

Meat Industry Act 1978 No 54

[1978-54]



New South Wales

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Meat Industry Act 1978 No 54



New South Wales

An Act to provide for the regulation and control of the meat industry in New South Wales; to constitute and define the functions of the New South Wales Meat Industry Consultative Council; and to repeal the *Meat Industry Authority Act 1970* and the *Meat Industry Act 1915*.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Meat Industry Act 1978*.

2 Commencement

- (1) This section, section 1 and so much of this Act as is necessary to be in force for the purpose of the constitution of the roll referred to in section 45 (1) (e), and the conduct of any election of members of the Authority as first constituted or for any purpose incidental thereto shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3 Definition

In this Act, the **Food Authority** means the NSW Food Authority constituted by the *Food Act 2003*.

4-8 (Repealed)

Parts 2-5

9-59 (Repealed)

Part 5A Meat industry levy

Division 1 Amount of meat industry levy

59A Meat industry levy

- (1) In respect of a year commencing on 1 January, a meat industry levy shall be payable to the Food Authority by every occupier of land liable to pay an animal health rate in respect of that year under the *Local Land Services Act 2013*.
- (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 0.9 cents (or such other rate as may be prescribed) for each stock unit of the notional carrying capacity of the land, as assessed by or under the *Local Land Services Act 2013*, in respect of which the animal health rate is payable, or
 - (b) \$100 (or such other amount as may be prescribed),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 Food Authority or its agent.
- (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 *Rural Lands Protection Act 1998* immediately before its repeal, the amount of the meat industry levy payable may, on the application of the occupier to the Food Authority or its agent, be calculated in relation to the combined notional 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 *Rural Lands Protection Act 1998* immediately before its repeal pays to the Food Authority or its agents meat industry levies in respect of different parcels of land the total of which exceed \$100 or, if an amount is prescribed for the purposes of subsection (2) (b), that amount, the Food Authority or its agent shall, on the application of the occupier, refund to the occupier the amount of the excess.

59B Irregularity

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

59C Liability—generally

- (1) Every meat industry levy shall be due and payable to and recoverable by the Food 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.
- (3) Two or more occupiers of land who hold jointly or in common shall be jointly and severally liable to the Food 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 Food 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 Food 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 Food 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.
Maximum penalty: 10 penalty units.
- (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.
- (10) Subsection (6) does not apply to land the subject of a lease, licence 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.

59D Liability where an estate or interest is transferred

- (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 Food 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 Food 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 Food 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 Food 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.

59E Notice of changes in occupancy or ownership of land

- (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 Food Authority or its agent.

Maximum penalty: 5 penalty units.

- (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.

59F Liability of person becoming occupier or owner

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

- (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 Food 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

59G Facilitation of recovery

- (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.

59H Overdue meat industry levies—extra charges

- (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 Food 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.

59I Recovery of meat industry levies

- (1) Any meat industry levies not paid as required by this Part may be recovered by the Food 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.
- (3), (4) (Repealed)

Division 4 Miscellaneous

59J Collection of meat industry levies

- (1) The Food Authority may enter into an agreement or arrangement with Local Land Services for or with respect to the issue of notices specifying the amount of a meat industry levy and the undertaking by Local Land Services on behalf of the Food 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 Local Land Services, and
 - (b) authorise Local Land Services to take any action or proceedings which could be taken by the Food Authority to recover unpaid meat industry levies under this Act.

59K Waiver or refund of meat industry levies

- (1) The Minister may, at the Minister's discretion, direct the Food 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 Food 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.

59L Levy book

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

- (2) The Food 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 Food Authority as may be necessary.
- (3) Except in the case of formal amendments, an amendment of the levy book kept by the Food Authority in respect of the occupier of any holding shall be deemed to be a determination by the Food 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
 - (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.

59M Exemptions

- (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.

59N Evidence of agent

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 Food Authority.

Part 6 Finance

60-62 (Repealed)

63 Investment

The Food Authority may invest money held by it under this Act in Government securities of the Commonwealth or of the State or in any securities guaranteed by the Government of the State, or on call or on fixed deposit, or partly on call and partly on fixed deposit, with the Treasurer or with any bank, building society or credit union or in such other manner as the Governor approves or as is prescribed.

64, 65 (Repealed)

66 Fund to be established

All money received under this Act by the Food Authority or its officers or employees, and all money appropriated by Parliament for the purposes of the functions of the Food Authority under this Act are to go to form a fund out of which may be paid:

- (a) the expenses of the Council, and
- (b) all expenses of the Food Authority in the carrying out of its functions under this Act.

67 Funding of operations of Food Authority

The Food Authority is to ensure, as far as is reasonably practicable, that money received by the Food Authority under this Act after the commencement of this section is used for the purposes of carrying out its functions under this Act or in connection with any food safety scheme (within the meaning of the [Food Act 2003](#)) relating to the meat industry.

Part 7 Miscellaneous

68-75 (Repealed)

75A Delegation by Minister

- (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
 - (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.

76 Proceedings for offences

- (1) Proceedings for an offence against this Act may be dealt with before the Local Court

or before the Supreme Court in its summary jurisdiction.

- (2) Proceedings for an offence against the regulations are to be disposed of in a summary manner before the Local Court.
- (3) The maximum pecuniary penalty that may be imposed by the Local Court in proceedings for an offence against this Act is 50 penalty units or the maximum penalty provided by this Act in respect of the offence, whichever is the lesser.
- (4) If proceedings for an offence against this Act are brought before the Supreme Court in its summary jurisdiction, the Court may impose a penalty not exceeding the maximum penalty provided by this Act in respect of the offence.

76A Penalty notices

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.

Note—

The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.

- (4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (5) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (6) In this section, **authorised officer** means:
 - (a) an inspector, or
 - (b) a member of the NSW Police Force.

77 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, the regulations may make provision for:
 - (a) the form, manner of service and time of issue in any year of notices specifying the

amount of a meat industry levy, or

(b) objections by occupiers to the validity of a meat industry levy, or

(c) all other matters incidental to the regulation of meat industry levies.

(2A) The regulations may incorporate by reference, wholly or in part and with or without modification, any standards, rules, codes, specifications or methods, as in force at a particular time or as in force from time to time, prescribed or published by an authority or body (whether or not it is a New South Wales authority or body).

(3) A regulation may impose a penalty not exceeding 50 penalty units for an offence against the regulations and, in addition, for a continuing offence, a daily penalty not exceeding 5 penalty units.

(4) A provision of a regulation may:

(a) apply generally or be limited in its application by reference to specified exceptions or factors,

(b) apply differently according to different factors of a specified kind, or

(c) authorise any matter or thing to be from time to time determined, applied or regulated by any person or body specified or described in the regulation,

or may do any combination of those things.

78-80 (Repealed)

81 Savings and transitional provisions

Schedule 6 has effect.

Schedules 1-5 (Repealed)

Schedule 6 Savings, transitional and other provisions

(Section 81)

1A Regulations

(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

this Act

Meat Industry Amendment Act 1998

Food Legislation Amendment Act 2004

(2) Any such provision may, if the regulations so provide, take effect from the date of

assent to the Act concerned or a later date.

- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

1-8 (Repealed)