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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

NATIONAL RESIDUE SURVEY ADMINISTRATION

AMENDMENT BILL 1998

EXPLANATORY MEMORANDUM

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

## NATIONAL RESIDUE SURVEY ADMINISTRATION AMENDMENT BILL 1998

### OUTLINE

This Bill is part of a package of three Bills designed to correct technical faults in the National Residue Survey legislation and to consolidate 22 levy imposition Acts into two Acts.

The *National Residue Survey Administration Amendment Bill 1998* amends the *National Residue Survey Administration Act 1992* to overcome technical faults that had the effect of making liability for payment of National Residue Survey (NRS) levies dependent upon liability for the payment of another primary industry levy. The original intention had been that the liabilities for payment of both levies would arise at the same point in the process and would be collected at the same time, not that one should be dependent on the other. The Act is therefore being amended to make it clear that NRS levies are 'stand alone' levies, levied separately from other primary industry levies. They will still arise at the same point in the transaction process and be collected at the same time as other primary industry levies.

The legislation is also being amended to ensure that the NRS levy on onions is valid. This is also needed because NRS levies have been determined to be dependent on liability for another levy. In the case of onions that other levy rate is set at \$0.00 per tonne and there is some question as to whether such a rate would trigger the liability for payment of an NRS levy. To clarify this, the Act is being amended retrospectively to validate the imposition of the NRS levy on onions. Once past payments are validated the onion levy is repealed and will become a 'stand alone' levy along with the other NRS levies.

The bill repeals the 22 NRS levy imposition Acts, the contents of which are then included in the two other bills in this package the *National Residue Survey Levy (Customs) Bill 1998* and the *National Residue Survey Levy (Excise) Bill 1998*.

### FINANCIAL IMPACT STATEMENT

The proposed amendments will have no financial implications for the Commonwealth.

## NOTES ON CLAUSES

### **Clause 1: Short title**

This clause provides for the short title of the Act to be the *National Residue Survey Administration Amendment Act 1998*.

### **Clause 2: Commencement**

This clause provides for Schedule 1, relating to the validation of the onion levy, to have effect from 1 February 1994, and for Schedules 2 and 3, relating to the imposition of the various NRS commodity levies, to come into effect on the date of proclamation of the Act, or if proclamation has not occurred within six months of Royal Assent, the day after that six months. The remainder of the Act will come into effect upon Royal Assent.

Although the validation of the onion levy involves backdating amendments, this is to ensure that levies already collected were collected validly. No new levies are being introduced by this measure and the onion industry supports this approach. After the remainder of the Act comes into effect these arrangements are repealed and the onion levy is included in the new arrangements applying to all other NRS levies allowing them to operate on a 'stand alone' basis.

### **Clause 3: Schedule(s)**

This clause provides for the amendment or repeal of various Acts and regulations as set out in the Schedules.

## **Schedule 1 — Amendments commencing on 1 February 1994**

### *National Residue Survey Administration Act 1992*

#### **Item 1: At the end of section 9**

This item inserts an additional sub-section into section 9 of the *National Residue Survey Administration Act 1992* to validate the onion levy payments since 1994 by creating a liability to pay a National Residue Survey Levy on onions even if the rate of the horticultural levy upon which the levy was dependent was set at zero.

### *Primary Industries Levies and Charges Collection (National Residue Survey–Onion) Regulations*

#### **Item 2: Regulation 4 (definition of NRS levy)**

This item replaces the definition of a National Residue Survey Levy in the *Primary Industries Levies and Charges Collection (National Residue Survey–Onion) Regulations* to specify that it applies to the onion levy imposed by the *National Residue Survey (Horticultural Products Export) Levy Act 1992* or to that part of the levy referred to in Section 10 of *Horticultural Levy Act 1987*. Since there is no levy rate set for onions this will mean that the rate will be zero and the amendment at Item 1 will come into operation.

#### **Item 3: Regulation 4 (definition of NRS Levy Act)**

This item replaces the definition of *NRS Levy Act* in the *Primary Industries Levies and Charges Collection (National Residue Survey–Onion) Regulations* by confining the definition to the legislation covering export onions only.

#### **Item 4: Regulation 13**

This item removes 'NRS' from the text and the heading of the sub-section. This amendment, along with the amendments in Items 5, 6 and 7, is designed to ensure that the dependence on liability to pay a marketing levy on onions does not preclude the liability to pay the NRS levy on onions.

#### **Item 5: Regulation 13**

This item removes the words "in relation to which there is liability to pay charge". This amendment, along with the amendments in Items 4, 6 and 7, is designed to ensure that the dependence on liability to pay a marketing levy on onions does not preclude the liability to pay the NRS levy on onions.

**Item 6: Regulation 14**

This item removes 'NRS' from the text and the heading of the sub-section. This amendment, along with the amendments in Items 4, 5 and 7, is designed to ensure that the dependence on liability to pay a marketing levy on onions does not preclude the liability to pay the NRS levy on onions.

**Item 7: Regulation 15**

This item inserts 'NRS' to clarify that the levy payable is an NRS levy. This amendment, along with the amendments in Items 4, 5 and 6, is designed to ensure that the dependence on liability to pay a marketing levy on onions does not preclude the liability to pay the NRS levy on onions.

**Item 8: Transitional—regulations may be amended**

This item preserves the current situation whereby the onion regulations can be amended or repealed by regulations made under the *Horticultural Export Charge Act 1987*, the *Horticultural Levy Act 1987*, the *National Residue Survey Administration Act 1992*, or the *Primary Industries Levies and Charges Collection Act 1991*.

## **Schedule 2—Amendments commencing on Proclamation**

### *National Residue Survey Administration Act 1992*

#### **Item 1: Title**

This item amends the title of the *National Residue Survey Administration Act 1992* by omitting the provision for the collection of NRS levy imposed by various Acts. The amended structure of this legislation provides for the collection of NRS levies under the *Primary Industries Levies and Charges Collection Act 1991*.

#### **Item 2: Section 4 (definition of *National Residue Survey Levy*)**

This item replaces the definition of 'National Residue Survey levy' to reflect the amended structure of this package of legislation which combines 22 levy imposition Acts into two imposition Acts covering levies that are duties of excise and levies that are duties of customs respectively.

#### **Item 3: Section 4 (definition of *Related Act*)**

This item removes the definition of 'Related Act' because the amended structure of the legislation package removes the link between liability to pay NRS levies and liability to pay levies imposed by related Acts.

#### **Item 4: Section 4 (definition of *Table*)**

This item removes the definition of 'Table' because the consolidation of the 22 NRS levy imposition Acts into two removes the need for a reference table in this Act.

#### **Item 5: Section 5**

This item repeals Section 5 which defines how references to other Acts are to be read because the amended structure of the legislation package removes the link between NRS levies and levies imposed by related Acts and therefore removes the need to refer to other Acts.

#### **Item 6: Part 4**

This item repeals Part 4 of the *National Residue Survey Administration Act 1992* to remove the apparent dependence of liability for NRS levies on other primary industry levies.

#### **Item 7: Schedule**

This item repeals the Schedule to the *National Residue Survey Administration Act 1992* that contained maximum levy rates and related Acts for the imposition of NRS levies. The schedule is no longer needed because the consolidation of the amended structure

of the legislation package removes the need for reference to related Acts and the maximum levy rates have been transferred into the two new imposition Acts.

**Item 8: Transitional—pre-commencement levies**

This item provides that any obligations arising under the current Act and related Acts, as specified in the table in sub-paragraph (3), still remain after the commencement of this Act.

***Primary Industries Levies and Charges Collection Act 1991***

**Item 9: Subsection 4(4)**

This item provides for the equivalence of meanings of words used in associated Acts to the *Primary Industries Levies and Charges Collection Act 1991* to include any schedule attached to an associated Act. This will include the schedules attached to the *National Residue Survey (Excise) Levy Bill* and the *National Residue Survey (Customs) Levy Bill* upon commencement.

**Item 10: Schedule 2**

This item removes NRS levy imposition Acts that imposed levies from the schedule of the *Primary Industries Levies and Charges Collection Act 1991* detailing Acts that impose levies.

**Item 11: Schedule 2**

This item inserts the titles of the two consolidated levy imposition Acts into the schedule of the *Primary Industries Levies and Charges Collection Act 1991* detailing Acts that impose levies in place of those removed by Item 10.

### **Schedule 3—Repeal of Acts**

#### **Item 1: Repeal of Acts**

This item repeals the 22 levy imposition Acts that will be replaced by the two consolidated imposition Acts.