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Agriculture, Fisheries and Forestry Legislation Amendment Bill (No.2) 2004

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Agriculture, Fisheries and Forestry Legislation Amendment Bill (No.2) 2004

Date Introduced: 23 June 2004

House: House of Representatives

Portfolio: Agriculture, Fisheries and Forestry

Commencement: The operative provisions of the Bill commence on Royal Assent. Some technical provisions commence retrospectively.

Purpose

The purpose of this Bill is to amend the *Australian Meat and Live-stock Industry Act 1997* (the AMLI Act) to allow the declaration of a marketing body and a research body dedicated to the live-stock export sector of the live-stock industry. These bodies would then be able to receive revenue derived from compulsory charges applied to the live-stock export industry from time to time. This will give effect to a recommendation of the Livestock Export Review (Keniry Report).

Background

Live-stock export industry

The live-stock export industry reached a value of over \$1 billion in 2002. Activity has eased subsequently due to a number of factors, but the industry remains of significance.⁽¹⁾ In 2002-2003 live-stock exports represented about 3% of the gross value of agricultural production. In gross value terms the industry was similar to sugar cane and worth slightly more than the poultry and cotton industries.⁽²⁾

It is also significant to note the relative importance of the live-stock export industry as an aspect of the red meat industry. In the 5 years to 2002, the total value of red meat exports averaged around \$5 billion each year. All live cattle, sheep and goat exports combined constituted around \$1 billion on average each year.⁽³⁾

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The Keniry Report

A review of the livestock export industry (the Review) was announced on 10 October 2003 by the Minister for Agriculture, Fisheries and Forestry. This followed the events surrounding the voyage of the *Cormo Express* and its cargo of 54,000 live sheep. The shipment was rejected in Saudi Arabia and eventually unloaded in Eritrea at a cost to the Government of about \$10 million.⁽⁴⁾

A number of recommendations were made by the Review. On 30 March 2004 the Minister for Agriculture, Fisheries and Forestry announced that the Government had accepted most of the recommendations in full and the remainder with modification. Most of the legislative changes required to give effect to the Government's response to the Review are contained in the Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill 2004.⁽⁵⁾

The amendments contained in this Bill are designed to give effect to the second aspect of Recommendation 2 of the Review, that is:

Industry should be responsible for research and development and management of quality assurance systems to support its members translate best practice standards into outcomes consistent with best practice:

-its activities should be funded by compulsory levies.⁽⁶⁾

Section 60 of the AMLI Act currently allows the Minister to declare a body to be the marketing body for the meat and live-stock industry and to declare a body to be the research body for the meat and live-stock industry. Subsection 60(3) permits the Minister to declare the same body to be both the marketing body and the research body, but expressly prohibits the declaration of more than one marketing body or more than one research body at any one time. The amendments made by this Bill to the AMLI Act will allow the declaration of a marketing body or a research body for the live-stock export sector of the industry in addition to the marketing body or research body for the meat and live-stock industry generally. This will enable the live-stock export sector of the industry to take more responsibility for marketing and research relating to the requirements of that sector of the industry.

Funding of research – compulsory charges and matching funds

The research body for the meat and live-stock industry currently receives funding on two bases (under sections 64 and 66 of the AMLI Act). Funding under section 64 of the AMLI Act relates to compulsory charges imposed on the industry under customs and excise legislation. Funding under section 66 relates to the Commonwealth 'matching' funds expended by the research body on specified purposes (principally research and development).

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Compulsory charges

Under section 64 of the AMLI Act the Commonwealth is required to pay to the research body amounts equal to levies received by the Commonwealth under various provisions of the *Primary Industries (Excise) Levies Act 1999* and charges received by the Commonwealth under various provisions of the *Primary Industries (Customs) Charges Act 1999* (the Customs Charges Act).

The live-stock export sector is currently not required to pay compulsory levies. Provision for charges under the Customs Charges Act has been made but the rate has been set at zero.⁽⁷⁾ Instead funding for research and marketing has been obtained from voluntary contributions. The recommendation of the Keniry Report that activities of the live-stock export research body be funded by compulsory charges is to be given effect through amendment of the relevant regulations.

Matching funds

Section 66 of the AMLI Act requires the Commonwealth to pay amounts to the research body that are determined by reference to the amounts paid by that body for industry research and development purposes and other specified purposes. These are referred to in the industry as ‘matching funds’ (the amounts to be paid by the Commonwealth are one-half of the amounts paid out by the research body for research and other specified purposes, so ultimately one-half of the total cost is met by the research body and one-half by the Commonwealth).

Under the Bill matching funds will continue to be directed to the industry research body (and not to the live-stock export research body). The Explanatory Memorandum states that this:

reflects an industry position that the most appropriate body for coordinating the delivery of research activity on behalf of the industry remains MLA [Meat and Live-stock Australia]. The Bill will therefore provide that MLA, or the body determined to be the industry research body, will be the only body eligible to receive Commonwealth matching funds for research.⁽⁸⁾

Main Provisions

Items 1 to 4 of Schedule 1 insert in section 58 of the AMLI Act definitions of ‘industry marketing body’, ‘industry research body’, ‘live-stock export marketing body’ and ‘live-stock export research body’. These facilitate the distinction between the body or bodies that will deal with marketing and research for the live-stock industry generally and the body or bodies that will deal with marketing and research for the live-stock export sector of the industry.

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Item 7 of Schedule 1 inserts provisions in section 60 of the AMLI Act that allow the Minister to declare a body to be the live-stock export marketing body or the live-stock export research body. The Minister can declare a body to be both the live-stock export marketing body and the live-stock export research body. However, the Minister cannot declare one organisation to be not only the live-stock export marketing body and/or the live-stock export research body, and also the industry marketing body and/or the industry research body.

Item 10 of Schedule 1 inserts criteria of which the Minister must be satisfied in order to declare a body to be the live-stock export marketing body or the live-stock export research body. These mirror the criteria that currently apply to the declaration of a body as the marketing body or the research body for the overall live-stock industry.

Item 21 of Schedule 1 inserts new **sections 64A** and **64B** into the AMLI Act. These provide for amounts of charge received by the Commonwealth from the live-stock export industry (under the Customs Charges Act) to be paid to the live-stock export marketing body and the live-stock export research body.

Item 23 of Schedule 1 converts references in section 66 of the AMLI Act to the ‘research body’ to references to the ‘industry research body’.

Item 26 of Schedule 1 inserts new **subsections 67(3)** and **67(3B)** into the AMLI Act. These provisions restrict the purposes for which the live-stock export marketing body and the live-stock export research body may spend money received from the Commonwealth under sections 64A and 64B. These restrictions mirror those currently imposed on the marketing body and the research body for the industry generally.

Items 31 to 64 of Schedule 1 amend the Customs Charges Act to reflect the fact that amounts collected by the Commonwealth under this Act that were previously paid to the marketing body for the industry and the research body for the industry will now be paid to the live-stock export marketing body and the live-stock export research body.

Concluding Comments

New section 64A will provide for amounts of charge received by the Commonwealth from the live-stock export industry to be paid to the live-stock export research body. Section 66 of the AMLI Act currently provides for payment by the Commonwealth to the research body for the industry of additional amounts (‘matching funds’) determined primarily by reference to the amounts expended by the research body on research. Under the Bill matching funds will be payable only to the industry research body. That is, they will not be payable to the live-stock export research body for amounts expended by that body on research. This will have the effect that if the live-stock export research body expends moneys on research directly (rather than via the industry research body) the

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Commonwealth will not be required to pay matching funds in relation to that research. The Explanatory Memorandum appears to suggest that there is an expectation that the live-stock export research body would arrange for research through the industry research body;⁽⁹⁾ however this is not required by the legislation.

Where the live-stock export research body arranges for research through the industry research body, the amounts payable by the Commonwealth will be determined by reference to amounts paid out by the industry research body, not by reference to amounts paid by the live-stock export research body to the industry research body. It is not clear what, if any, difference this distinction would make in practice.

Endnotes

1. The scope and nature of the live animal export industry are outlined in Peter Hicks and Jerome Davidson, 'Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill 2004' *Bills Digest*, no.165, Parliamentary Library, Canberra, 2003-04. <http://www.aph.gov.au/library/pubs/bd/2003-04/04bd165.pdf> (site visited 20 July 2004).
2. *ibid* p. 1.
3. J Keniry et al *Livestock Export Review A Report to the Minister for Agriculture, Fisheries and Forestry*, 23 December 2003 p. 13.
<http://www.daff.gov.au/content/publications.cfm?Category=Animal%20fixand%20Plant%20Health&ObjectID=056153D8-2885-4ACD-9A0BF0E15B1B6DDB> (site visited 20 July 2004).
4. The events surrounding the voyage of the Cormo Express are summarised in Hicks and Davidson, *op. cit.* pp. 3-4.
5. The *Digest* in respect of this Bill (Hicks and Davidson, *op. cit.*) is available at <http://www.aph.gov.au/library/pubs/bd/2003-04/04bd165.pdf> (site visited 20 July 2004).
6. Keniry *op. cit.* p. 38.
7. *ibid.* pp. 2-3.
8. Explanatory Memorandum p. 3.
9. *ibid.* p. 3.

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