

MEAT INDUSTRY (AMENDMENT) ACT 1985 No. 171

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 171, 1985

An Act to amend the Meat Industry Act 1978 so as to impose a levy to assist in funding the Meat Industry Authority; and for other purposes.
[Assented to, 3rd December, 1985.]

Meat Industry (Amendment) 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Meat Industry (Amendment) Act 1985".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

3. The Meat Industry Act 1978 is referred to in this Act as the Principal Act.

Schedules

4. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO LEVIES

SCHEDULE 2—MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT

Amendment of Act No. 54, 1978

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Meat Industry (Amendment) 1985

SCHEDULE 1

(Sec. 5)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LEVIES

- (1) Section 4 (1), definition of "meat industry levy"—

After the definition of "meat", insert:

"meat industry levy" means the levy payable under section 59A (1);

- (2) Part VA—

After Part V, insert:

PART VA

MEAT INDUSTRY LEVY

DIVISION 1—*Amount of meat industry levy***Meat industry levy**

59A. (1) In respect of a year commencing on 1 January, a meat industry levy shall be payable to the Authority by every occupier of land liable to pay an animal health rate in respect of that year under the Pastures Protection Act 1934.

(2) The amount of the levy payable by an occupier under subsection (1) is—

- (a) the sum of \$5 together with an amount calculated at the rate of 0.8 cents (or such other rate as may be prescribed) for each stock unit equivalent of carrying capacity of the land, as assessed under the Pastures Protection Act 1934, in respect of which the animal health rate is payable; or

- (b) \$60,

whichever is the lesser amount.

(3) Notice of the amount of the meat industry levy payable under this section shall be given by service of a written notice on the occupier not later than the prescribed date in each year and may be given by the Authority or its agent.

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SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LEVIES—
continued

(4) Where an occupier of land is liable to pay 2 or more animal health rates in respect of any land within the same district within the meaning of the Pastures Protection Act 1934, the amount of the meat industry levy payable may, on the application of the occupier to the Authority or its agent, be calculated in relation to the combined carrying capacity of each area of land in respect of which an animal health rate is payable.

(5) Where an occupier of land within the same or different districts within the meaning of the Pastures Protection Act 1934 pays to the Authority or its agents meat industry levies in respect of different parcels of land the total of which exceed \$60, the Authority or its agent shall, on the application of the occupier, refund to the occupier the amount paid in excess of \$60.

Irregularity

59B. If for any reason notice of the amount of the meat industry levy is not given within or by the time prescribed under this Act, the Minister may extend the time for the giving of the notice.

DIVISION 2—*Liability for meat industry levy***Liability—generally**

59C. (1) Every meat industry levy shall be due and payable to and recoverable by the Authority or its agent after the expiration of 31 days after service of the notice referred to in section 59A.

(2) The occupier of land shall be primarily liable for payment of a meat industry levy payable in respect of that land.

Meat Industry (Amendment) 1985

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LEVIES—
continued

(3) Two or more occupiers of land who hold jointly or in common shall be jointly and severally liable to the Authority for a meat industry levy payable in respect of that land, but as between themselves each shall be liable only for such part of the levy as is proportionate to the occupier's interest in the land.

(4) An occupier referred to in subsection (3) who pays to the Authority more than the occupier's proportionate part of the meat industry levy may recover the amount of the excess by way of contribution from the other occupier or occupiers, as the case may be.

(5) Where the name of the occupier liable to pay the meat industry levy is not known to the Authority or its agent, it shall be sufficient to levy the occupier by the designation of "occupier" without stating the occupier's name.

(6) Where the whole or part of a meat industry levy is unpaid after the expiration of 12 months after the date on which it became due and payable to and recoverable by the Authority or its agent, the owner of the land in respect of which the levy is payable shall be liable for payment of the unpaid levy and any interest or any other charges payable in respect of the levy.

(7) A person who is liable to pay a meat industry levy shall not fail to pay the whole of the levy on or before the due date.

Penalty: \$1,000.

(8) An owner referred to in subsection (6) who pays the whole or part of an unpaid meat industry levy or any interest or charges payable in respect of a levy may recover the amount paid from the occupier of the land concerned.

(9) Nothing in subsection (6) affects an occupier's liability for payment of a meat industry levy.

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SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LEVIES—
continued

(10) Subsection (6) does not apply to land the subject of a lease, license or purchase from the Crown.

(11) Subsections (3) and (4) apply to 2 or more owners of land liable under subsection (6) for payment of an unpaid meat industry levy as if a reference in subsections (3) and (4) to an occupier or occupiers were a reference to those owners.

Liability where an estate or interest is transferred

59D. (1) Where a person ceases to be the occupier or owner of any land in respect of which a meat industry levy is payable, the person shall continue to be liable to the Authority for the levy to the same extent as if the person had continued to be the occupier or owner of the land, if the notice of the amount of the levy is given either —

- (a) before the person ceases to be the occupier or owner of the land; or
- (b) before the Authority or its agent has received from the person the prescribed notice under section 59E (1) of the person ceasing to be the occupier or owner of the land.

(2) Where a person who ceases to be the occupier or owner of any land pays to the Authority or its agent any meat industry levy which becomes due and payable after the person has ceased to be the occupier or owner of the land and before the prescribed notice under section 59E (1) has been received by the Authority or its agent, the person may recover the amount from any person who thereafter becomes the occupier or owner, as the case may be, of the land.

(3) As between successive occupiers or owners of land a meat industry levy shall be considered as accruing from day to day and shall be apportionable in respect of time accordingly.

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SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LEVIES—
*continued***Notice of changes in occupancy or ownership of land**

59E. (1) A person shall, within one month of ceasing to be or becoming the occupier or owner of land in respect of which a meat industry levy is payable, give the prescribed notice to the Authority or its agent.

Penalty: \$500.

(2) Proceedings in respect of any offence under this section may, notwithstanding any limit of time prescribed by any Act for instituting proceedings, be commenced at any time within the period of 2 years after the commission of the offence.

Liability of person becoming occupier or owner

59F. (1) A person who, in any year, becomes the occupier or owner of any land in respect of which a meat industry levy is due and payable for that year, shall be liable to the Authority for that meat industry levy and for all arrears of the levy owing by any previous occupier or owner in respect of the land, whether or not the person became the owner or occupier of the land after the meat industry levy became due and payable.

(2) Subsection (1) does not affect or extend to an occupier of land the subject of a lease, license or purchase from the Crown, where the lease or license is granted or purchase is made after a levy referred to in that subsection is payable, whether or not the land has been previously held under a lease, license or purchase from the Crown.

(3) Any person may apply to the Authority for a certificate under this section as to the amount, if any, due or payable to the Authority by the occupier or owner of land for a meat industry levy in respect of the land or otherwise.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LEVIES—
continued

(4) An application for a certificate referred to in subsection (3) shall be made in or to the effect of the prescribed form and shall be accompanied by the prescribed fee.

(5) A certificate referred to in subsection (3) shall be in or to the effect of the prescribed form.

(6) The production of a certificate referred to in subsection (3) shall be deemed to be conclusive proof in favour of a person who becomes an occupier or owner of the land to which the certificate relates that at the date of the certificate no levies, charges or sums other than those stated in the certificate were due or payable in respect of the land.

(7) For the purposes of this section levies, charges or sums of money shall be deemed to be due or payable notwithstanding that the requisite period after service of any notice may not have expired.

(8) If the occupier or owner of any land pays to the Authority or its agent any meat industry levy which accrued during the occupancy or ownership of the land by some other person, the occupier or owner may recover from that other person such proportion of the levy as accrued while that other person was the occupier or owner of the land.

DIVISION 3—*Recovery of meat industry levies*

Facilitation of recovery

59G. (1) In any proceedings for the recovery of any meat industry levy, objection to the validity of the levy shall not be allowed and shall not prevent the recovery of the levy.

(2) An occupier or owner desiring to object to the validity of any meat industry levy may object to its validity before a prescribed court in the prescribed manner subject to such conditions and the payment of such fees as may be prescribed.

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SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LEVIES—
*continued***Overdue meat industry levies—extra charges**

59H. (1) Overdue meat industry levies shall be increased in accordance with this section.

(2) Where the whole or part of a meat industry levy is unpaid after the expiration of 60 days from the date on which the levy became due and payable to and recoverable by the Authority or its agent, the amount due shall be increased by a sum calculated at the prescribed rate per cent per annum, and the increase shall be deemed to be part of the levy.

(3) The calculation under subsection (2) shall be made in respect only of as many complete months as have expired between the due date and the date of payment, excluding any remaining portion of a month.

(4) If in any case the percentage is less than 10 cents, the increase shall be 10 cents.

(5) This section shall continue to apply to all unpaid levies notwithstanding that judgment may have been obtained in any court, including the District Court.

Recovery of meat industry levies

59I. (1) Any meat industry levies not paid as required by this Part may be recovered by the Authority or its agent as a debt in any court of competent jurisdiction.

(2) All meat industry levies due and payable by the same person, whether in respect of occupation or ownership of the same or different land, may be recovered by proceedings in one action or suit.

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SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LEVIES—
continued

(3) Where proceedings referred to in subsection (2) are taken in a Local Court, the proceedings may be taken in the court for the pastures protection district within which any of the land to which the proceedings relate is situated, or in the court nearest to the office of the Authority or its agent, or to the residence of the defendant, as the Authority or its agent may decide, whether the levies sought to be recovered are in respect of land occupied within the same or different districts.

(4) Nothing in this section shall preclude the taking of separate proceedings, or the taking of proceedings in any Local Court available under the Local Courts (Civil Claims) Act 1970.

DIVISION 4—*Miscellaneous***Collection of meat industry levies**

59J. (1) The Authority may enter into an agreement or arrangement with a board or the Council of Advice on behalf of the Pastures Protection Boards' Association of New South Wales within the meaning of the Pastures Protection Act 1934 for or with respect to the issue of notices specifying the amount of a meat industry levy and the undertaking by boards on behalf of the Authority of the collection and recovery of meat industry levies.

(2) Without affecting the generality of subsection (1), an agreement or arrangement referred to in subsection (1) may—

- (a) provide for the deduction of commission by a board; and
- (b) authorise a board to take any action or proceedings which could be taken by the Authority to recover unpaid meat industry levies under this Act.

*Meat Industry (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LEVIES—
*continued***Waiver or refund of meat industry levies**

59K. (1) The Minister may, at the Minister's discretion, direct the Authority—

- (a) to waive payment of any meat industry levy or part of any meat industry levy; or
- (b) to refund to an occupier or owner any meat industry levy or part of any meat industry levy,

or both.

(2) The Minister may authorise the Authority to write off any amount owing to it whether for meat industry levies or otherwise if the Minister is satisfied that the amount is not recoverable.

Levy book

59L. (1) Every meat industry levy shall be entered in a prescribed levy book which shall be kept by the Authority or its agent in the prescribed form and manner.

(2) The Authority or its agent may, in the prescribed manner, make or cause to be made such amendments and may remedy or cause to be remedied such omissions in the entries in the levy book kept by the Authority as may be necessary.

(3) Except in the case of formal amendments, an amendment of the levy book kept by the Authority in respect of the occupier of any holding shall be deemed to be a determination by the Authority of the amount so payable under a levy by the occupier in respect of the holding.

(4) In any proceedings for the recovery of any levy—

- (a) an entry in the levy book, the entry being one of a series prescribed to be made, shall be evidence of the matters recorded in the levy book; and

*Meat Industry (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LEVIES—
continued

- (b) a copy of an entry in the levy book, the entry being one of a series prescribed to be made, shall be evidence of the entry and of the matters recorded in the levy book.

Exemptions

59M. (1) The regulations may exempt from the operation of all or any of the provisions of this Part any land or any person or class of persons.

(2) An exemption under subsection (1) may be given unconditionally or subject to such conditions as may be prescribed in respect of the exemption.

(3) Where an exemption under subsection (1) is given subject to conditions, the exemption does not have effect during any period when the conditions are not complied with.

Evidence of agent

59N. In any proceedings for the purposes of this Part, proof shall not, until evidence is given to the contrary, be required of the appointment of an agent of the Authority.

- (3) Section 66 (2)—

After “sums of money”, insert “(including meat industry levies)”.

- (4) (a) Section 77 (2) (z)—

Omit “and”.

- (b) Section 77 (2) (ab)–(ad)—

After section 77 (2) (aa), insert:

- (ab) the form, manner of service and time of issue in any year of notices specifying the amount of a meat industry levy;

*Meat Industry (Amendment) 1985*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LEVIES—
continued

- (ac) objections by occupiers to the validity of a meat industry levy; and
- (ad) all other matters incidental to the regulation of meat industry levies.

SCHEDULE 2

(Sec. 5)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 3—

Omit the section.

(2) Section 10 (2A)—

After section 10 (2), insert:

(2A) In subsection (1)—

“operate”, in relation to a slaughtering place or a knackery, includes the use of premises on one or more occasions as a slaughtering place or a knackery, as the case may be.

(3) Section 75A—

After section 75, insert:

Delegation by Minister

75A. (1) The Minister may delegate to a person the exercise of any of the Minister's functions under this Act, other than this power of delegation.

(2) A delegation under this section—

- (a) shall be in writing;
- (b) may be general or limited; and

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SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(c) may be revoked, wholly or partly, by the Minister.

(3) A delegate is, in the exercise of a function delegated under this section, subject to such conditions as are specified in the instrument of delegation.

(4) A function delegated under this section, when exercised by the delegate, shall be deemed to have been exercised by the Minister.

(5) A delegation under this section does not prevent the exercise of a function by the Minister.

(6) A function purporting to have been exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly exercised by a delegate under this section.
