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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TRITICALE LEVY BILL 1988

ACT NO. 116-1988

TRITICALE LEVY COLLECTION BILL 1988

ACT NO. 117-1988

EXPLANATORY MEMORANDUM

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

TRITICALE LEVY BILL 1988TRITICALE LEVY COLLECTION BILL 1988GENERAL OUTLINE

The Triticale Levy Bill and the Triticale Levy Collection Bill are similar in content to Research Acts already in operation for other rural industries such as grain legumes, cotton and sugar. The legislation provides for the imposition and collection of a levy on growers of triticale to finance the Research Scheme. The levy will be applied to triticale sold by growers on or after a date to be fixed by Proclamation.

2. The initial rate of the levy will be set at \$1.00/tonne with a provision for the rate to be varied to a maximum of \$2.00/tonne. The levy 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 Fund to provide administrative and organisational arrangements necessary for research schemes for small emerging industries. The more important features of that part of the legislation are

- a research scheme will be administered by the Australian Special Rural Research Council. This will be accommodated by a provision in the accompanying amendments to the Rural Industries Research Act 1985
- 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 with the 1988 harvest, research expenditure under the scheme can begin in 1989-90. 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 triticale. The initial annual Commonwealth contribution will be about \$160,000.

TRITICALE LEVY BILL 1988NOTES 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 a day to be fixed by Proclamation.

Clause 3: Acts to be read as one

7. The Triticale Levy Collection Act 1988 is to be read as one with this Act.

Clause 4: Act to bind Crown

8. Provides that this Act binds the Crown in right of each of the States and the Northern Territory.

Clause 5: Imposition of Levy

9. Provides for a levy to be imposed on triticale produced in Australia on or after the Proclaimed date.

Clause 6: Rate of levy

10. The rate of levy to be imposed is to be set initially at \$1.00/tonne but may be varied up to \$2.00/tonne by way of regulation.

Clause 7: By whom levy payable

11. The levy is payable by the grower.

Clause 8: Exemption from Levy

12. Sub-clause 8(1) provides that no levy is imposed on triticale delivered to a particular person unless in a levy year the leviable weight is reached.

13. Sub-clause 8(2) provides that no levy is imposed where leviable triticale produced by the grower is processed by or for the grower's own use.

14. Sub-clause 8(3) provides that, excluding triticale which comes under the exemption provisions of sub-clause 8(2), (item 10) ie triticale processed by or for the grower's own use, the grower is exempt from paying levy on triticale processed by the grower if the leviable weight is not reached.

Clause 9: Regulations

15. Sub-clause 9(1) provides that the Governor-General may make regulations necessary for the administration of the Act.
16. Sub-clause 9(2) provides that before making regulations which alter the rate of the levy or leviable weight, the Governor-General is to take into consideration recommendations arising out of consultations between the Minister and the triticale industry organisation.

TRITICALE LEVY COLLECTION BILL 1988NOTES ON INDIVIDUAL CLAUSESClause 1: Short Title

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

Clause 2: Commencement

18. The Bill commences on the same day that the Triticale Levy Bill 1988 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 grain to another person or where leviable grain 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 grain is consigned to a person for carriage to another party.

22. Sub-clause 3(4) provides a definition of ownership of leviable grain where the grain is grown under contract.

23. Sub-clause 3(5) provides definitions of the terms purchaser and receiver.

Clause 4: Act to bind Crown

24. Provides that this Act binds the Crown in right of each of the States and the Northern Territory.

Clause 5: Time for payment of levy

25. Clause 5 provides that the levy is due and payable within the month following the quarter in which the grain was delivered to another person or processed by the grower, and provides a definition of "quarter".

Clause 6: Liability of Purchaser or Receiver

26. 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 7: Penalty for non-payment

27. Sub-clauses 7(1) and 7(3) provide for a penalty of 20% per annum to be imposed, in addition to the levy if the levy is not paid by the due date.
28. Sub-clause 7(2) provides interpretation of who is liable for payment of the penalty.

Clause 8: Remission of Amounts

29. Sub-clauses 8(1) and 8(2) provide that the penalty may be remitted by the Minister, or if it does not exceed \$500, also by a person authorised by the Minister.

Clause 9: Recovery of Levy etc

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

Clause 10: Refund of Levy

31. Sub-clause 10(1) provides for levy which has been overpaid to be refunded by the Commonwealth.
32. Sub-clause 10(2) provides that any refund is to be from the fund into which levy is paid, initially the Australian Special Rural Research Fund.
21. Sub-clause 10(3) provides that an expression in sub-clause 10(2) has the same meaning as in the Rural Industries Research Act 1985.

Clause 11: Power to call for information

34. 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 12: Powers of authorised persons in relation to Premises

35. Sub-clause 12(1) enables an authorised person to enter premises with the consent of the occupier or in accordance with a warrant issued under Section 13.
36. Sub-clause 12(2) provides that where an authorised person has entered premises, he may search for and take stock of leviable grain or goods produced from leviable grain and examine or copy any relevant documents.

37. Sub-clause 12(3) provides a penalty for obstruction of an authorised person in the exercise of powers under sub-clause 12(1) or 12(2).

Clause 13: Warrant to enter premises

38. Sub-clause 13(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.
39. Sub-clause 13(2) provides that a warrant so granted is to be effective for a maximum period of 1 month from the date of issue.

Clause 14: Offences in relation to returns etc

40. Sub-clause 14(1) provides that it is an offence without reasonable excuse to fail to furnish a return or provide information required under the Act.
41. Sub-clause 14(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 Section 7 or in criminal proceedings against the person except in relation to an offence against sub-clauses 14(1) or 14(3).
42. Sub-clause 14(3) provides for penalties in relation to false or misleading statements or documents.

Clause 15: Conduct of directors, servants and agents

43. Clause 15 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 16: Appointment of Authorised Persons

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

Clause 17: Identity Cards

45. 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 18: Review of Decisions

46. 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 19: Delegation by Secretary

47. 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 20: Regulations

48. This clause 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.