



National Cattle Disease Eradication Account Amendment Bill 2006

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Contents

Purpose.	2
Background.	2
Brucellosis and tuberculosis eradication	2
Animal Health Australia	4
TFAP Deed of Agreement.	5
TFAP Budget	5
Cattle Disease Contingency Fund.	6
Main provisions.	7
Concluding comments	7
Endnotes.	8

National Cattle Disease Eradication Account Amendment Bill 2006

Date introduced: 16 August 2006

House: House of Representatives

Portfolio: Agriculture, Fisheries and Forestry

Commencement: The Act will commence with Royal Assent

Purpose

The proposed amendments to the *National Cattle Disease Eradication Account Act 1991* will enable residual levy proceeds collected for certain eradication programs to be transferred to an industry disease fund.

Background

Australia is free of many of the major agricultural pests and diseases found in other parts of the world. This status brings a range of benefits to the Australian cattle industry primarily relating to access to export markets and lower production costs. There are also human health benefits. For many years the objective of Australian biosecurity policy has been:

... the prevention or control of the entry, establishment or spread of pests and diseases that will or could cause significant damage to human beings, animals, plants, other aspects of the environment, or economic activities.¹

In some cases there have been campaigns to eradicate or control relevant pests and diseases.

Brucellosis and tuberculosis eradication²

The largest and highest profile disease eradication programs have been in the cattle industry and concerned tuberculosis and brucellosis. Incidence of these diseases dates back to the 1920s and initially State Governments applied control and/or eradication measures in order to protect human health.

Moves to achieve eradication nationally gained urgency during the 1960s and in 1966 the Commonwealth adopted a recommendation of the Australian Agricultural Council (the relevant Ministerial council) that action be initiated on a national basis to eradicate both diseases as soon as feasible. Hence, the nationally coordinated operation originally known

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as the Bovine Brucellosis and Tuberculosis Eradication Campaign (BTEC) commenced in 1970 and was jointly funded by the Commonwealth and State governments along with industry.

The latter's contributions were funded by way of a levy which came into effect in 1973. Initially the levy was on all exports of beef and veal to reimburse the Commonwealth's contribution to BTEC's operational costs. The levy rate was 1.32 c/kg (0.6 cents per pound). In 1976 the meat export levy was suspended and a slaughter levy introduced with a component directed to brucellosis and tuberculosis eradication. The size of the levy has varied subsequently.

History of cattle disease eradication levy

	Amount of levy per head
At introduction in 1976	\$1
1979-80	\$3
1 October 1982	\$4
1 July 1986	\$3
February 1991 ^a	\$2.10
December 1991	\$0.85
1 March 1993	\$0.52
1 July 1993	\$0.46
1 July 1995	\$0.44
1 August 1996	\$0.30
1 December 1996	\$0.25
1 July 1997	\$0.17

a In February 1991, the slaughter levy was subsumed as a component of the Cattle Transaction Levy.

Source: Stewart, John *The National Cattle Disease Eradication Trust Account (NCDETA)* briefing paper prepared for the CCA, 15 June 2005

From the start of the BTEC in 1970 to its conclusion in 1997, expenditure totalled approximately \$840 million. This expenditure included spending on the eradication of brucellosis and freedom status for that disease was declared in Tasmania in 1975, Western Australia in 1985, Victoria, New South Wales, the ACT and the southern part of the

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Northern Territory in 1988, then Queensland and the remainder of the Northern Territory in 1989.

Australia was declared provisionally free of brucellosis in 1986 and freedom status was achieved in 1989.

Alterations in funding arrangements were made at various times as BTEC progressed. From 1988 until the end of the campaign, the industry levy provided 50% of total funds, the States 30% and the Commonwealth 20%.

Australia was declared free of tuberculosis in 1997. However, because the disease can remain dormant in animals for long periods and the available tests fail to detect some cases, sporadic residual cases may occur. Consequently, the Operational Management Review of BTEC conducted in 1995 recommended the establishment of the Tuberculosis Freedom Assurance Plan (TFAP), initially for 5 years, to continue BTEC activities following the achievement of national tuberculosis freedom. Thus, TFAP was put in place to ensure that any resurgence of tuberculosis in Australian cattle was promptly and effectively eliminated. The program commenced in 1998 following the declaration of Australia as a Free Area for bovine tuberculosis and ended in December 2002.

A mid-term review of TFAP was held in late 2000 and considered the need for a further period of surveillance for tuberculosis. The review recommended that a further four-year program be established to commence in January 2003. This program is known as TFAP 2 and is scheduled to conclude on 31 December 2006. The last case of tuberculosis was in 2002.

Animal Health Australia³

During the early 1990s it became apparent that consumers along with national and international trading partners required increased accountability for animal health and welfare.

It was agreed that there needed to be high level decisions by governments and industry groups on strategic policy for future planning and funding of national animal health service programs. Following further consideration the Australian Animal Health Council Limited (AAHC) was formed. AAHC was incorporated in January 1996 and commenced operating as a not-for-profit public company under the business name of Animal Health Australia (AHA) in February 2000.

AHA currently has 24 members across four membership categories: Australian Government (1); States and Territories (8); livestock industries (14); and service delivery/non-program participants (2). The structure facilitates flexible and responsive management of animal health issues and accountability is via an independently selected board of directors responsible to members in general meeting.

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AHA's role in the national animal health system has expanded significantly over the past five years with the number of programs and projects the company is responsible for growing substantially. Its mission focuses on ensuring Australia's national animal health status delivers a competitive advantage and preferred market access for Australia's livestock industries.

TFAP Deed of Agreement⁴

The TFAP programs have been managed by AHA under a formal Deed of Agreement between the Cattle Council of Australia (CCA), representing the beef and dairy cattle and buffalo industries, the Commonwealth Government and all State and Territory Governments who jointly fund TFAP and AHA.

The Deed of Agreement, signed in May 1998, sets out the scope and objectives of TFAP and the obligations of the parties to it. The Deed detailed the arrangements for funding each component of the program, the role of AHA in the overall administration of TFAP, the Commonwealth Government in providing finances for core activities, the States and Territories in managing field operations and CCA in financing assistance measures to affected producers. A series of schedules to the Deed provide additional detail.

In addition to the specific TFAP component funded by each of the parties, the Deed provided AHA with an additional overall management fee funded through TFAP's corporate activities component and in equal shares by the eight parties involved.

TFAP Budget

The funds for the cattle industry to provide the assistance measures and other activities in TFAP were obtained from levies collected from the cattle industry by the Commonwealth Government and maintained in the National Cattle Disease Eradication Account (NCDEA). This is one of the trust accounts operated by the Department of Agriculture, Fisheries and Forests (DAFF) and administered in accordance with public sector standards. The NCDEA's only income is grower levies and interest. No Commonwealth or State/Territory contributions are included.

Originally, a budget of \$33.6 million was forecast for TFAP over five years. The budgeted expenditure split amongst the various contributing parties was 52% cattle industry, 12% States/Territory and 36% Commonwealth. The budget was based on the expectation there would be 15 cases of tuberculosis by 30 June 2000 and 5 further cases by the end of TFAP. Due to the number and nature of the tuberculosis cases found early in TFAP, the estimated budget was initially increased to \$36.5 million. However, with less than expected numbers of tuberculosis cases being found, the funding estimates were revised downwards in November 1999 to \$31.2 million.

In the end, expenditure was even lower at \$26.8 million. The source of funds were industry \$13.3 million, States \$9.3 million and Commonwealth \$4.2 million with the

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contribution shares being close to the original estimates. A consequence of the lower than expected number of cases was the emergence of a surplus of TFAP levy funds contributed by cattle producers.

Cattle Disease Contingency Fund

The Cattle Disease Contingency Fund (CDCF) was established in February 2002 by the cattle industry and AHA to support various animal health related activities that are of benefit to the cattle industry in Australia. It operates as a trust fund under a deed made between the Cattle Disease Contingency Fund Pty Ltd and AHA. The Cattle Disease Contingency Fund Pty Ltd is the Trustee of the CDCF and is a company established under Corporations Law in February 2002 by CCA, the Australian Lot Feeders' Association (ALFA) and AHA. AHA provides administrative services for the company.

The CDCF trust deed refers to agreement among the above three parties about the “need to fund various animal health related activities which are to the benefit of the cattle industry in Australia.” It also specifies the purposes for which monies from the CDCF may be used including prevention, eradication and control of cattle diseases and pests; research into pests and diseases of cattle; compensation for those affected by cattle diseases; and other animal health activities likely to benefit the Australian cattle industry. The deed also requires preparation of an annual report including audited accounts and a description of the activities funded. Copies are to be provided to CCA, ALFA and AHA.⁵

From 1 March 2001 the 17 cents component of the Cattle Transaction Levy which had been allocated to the NCDEA was redirected to the CDCF. This was due to cease on 31 December 2006 along with TFAP 2. CCA and ALFA have proposed that this amount be redirected to the National Residue Survey.⁶ At 30 June 2005 the assets/members equity in the CDCF totalled \$9.5 million while revenue from levy funding was \$1.4 million.⁷

The cattle and buffalo industries have requested that residual funds in the NCDEA be transferred into the CDCF.⁸ The balance of the NCDEA as at 30 June 2006 is estimated at \$13.5 million.⁹ This represents the accumulated reserves of producers' levy contributions under the BTEC and TFAP programs.

CCA has recognised a need to expand into other animal health issues apart from tuberculosis and brucellosis and hence the move towards the CDCF. The CDCF will allow immediate access to funds in case of an exotic disease incursion and will also have the backup of an agreement with the Commonwealth of a zero levy which can be triggered if an incursion occurs.¹⁰

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Main provisions

Schedule 1, item 1 will add proposed paragraph 6(1)(c) to the *National Cattle Disease Eradication Account Act 1991* which will permit the transfer of monies currently held in the National Cattle Disease Account into the CDCF.

Item 2 will add proposed subsection 6(3), providing a definition for CDCF Trust.

Concluding comments

The practice of establishing public companies owned by industry bodies to undertake delivery of marketing and other services to agricultural industries is now well established. Examples include Meat and Livestock Australia (MLA), Australian Wool Innovation (AWI) and National Food Industry Strategy Ltd (NFISL).

MLA and AWI - both heavily dependent on grower levies as a source of revenue - produce annual reports which include audited financial statements. NFISL publishes an annual report on operations and although it is directly funded by government no financial information is included. However, NFISL operates under a contract with DAFF to implement most parts of the National Food Industry Strategy (NFIS). The agreement covers performance obligations, reporting requirements of NFISL and requirements for the transfer of funds to NFISL in line with programmed requirements.

According to the mid-term review of the NFIS:

The NFIS contractual structure and industry consultation structure places a high level of reporting requirements on NFISL. These include:

- Contractual obligation to report quarterly and annually to DAFF in the appropriate format;
- Annual reporting required under corporations law;
- Reporting of progress on programs to NFIC meetings; and
- Reporting on the progress of programs to the Board Advisory Committees of NFISL.¹¹

An issue of potential interest for Parliamentarians in the case of the CDCF and hence the proposed legislation is that of accountability and transparency and there are a couple of specific aspects to this worth highlighting.

The first relates to the use of statutory powers to generate levy income for a private company. Whilst some might contend that as only private sector funds are involved

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accountability arrangements are a matter for the entities involved, there is equally an argument that other aspects ought to be considered including the following:

- unlike MLA and AWI, individual levy payers are not shareholders in companies which manage the CDCF and hence they do not have a direct role in the decisions relating to the operations of the CDCF
- similarly, there is no obligation for any direct reporting to levy payers. This is at the discretion of CCA, ALFA and AHA
- although the CDCF already receives grower levies, there appears to be no public reporting in relation to the funds and operations of the CDCF, and
- Parliament has a legitimate interest in monitoring the effects and effectiveness of its power to institute levies.

Secondly, given that there is a public interest dimension to animal health issues which goes beyond the commercial interests of the cattle and buffalo industries, Parliament has a legitimate interest in accountability with regard to animal health outcomes.

If enacted the legislation would result in monies that are currently administered by DAFF by way of the NCDEA and hence the subject of direct reporting to, and oversight by, Parliament, no longer being subject to those provisions.

Under the proposed arrangements the Commonwealth - and hence the Parliament - will be even further removed from the administration and oversight of animal health arrangements which are actually underpinned by the levy provisions sanctioned by Parliament.

Endnotes

1. Biosecurity Australia 2003, *Import risk analysis handbook*, Department of Agriculture, Fisheries and Forestry, Canberra.
2. This section draws heavily on Industries Assistance Commission *Bovine brucellosis and tuberculosis eradication campaign* Report no 297, Canberra, 1982 and Animal Health Australia *Tuberculosis Freedom Assurance Program Final Report 1998-2002* Canberra, 2003.
3. This section draws heavily on AHA's website <http://www.animalhealthaustralia.com.au/corporate/company-profile.cfm> and [2004-05 Annual Report](#).
4. The TFAP Deed of Agreement appears not to be a public document. The information presented in this section is drawn from the [Tuberculosis Freedom Assurance Program Final Report 1998-2002](#) which also contains some further information about the Deed.

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5. *Trust Deed Cattle Disease Contingency Fund Trust*
<http://parlinfoweb.parl.net/parlinfo/Repository1/Library/miscitem/ECXK60.pdf>
6. Cattle Council of Australia [brochure](http://www.cattlecouncil.com.au/brochure) *Cattle Transaction Levy*
http://www.cattlecouncil.com.au/Levy_Flyer.pdf
<http://www.cattlecouncil.com.au/Levy%20Flyer.pdf>, accessed 18/9/09.
7. Cattle Disease Contingency Fund Trust Financial Report for year ended 30 June 2005
<http://parlinfoweb.parl.net/parlinfo/Repository1/Library/miscitem/GCXK60.pdf>
8. Explanatory Memorandum, National Cattle Disease Eradication Account Amendment Bill 2006, p. 2.
9. DAFF Portfolio Budget Statements 2006-07, p. 33.
10. Stewart, John *The National Cattle Disease Eradication Trust Account (NCDETA)* briefing paper prepared for the CCA, 15 June 2005
<http://parlinfoweb.parl.net/parlinfo/Repository1/Library/miscitem/RA3L60.pdf>
11. Ridge Partners, *Mid-term review of the NFIS Final Report*, 10 May 2005.

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