

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

GOAT FIBRE LEVY BILL 1989

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EXPLANATORY MEMORANDUM

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

GOAT FIBRE LEVY BILL 1989GOAT FIBRE LEVY COLLECTION BILL 1989GENERAL OUTLINE

The Goat Fibre Levy Bill and the Goat Fibre Levy Collection Bill are similar in content to legislation to finance research which is already in operation for other rural industries such as triticale, grain legumes, cotton and sugar. The legislation provides for the imposition and collection of a levy on growers of goat fibre to finance the research scheme. The levy will be applied to goat fibre produced on or after 1 January 1990.

2. The initial rate of the levy will be set at 1.5% of the sale value of goat fibre with a provision for the rate to be varied to a maximum of 5% of the sale value. The levy is on the production of goat fibre and is to be paid by the grower.

3. Levies will be paid into the Australian Special Rural Research Fund. The Rural Industries Research Act 1985 established the Australian Special Rural Research Council to provide administrative and organisational arrangements necessary for research schemes for small emerging industries. The more important features of this are

- a research scheme will be administered by the Australian Special Rural Research Council
- a research scheme will have clearly identified goals to be encompassed in a 5 year strategic plan which will be developed in consultation with the industry and approved by the Minister
- the Special Research Council through its Chairperson will be required to report annually to a meeting of industry representatives.

Financial Impact Statement

4. If levy collections begin on 1 January 1990, research expenditure under the scheme can begin in 1990-1991. The Commonwealth will match expenditure of industry moneys from the Fund, dollar for dollar, up to a limit of 0.5% of the average annual gross value of production of goat fibre. The initial annual Commonwealth contribution will be about \$50,000.

GOAT FIBRE LEVY BILL 1989NOTES ON INDIVIDUAL CLAUSESClause 1: Short title

5. This clause provides the mode of citation of the Act.

Clause 2: Commencement

6. Clause 2 provides that Sections 1 and 2 of the Act come into operation when the Bill receives Royal Assent with the remaining provisions coming into operation on 1 January 1990.

Clause 3: Acts to be read as one

7. The Goat Fibre Levy Collection Act 1989 is to be read as one with this Act.

Clause 4: Interpretation

8. This clause provides a definition of leviable fibre and the sale value of goat fibre. These, when combined with the levy rate will determine the actual levy payable by a fibre producer.

Clause 5: Imposition of levy

9. This clause provides for a levy to be imposed on goat fibre produced in Australia on or after 1 January 1990.

Clause 6: Rate of levy

10. The rate of levy to be imposed is to be set initially at 1.5% of the sale value of the fibre but may be varied up to 5% of the sale value by way of regulation.

Clause 7: By whom levy payable

11. The levy is payable by the grower.

Clause 8: Levy not imposed on a State

12. In keeping with the Commonwealth's powers to tax the property of a State, the levy is not imposed on fibre owned by a State.

Clause 9: Exemption from levy used by grower

13. No levy is imposed on goat fibre used by a grower for handicraft or processed commercially for the grower's subsequent use, unless in a levy year the leviable amount is reached, ie a grower would not pay any levy unless the quantity of fibre processed is sufficient to attract a levy of at least \$50 in a year.

Clause 10: Exemption from levy for craft shops

14. Very small users of fibre are exempted as no levy is imposed unless the total fibre delivered by all growers in a year reaches the leviable amount (presently \$50).

Clause 11: Regulations

15. Sub-clause 11(1) provides that the Governor-General may make regulations necessary for the administration of the Act.
16. Sub-clause 11(2) provides that before making regulations which alter the rate of the levy or the definitions of leviable fibre and sale value, the Governor-General is to take into consideration recommendations arising out of consultations between the Minister and the goat fibre industry organisations.

GOAT FIBRE LEVY COLLECTION BILL 1989NOTES ON INDIVIDUAL CLAUSESClause 1: Short Title

17. This clause provides the mode of citation of the Act.

Clause 2: Commencement

18. The Act commences on the same day that the Goat Fibre Levy Act 1989 commences.

Clause 3: Interpretation

19. Sub-clause 3(1) provides definitions and interpretation of various terms used in this Bill and the associated Levy Bill.
20. Sub-clause 3(2) provides a definition of delivered - deemed to take place when a grower delivers leviable fibre to another person or where leviable fibre is allowed to be removed from the possession or control of the grower.
21. Sub-clause 3(3) provides a definition of delivered where the leviable fibre is consigned to a person for carriage to another party.
22. Sub-clause 3(4) provides a definition of ownership of leviable fibre where the fibre is grown under contract.

Clause 4: Time for payment of levy

23. Clause 4 provides that the levy is due and payable within 28 days following the quarter in which the fibre was sold by a broker, delivered to another person or processed by or for the grower, and provides a definition of "quarter".

Clause 5: Liability of purchaser or receiver

24. For administrative convenience the purchaser or receiver is liable for payment to the Commonwealth of amounts equal to the levy and is authorised to deduct relevant amounts from payments to growers. The grower is then discharged from liability to pay the levy.

Clause 6: Penalty for non-payment

25. Sub-clauses 6(1) and 6(3) provide for a penalty of 2% per month to be imposed, in addition to the levy, if the levy is not paid by the due date.
26. Sub-clause 6(2) provides interpretation of who is liable for payment of the penalty.

Clause 7: Remission of amounts

27. The penalty for late payment of the levy may be remitted by the Minister, or if it does not exceed \$500, also by a person authorised by the Minister.

Clause 8: Recovery of levy

28. This clause provides that debts due to the Commonwealth by way of levy or penalty may be recovered by the Commonwealth.

Clause 9: Refund of levy

29. Sub-clause 9(1) provides for levy which has been overpaid to be refunded by the Commonwealth.
30. Sub-clause 9(2) provides that any refund is to be from the fund into which levy is paid at the time of the refund, initially this will be the Australian Special Rural Research Fund.
31. Sub-clause 9(3) provides that an expression in sub-clause 9(2) has the same meaning as in the Rural Industries Research Act 1985 ie the refund may apply to the research levy and the penalty for late payment.

Clause 10: Power to call for information

32. This clause empowers an authorised person to call for returns or information relevant to the operation of this Act. Such returns or information may require verification by statutory declaration.

Clause 11: Powers of authorised persons in relation to premises

33. Sub-clause 11(1) enables an authorised person to enter premises with the consent of the occupier or in accordance with a warrant issued under Section 12.
34. Sub-clause 11(2) provides that where an authorised person has entered premises, he may search for and take stock of leviable fibre or goods produced from leviable fibre and examine or copy any relevant documents.
35. Sub-clause 11(3) provides a penalty for obstruction of an authorised person in the exercise of powers under sub-clause 11(1) or 11(2).

Clause 12: Warrant to enter premises

36. Sub-clause 12(1) provides that where a Magistrate is satisfied that reasonable grounds exist for the authorised person to be issued with a warrant the Magistrate may grant a warrant which will enable the authorised person to enter premises for the purposes of this Act.

37. Sub-clause 12(2) provides that a warrant so granted is to be effective for a maximum period of 1 month from the date of issue.

Clause 13: Offences in relation to returns

38. Sub-clause 13(1) provides that it is an offence without reasonable excuse to fail to furnish a return or provide information required under the Act.
39. Sub-clause 13(2) provides that a person is not excused from submitting a return or providing information if by doing so the person might tend to be incriminated. Any return or information submitted, however, cannot be used as evidence in proceedings for recovery of a penalty under clause 6 or in criminal proceedings against the person except in relation to an offence against sub-clauses 13(1) or 13(3).
40. Sub-clause 13(3) provides for penalties in relation to false or misleading statements or documents.

Clause 14: Conduct of directors, servants and agents

41. Clause 14 provides that subject to certain conditions, the conduct of directors, servants or agents of a body corporate can be taken as that of the body corporate, and similarly, the conduct of agents acting for a person other than a body corporate can be taken as that of the other person.

Clause 15: Appointment of authorised persons

42. This clause provides that the Secretary may appoint in writing a person to be an authorised person.

Clause 16: Identity cards

43. This clause provides for the issue of a prescribed form of identity card to an authorised person, use of the card and a penalty for non-return of the card in the event that the possessor ceases to be an authorised person.

Clause 17: Review of decisions

44. This clause provides that application may be made to the Administrative Appeals Tribunal for review of a decision to refuse to remit a penalty.

Clause 18: Delegation by Secretary

45. Clause 18 provides that the Secretary to the Department may delegate any or all of his or her powers under this legislation, to an officer of the Department.

Clause 19: Regulations

46. Sub-clause 19(1) provides for the making of regulations by the Governor-General to prescribe matters necessary to give effect to the Act. These matters include requiring the keeping of records, manner of payment of levies and other moneys, requiring the furnishing of returns, and prescribing penalties for offences against the regulations.
47. Sub-clause 19(2) provides that before making regulations which alter the leviable amount, the Governor-General is to take into consideration recommendations arising out of consultations between the Minister and the goat fibre industry organisations.