Date introduced: 20 November 1985
House: House of Representatives
Presented by: Hon. John Kerin, M.P., Minister for Primary Industry

DIGEST OF BILL

Purpose

To validate the collection of certain quarantine fees which have been collected without a legal basis.

Background

The Quarantine Act 1908 (the Principal Act) was amended in 1984 to allow the Minister to determine the fees to be paid for quarantine services. Under the terms of a determination that came into force on 1 October 1984, new fees for the inspection of livestock for export came into force. However, this determination also had the unintended effect of repealing all other quarantine fees.

The determination of 1 October 1984 was, however, found to be defective as it had not been tabled before both Houses of Parliament as required by the Principal Act. As a result, the determination ceased to have effect on 24 October 1985 in accordance with sub-section 48(3) of the Acts Interpretation Act 1901. This also meant that the fees in place before the determination of 1 October 1984 were revived. The end result was that there were no quarantine fees, other than for the export inspection of livestock, legally in force for the period 1 to 24 October 1984.

The administration of the plant and animal quarantine services were transferred to the Department of Primary Industry in December 1984. Subsequently, the Minister for Primary Industry made determinations that affected the fees charged for plant and animal quarantine. However, these determinations were also defective. Throughout the period since 1 October 1984, fees have been charged on the basis of the defective determinations and without a legal basis. New and valid determinations
concerning plant and animal quarantine fees were published in the Gazette on 6 November 1985 and this Bill will authorise the collection of fees before that date. An estimated $2.5 million is involved.[1]

The Bill also deals with the fee charged for the disposal of waste from overseas aircraft. For many years, a fee was charged for this service which was performed by the quarantine authorities. However, recent examination of the process has shown that there is no legal backing for the charging of such fees. On 18 November 1985, a determination came into force which provided a legal basis for the fees. This Bill will validate the collection of fees before that date. During 1984/85 approximately $630,000 was collected through this fee.[2]

Main Provisions

The collection of fees for animal and plant quarantine services performed between 1 October 1984 and 7 November 1985 is validated by clause 4.

The collection of quarantine service fees in respect of human quarantine for the period 1 October 1984 to, and including, the 24 October 1984 is validated by clause 5.

Clause 6 will deem quarantine service fees paid in respect of a service contained in clause 4 or 5 to have been properly made.

Clause 7 will validate the collection of fees for the removal of waste from overseas aircraft prior to 18 November 1985.

For further information, if required, contact the Economics and Commerce Group.

Bills Digest Service

LEGISLATIVE RESEARCH SERVICE

3 December 1985
References

2. Ibid., p.3249.