



Parliament of the Commonwealth of Australia

**The Dairy Industry Adjustment Bill 2000**  
**The Dairy Adjustment Levy (Excise) Bill 2000**  
**The Dairy Adjustment Levy (Customs) Bill 2000**  
**The Dairy Adjustment Levy (General) Bill 2000**

**Senate Rural and Regional Affairs  
and Transport Legislation Committee**

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## **ABBREVIATIONS**

ADIC	Australian Dairy Industry Council
AFFA	Agriculture, Fisheries and Forestry Australia
DAA	Dairy Adjustment Authority
DEP	Dairy Exit Program
DSAP	Dairy Structural Adjustment Program

# THE DAIRY INDUSTRY ADJUSTMENT BILL 2000

## Background

1.1 On 8 March 2000, the Senate referred the following bills to the Committee for inquiry and report by 15 March 2000:

- a) Dairy Industry Adjustment Bill 2000
- b) Dairy Adjustment Levy (Excise) Bill 2000
- c) Dairy Adjustment Levy (customs) Bill 2000; and
- d) Dairy Adjustment Levy (General) Bill 2000.

1.2 The Committee was required to examine the bills **to determine the adequacy of the bills in meeting their stated aims**, ie to provide financial assistance to dairy producers to enable structural adjustment within the industry with the least possible disruption, following deregulation. The Committee held two public hearings, on Friday, 10 March and Tuesday, 14 March.

1.3 The Bills provide a framework for implementation of the Dairy Industry Adjustment Program, the main object of which is to assist the dairy industry to adjust to deregulation by the provision of payments - either structural adjustment payments or payments to exit the industry.

## The timeframe

1.4 The Commonwealth has assumed responsibility for development and management of the structural adjustment scheme, notwithstanding the fact that the deregulatory arrangements having the most impact are state regulatory arrangements. For the package to be implemented, the Commonwealth requires all states to deregulate their support arrangements simultaneously. The Commonwealth's Domestic Market Support Scheme ends on 30 June 2000 and the Commonwealth requires the states to deregulate from that date. This requirement arises from the Commonwealth's constitutional obligation to ensure that it does not discriminate between the states - that all farmers across Australia are treated fairly and equally.

## Funding and payments

1.5 The package will be funded by a consumer levy of 11 cents per litre of drinking milk, commencing on 8 July 2000. Payments will commence from a date to be fixed by proclamation, which will take place when the state governments have satisfied the Commonwealth Government that they have deregulated. Entitlements will accrue from 1 July 2000 and applicants will have a three month period in which to apply.

### *The structure of the Scheme*

1.6 The *Dairy Industry Adjustment Bill* 2000 provides the framework for the two programs which comprise the scheme, as well as for the establishment of the Dairy Adjustment Authority, which will administer the scheme. The package will total \$1.74 billion, of which \$1.632 billion will be paid to producers based on their deliveries of manufacturing and market milk in 1998/99. Payments are to be made in quarterly instalments over 8 years.

1.7 Mr Roseby, First Assistant Secretary, Agricultural Industries Division, AFFA, tabled a set of principles, which form the framework for the adjustment package. That set of principles is at Appendix 1.

1.8 The scheme is a complex one, designed to provide for the many different arrangements which apply to the production sector of the dairy industry, including leasing and shareholding arrangements.

1.9 AFFA estimates that there will be up to 17,000 applicants for assistance following deregulation.

### *Types of payment*

1.10 The Act provides for the establishment of the Dairy Structural Adjustment Fund, which in turn provides for two types of payments:

- a) The Dairy Structural Adjustment Program (DSAP), payments; and
- b) Payments under the Dairy Exit Program (DEP), which is consistent with the provisions of Restart Re-establishment grants under Farm Family Restart Scheme.

1.11 The DEP will only be available for the first two years of the Dairy Industry Adjustment Package.

### *Eligibility*

1.12 The fundamental eligibility criteria are:

- a) That applicants were in dairy production and they have a production record for the base year, 1998-99; and
- b) That they were in the dairy farming enterprise on 28 September 1999, ie the date the announcement in relation to the package was made by the Government.<sup>1</sup>

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1 Evidence, RRAT, 10 March 2000, p 6

### *The levy*

1.13 The package is funded from a levy of 11 cents per litre on the sale or equivalent transaction of all liquid milk products, ie whole milk, modified milk, UHT milk and flavoured milk. The levy will apply to all liquid milk products sold domestically at point of use, thereby including imported milk. The levy commences on 8 July 2000 and is expected to run for a period of 8 years, although the Minister advised in his second reading speech that the levy 'will cease when all payments are made and costs are met'. The funds raised by the levy will provide for:

- a) Payments to producers;
- b) Borrowing costs;
- c) Administration costs;
- d) Costs incurred by the Australian Competition and Consumer Commission (ACCC) in monitoring the price of retail activity.

### **The Dairy Structural Adjustment Program**

1.14 Calculation of entitlement for Dairy Structural Adjustment Program payments is based on 8.96 cents per litre for manufacturing milk and 46.23 cents per litre for market milk. However, payments made under the DSAP will not be subject to a requirement that the recipients remain in the industry. Entitlement holders will be able to exit the industry and continue to receive their payment stream. Alternatively, the entitlement can be transferred on sale of the dairy enterprise.

1.15 There is provision within the bill for the Dairy Adjustment Authority (DAA) to exercise discretion where producers can demonstrate that there are 'anomalous circumstances'. The DAA will be able to consider claims and allocate entitlements to producers who were dairying in 1998/99 and who remain in the industry, yet do not meet the standard criteria.

### **The Dairy Exit Program**

1.16 The Dairy Exit Program provides for the needs of those farmers who may need to leave the industry. The Program is a \$30 million fund, available for the first two years of the package, which will provide payments of up to \$45,000 tax free. Conditions are attached and include the same assets test and eligibility criteria which apply under the Restart Re-establishment Grants of the Farm Family Restart Scheme. To qualify for the payment, producers must have less than \$157,000 in net assets after the sale of their farm enterprise.

1.17 The amount of the payment is to be reduced by \$2 for every \$3 where a producer's net assets, after selling the farm enterprise, exceeds \$90,000. The value of the net assets includes the family home if it has been annexed from the farm enterprise.



1.18 Dairy producers have the option of switching to the exit package from the DSAP, if they meet the eligibility criteria. The amount of DEP received will be net of any payments received under the DSAP scheme.

### **The Dairy Adjustment Authority**

1.19 The Bill provides for the establishment of the Dairy Adjustment Authority, under the management of a Board, to assess applications according to the eligibility criteria and to direct the Australian Dairy Corporation in delivering payments. Decisions of the DAA will be appellable to the Administrative Appeals Tribunal.

### **Committee recommendation**

1.20 The Committee supports the passage of the bills and will consider amendments during the passage of those bills.

Senator Winston Crane

Chairman

## **SUPPLEMENTARY COMMENT**

**SENATOR K O'BRIEN**

**SENATOR M FORSHAW**

1.1 The package of Bills considered by the Committee provide the legal framework for the provision of financial support to the Australian Dairy Industry to assist it to adjust to further deregulation of the market milk sector.

1.2 The package of four Bills were only debated in the House of Representatives on 8 March and were referred to this Committee for consideration on that day.

1.3 The Committee held hearings on 10 March and 14 March.

1.4 The Senate asked the Committee to examine the Bills to determine whether they met their stated aim of providing financial assistance to dairy farmers to enable them to manage further deregulation with minimal financial disruption.

1.5 However, the Committee was not provided with any detail as to how the scheme might operate until just prior to the hearing held on 14 March, the day before for it was required to report back to the Senate. Therefore, the manner in which the scheme will operate, as provided for in Ministerial Orders, has not been properly considered.

1.6 It is the view of the Opposition that the committee has not been able to properly consider the effectiveness of the scheme in achieving its' stated objective.

1.7 However, the Opposition has agreed to the Government's timetable only because to extend the time for consideration of the Bills may well put a significant financial burden on the majority of industry participants at a time when the industry will already be under financial pressure from further deregulation.

1.8 The Opposition considers that the fairness and effectiveness of the scheme may well be compromised by the haste with which the Parliament is being asked to progress the legislation.

1.9 The Government has already been forced to move a number of amendments to deal with unforeseen problems with the Bills and the Opposition believes further amendments may be required.

1.10 While there is broad industry acceptance of the restructuring package, and the industry should be commended for advancing the process to this point with little Government support, a number of issues of concern have been raised during the committee inquiry.

1.11 There is a potential significant problem for lessors who may not be dealt with in an equitable manner under the proposed package and, as a consequence, could be exposed to a severe financial penalty.

1.12 Another problem is that farmers will only have a period of three months in which they can lodge an application for restructuring assistance or an exit package.

1.13 The Opposition is concerned that a number of the 17,000 farmers who will be eligible for assistance through this scheme may, for a range of reasons, not become aware of their entitlement and therefore fail to lodge within the three month period.

1.14 Further, some farmers may have difficulty in meeting the requirement that an appropriate business plan be prepared and properly certified by an accountant or other accredited person within the specified period.

1.15 The effectiveness of these aspects of the process appear totally dependent on the Government ensuring that all eligible farmers are fully aware of their entitlements and obligations under the scheme within the specified period. The Opposition considers that process has the potential to deny some farmers their rightful entitlements.

Senator Michael Forshaw

ALP

Senator Kerry O'Brien

ALP

## **SUPPLEMENTARY COMMENT**

### **SENATOR J WOODLEY**

1.1 The Democrats are implacably opposed to deregulation of the dairy industry. Whilst the evidence given to us by the Department of Agriculture, Forestry and Fisheries helps substantially our understanding of the legislation, the Democrats believe the Commonwealth Government has abrogated its responsibility for what is a national industry.

1.2 The dairy bills which put in place the re-structure package do nothing to prevent the loss of between 3,000 and 5,000 dairy farmers across Australia. This will be a devastating and tragic loss to rural and regional Australia.

Senator John Woodley

Australian Democrats

## **APPENDIX ONE**

### **PROPOSED FRAMEWORK FOR DAIRY INDUSTRY ADJUSTMENT PACKAGE LEGISLATION**

1. Payments to producers are to facilitate adjustment, and are not to compensate for the effects of the removal of market milk regulatory arrangements.
2. To be eligible for a payment under the Dairy Industry Adjustment Package, interested parties must have been engaged in commercial dairy production on 28 September 1999 and had an interest in a dairy farm enterprise, which delivered milk in 1998/99.
3. Calculation of the amount of payment is to be based on total deliveries of milk in 1998/99 from the dairy farm enterprise in which the person had an interest on 28 September 1999.
4. The base year for determining producer entitlements will be 1998/99. Subject to the availability of funds, entitlement holders may be given the opportunity to demonstrate there were defined exceptional events which resulted in a reduction in milk production by 30% or more in that year, based on the average of the three previous years' deliveries. In such cases consideration may be given to providing supplementary entitlements.<sup>1</sup>
5. The maximum entitlement is to be \$350,000 for those who, in the base year, or in the average of the 3 years up to and including the base year, derived more than 30% of their gross income from non-dairy production.
6. Calculation of entitlements will be at the rate of 8.96 cents per litre for manufacturing milk and 46.23 cents per litre for market milk. Entitlements for producers of manufacturing milk will be on the basis of butter fat and protein content with 8.96 cents per litre being the national average. Entitlements for producers of market milk will be on the basis of 46.23 cents per litre.
7. Payments are to be made from either
  - 7.1. the Dairy Structural Adjustment Program, based on the above calculation; or
  - 7.2. the Dairy Exit Program, the latter consistent with the provisions of the Restart Re-establishment grants under Farm Family Restart Scheme.

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<sup>1</sup> Because those entitlements may depend on the availability of funds, they will need to be made at the discretion of the DAA.

The Dairy Exit Program will only be available in the first two years of the Dairy Industry Adjustment Package.

8. All those claiming an entitlement, or share of an entitlement, must submit an application to the Dairy Adjustment Authority within the timeframe of an agreed registration period.
9. The structural adjustment payments relating to an eligible dairy farm enterprise will be determined by the Dairy Adjustment Authority reflecting the investment of capital and labour of all interested parties to the dairy farm enterprise. For particular industry arrangements, the following rules will be applied:

9.1. For **sharefarming arrangements**, entitlements will be shared on the following basis

9.1.1. owners<sup>2</sup> in the dairy farm enterprise receiving the market milk entitlement increment (37.27 cents per litre of the market milk entitlement), deemed to reflect the extent of the owners' capital contributions required to provide access to the market milk premium

9.1.2. the remaining manufacturing milk component of the market milk entitlement and the actual manufacturing milk entitlement will be shared between interested parties based on existing revenue sharing arrangements as at 28 September 1999, recognising the shared labour contribution and any capital contribution by the sharefarmer to the dairy farm enterprise.

9.2. For **leasing arrangements**, entitlements will be shared on the following basis:

9.2.1. the owners\*\* are to receive the market milk entitlement increment (37.27 cents per litre of the market milk entitlement), deemed to reflect the extent of the owner's capital contribution required to provide access to the market milk premium

9.2.2. the lessee is to receive the remaining manufacturing milk component milk of the market milk entitlement and the actual manufacturing milk entitlement, recognising the labour and capital contribution of the lessee to the dairy farm enterprise.

Contractors, employees and the like will not be eligible to share in entitlements.

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2     \*\*owners in a dairy farm enterprise include those who have provided the essential capital contribution required to achieve access to the market milk premium. "Essential capital contribution" for this purpose will be defined to mean contribution by way of quota, or where there is no quota, contribution through ownership of the relevant land or significant proportion of the livestock on it.

10. All those receiving an entitlement, or share of an entitlement, will be required to undertake a farm business assessment, unless they have already exited the industry.
11. Entitlements are to be transferable, with ownership changes to be recorded in a register of entitlement holders.
12. For market milk, where an eligible producer has transferred delivery rights in respect of milk emanating from the eligible dairy farm enterprise during 1998/99 or at any time up to 28 September 1999 (eg, through sale of quota) to another eligible producer, the market milk premium (37.27 cpl) of the adjustment entitlement relating to market milk delivery will be deemed to have accompanied the transfer. The transferor will be deemed to have delivered manufacturing milk in respect of the deliveries related to the actual market milk deliveries.
13. Subject to the availability of funds, dairy producers who disposed of their dairy farm enterprise between 1 July 1998 and 28 September 1999, but continued a dairy production enterprise on a property up until and including the eligibility date without a previous delivery record, may be given the opportunity to apply for structural adjustment payments based on their 1998/99 delivery record. In such cases, consideration may be given to providing payments after completion of the initial allocations.<sup>3</sup>

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<sup>3</sup> Because these entitlements may depend on the availability of funds they will be made at the discretion of the DAA.