, or is payable, under section 8.

Amount of levy

“10.(1) The amount of the levy imposed on dairy produce by section 8 is an amount equal to the total of:

(a) an amount calculated at the milk fat rate for the month in which the dairy produce is imported on the milk fat content of the dairy produce when imported; and

(b) an amount calculated at the protein rate for the month in which the dairy produce is imported on the protein content of the dairy produce when imported.

“(2) Subject to subsection (3), the amount of the levy imposed by section 9 on dairy produce imported during a financial year is calculated as follows:

SCHEDULE—continued

- (a) in respect of each quantity of dairy produce imported:
 - (i) an amount is calculated at the milk fat rate for the month in which the dairy produce was imported on the milk fat content of the dairy produce when imported; and
 - (ii) an amount is calculated at the protein rate for the month in which the dairy produce was imported on the protein content of the dairy produce when imported;
- (b) the amount of the levy is an amount equal to the total of the amounts calculated under paragraph (a) in respect of the dairy produce imported during the year.

“(3) Subject to subsection (4), the maximum amount of the levy imposed by section 9 on dairy produce imported by a prescribed exporter or, if the prescribed exporter is a body corporate, by a body corporate that is related to the prescribed exporter, during a financial year is an amount calculated as follows:

- (a) in respect of each quantity of dairy produce the subject of a relevant export by the prescribed exporter during the financial year:
 - (i) an amount is calculated at the milk fat rate for the month in which the dairy produce was exported on the milk fat content of the dairy produce; and
 - (ii) an amount is calculated at the protein rate for the month in which the dairy produce was exported on the protein content of the dairy produce;
- (b) the amounts calculated under paragraph (a) are added together;
- (c) if levy has been paid, or is payable, by the prescribed exporter under section 8 in respect of the importation, during the financial year, of any dairy produce and the amount so paid or payable is less than the amount arrived at under paragraph (b), the maximum amount is the amount equal to the difference between the amount arrived at under paragraph (b) and the amount of levy so paid or payable;
- (d) if no deduction is made under paragraph (c), the total arrived at under paragraph (b) is the maximum amount.

“(4) If:

- (a) levy has been paid, or is payable, by the prescribed exporter under section 8 in respect of the importation, during the financial year, of any dairy produce; and
- (b) the amount so paid or payable equals or exceeds the amount arrived at under paragraph (3)(b);

SCHEDULE—continued

import offset levy is not imposed on the importation of dairy produce by the prescribed exporter or, if the prescribed exporter is a body corporate, by a body corporate that is related to the prescribed exporter, during the financial year.

“(5) In this section, a reference to the milk fat rate for a month or the protein rate for a month has the same meaning as in section 7 of the *Dairy Produce Levy (No. 1) Act 1986*.

By whom levy payable

“11.(1) Levy imposed on dairy produce by section 8 is payable by the importer of the dairy produce.

“(2) Levy imposed on dairy produce by section 9 is payable by the prescribed exporter referred to in that subsection.”.

*[Minister's second reading speech made in—
House of Representatives on 9 May 1995
Senate on 30 May 1995]*