Primary Industries (Excise) Levies Amendment (Dairy Produce) Bill 2014

Rob Dossor
Economics Section

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Date introduced: 13 February 2014
House: House of Representatives
Portfolio: Agriculture
Commencement: On Royal Assent

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation
When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.
Purpose of the Bill

The purpose of the Primary Industries (Excise) Levies Amendment (Dairy Produce) Bill 2014 (the Bill) is to amend Schedule 6 of the Primary Industries (Excise) Levies Act 1999 to increase the maximum rate of the Australian Animal Health Council levy that can be levied on dairy produce.

Background

Role of Animal Health Australia

The Australian Animal Health Council Ltd (AHA) was incorporated under Australian Corporations Law in January 1996. Within the framework of a not-for-profit company, AHA manages over 50 national projects that improve animal and associated human health, biosecurity, market access, livestock welfare, productivity and food safety and quality. AHA is a public company whose members include the Australian Government, state and territory governments, the peak national councils of Australia’s livestock industries and various key research, veterinary and educational organisations.

AHA is the national body responsible for creating collaborative partnerships aimed at maintaining and improving the status of the national animal health system. Part of its mission is to ‘build capacity to enhance emergency animal disease preparedness’. Funding of the AHA is provided from a number of sources, including the Australian Animal Health Council levy as defined in section 3 of the Australian Animal Health Council (Live-stock Industries) Funding Act 1996. Dairy producers, amongst others, are required to pay the Australian Animal Health Council levy.

According to the Explanatory Memorandum, the Australian Dairy Farmers Limited (ADF) asked the Government to legislate for an increase in the maximum rate of the levy.

Cost sharing deed

Effect on Australian Dairy Farmers Ltd

ADF, the dairy industry peak body, is a party to a government and livestock industry cost sharing deed in respect of emergency animal disease responses (cost sharing deed). The cost sharing deed establishes a mechanism to facilitate the making of rapid responses to, and the control and eradication or containment of, certain animal diseases by, amongst other things, defining funding responsibilities up to certain limits for each Emergency Animal Disease. The cost sharing deed provides that where an Emergency Animal Disease Response Plan (EADRP) is implemented, each Party must initially meet its costs arising from its involvement in the EADRP. Cost sharing principles will come into effect during the course of the implementation of the EADRP. Essentially, ADF is obliged under the cost sharing deed to take reasonable steps to ensure that the dairy industry meets it cost sharing obligations. However, where the industry is not able to do so, the Commonwealth will initially meet those obligations.

In that case, the amount paid by the Commonwealth must be repaid within a reasonable time—generally expected to be no longer than ten years. Repayment may be made through industry statutory levy arrangements.

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4. Department of Agriculture (DA), Australia’s animal health system, DA website, accessed 14 February 2014.
7. Ibid., statement of comprehensive income for the year ended 30 June 2013, p. 44.
9. Ibid., paragraph (ac) of the definition of Australian Animal Health Council levy at section 3.
12. DLA Piper Australia, Government and livestock industry cost sharing deed in respect of emergency animal disease responses, variation no. 13/01–06/06/2013, accessed 20 February 2014.
13. Ibid., recital A(d).
under clause 3 of Schedule 6 of the Primary Industries (Excise) Regulations 1999 (the Regulations)\textsuperscript{15} or by voluntary means.\textsuperscript{16}

The cost sharing deed defines four categories of emergency animal disease so that the parties will apply principles of cost sharing for the conduct of an EADRP in accordance with the Table below.

<table>
<thead>
<tr>
<th>Category of disease</th>
<th>Government funding</th>
<th>Industry funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category 1</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>Category 2</td>
<td>80%</td>
<td>20%</td>
</tr>
<tr>
<td>Category 3</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Category 4</td>
<td>20%</td>
<td>80%</td>
</tr>
</tbody>
</table>

\textsuperscript{15} Primary Industries (Excise) Levies Regulations 1999, accessed 20 February 2014.

\textsuperscript{16} DLA Piper Australia, \textit{Government and livestock industry cost sharing deed in respect of emergency animal disease responses}, op. cit., Schedule 7.

\textbf{Effect on Animal Health Australia}

AHA is also a signatory to the cost sharing deed. It is responsible for determining the costs of each of the parties which have been affected by an EADRP and is entitled to recover those of its costs which are additional to its ordinary operating costs.\textsuperscript{17}

According to the Explanatory Memorandum the increase in the \textit{Australian Animal Health Council levy} will:

\begin{quote}
... allow the dairy industry to meet requirements of being a signatory to [the Emergency Animal Disease Response] Agreement, including the ability to meet its obligations in the event of an emergency response and where a nationally cost-shared response has been agreed.\textsuperscript{18}
\end{quote}

\textbf{Committee consideration}

\textit{Selection of Bills Committee}

At its meeting of 12 February 2014, the Selection of Bills Committee determined that the Bill not be referred to a Senate Committee for inquiry and report.\textsuperscript{19}

\textit{Senate Standing Committee for the Scrutiny of Bills}

At the time of writing this Bills Digest, the Standing Committee for the Scrutiny of Bills had not commented on the Bill.

\textit{Parliamentary Joint Committee on Human Rights}

At the time of writing this Bills Digest, the Parliamentary Joint Committee on Human Rights had not commented on the Bill.

\textbf{Financial implications}

The Explanatory Memorandum states that the Bill will have no financial impacts on the Commonwealth Government.\textsuperscript{20}

\textbf{Statement of Compatibility with Human Rights}

As required under Part 3 of the \textit{Human Rights (Parliamentary Scrutiny) Act 2011} (Cth), the Government has assessed the Bill’s compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act.\textsuperscript{21} The Government considers that the Bill is compatible as it does not raise any human rights issues.

\textsuperscript{15} Primary Industries (Excise) Levies Regulations 1999, accessed 20 February 2014.

\textsuperscript{16} DLA Piper Australia, \textit{Government and livestock industry cost sharing deed in respect of emergency animal disease responses}, op. cit., Schedule 7.

\textsuperscript{17} Ibid., clause 10.7.

\textsuperscript{18} Explanatory Memorandum, op. cit., p. 2.


\textsuperscript{20} Explanatory Memorandum, op. cit., p. 2.

\textsuperscript{21} Ibid.
Key issues and provisions

Schedule 6 of the Primary Industries (Excise) Levies Act sets out the rules for the imposition of a number of levies on dairy products. Relevant to this Bill, paragraph 6(1)(g) of Schedule 6 of the Primary Industries (Excise) Levies Act provides for the imposition of the Australian Animal Health Council levy on relevant dairy produce. Clause 13 of Schedule 6 provides that the levy is paid by the producer of the relevant dairy produce.

The rate of the levy is the total of:

- an amount calculated at the milk fat rate prescribed by regulation and
- an amount calculated at the protein rate prescribed by regulation.\(^{22}\)

Item 1 of the Bill amends item 6 in the Table at clause 11, which sets the maximum milk fat rate for the purposes of the Australian Animal Health Council levy, so that the rate is increased from 0.058 cents per kilogram to 0.145 cents per kilogram.

Item 2 of the Bill amends item 6 in the Table at clause 12, which sets the maximum protein rate for the purposes of the Australian Animal Health Council levy, so that the rate is increased from 0.13850 cents per kilogram to 0.34625 cents per kilogram.

Concluding comments

The proposed amendments do not change the levy rates. Instead the Bill increases the cap on the rate of the Australian Animal Health Council levy which may be payable in respect of dairy producer. A change in the levy rate would require an amendment to clause 2 of Schedule 6 of the Regulations.

Before this could occur, industry consultation, including the requirement for a vote of levy payers to be conducted and the preparation of a proposal to the Government containing a recommendation on the preferred levy rate, would be required.\(^{23}\)

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23. The process for industry to decide on a charge or variation of a levy is set out in Department of Agriculture, Fisheries and Forestry (DAFF), Levies revenue service: levy principles and guidelines, DAFF, January 2009, accessed 17 February 2014.
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