



Primary Industries (Excise) Levies Amendment Bill 2010

This is a later edition of a Bills Digest previously prepared for the 42nd Parliament

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Primary Industries (Excise) Levies Amendment Bill 2010

Date introduced: 29 September 2010

House: House of Representatives

Portfolio: Agriculture, Fisheries and Forestry

Commencement: Sections 1 to 3 commence on Royal Assent. Schedule 1 commences the day after Royal Assent.

Links: The links to the [Bill, its Explanatory Memorandum and second reading speech](#) can be found on the Bills home page, or through <http://www.aph.gov.au/bills/>. When bills have been passed they can be found at the ComLaw website, which is at <http://www.comlaw.gov.au/>.

Purpose

The purpose of the Bill is to increase the maximum allowable rate of the research and development component of the laying chicken levy from 10 to 30 cents per laying chicken.

Background

This Bill lapsed on the proroguing of Parliament in July 2010. It has been re-introduced without any changes.

Research and development (R&D) in the egg industry is funded through the proceeds of a levy on farmers and matching contributions from the Commonwealth Government. A similar arrangement applies in many rural industries. Levies are implemented under the *Primary Industries (Excise) Levies Act 1999* which provides for maximum levy rates and setting of the operative rate by regulation.

The laying chicken levy has three components which fund R&D activities, residue testing and animal health programs for the industry. The current maximum allowable rates are 10 cents, 0.4 cents and 0.33 cents per chick respectively. The current combined levy rate is 10.67 cents per chick. A separate levy of 32.5 cents per laying chicken is payable for egg promotion.

Funds raised from the R&D levy and the Commonwealth's matching contribution are forwarded to the Australian Egg Corporation Limited (AECL) under a statutory funding agreement. AECL is a producer owned company that provides marketing, research and development and policy services for the laying chicken industry. AECL is the declared laying chicken industry services body under the *Egg Industry Services Provisions Act 2002*.

The laying chicken R&D levy commenced in 1990 at the rate of 5.75 cents per chick purchased. Reviews in 1993 and 1997 resulted in the rate being increased to 6.9 cents and 7.2 cents respectively. In both instances, the increases restored the real value of the levy. The levy rate was then not changed until December 2009 when it was increased to the maximum allowable of 10 cents

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per chick. Hence the value of R&D investment in the industry declined significantly in real terms over that period. AECL estimated that the levy's 'purchasing power' had declined to 4.5 cents per chick prior to the December 2009 increase.¹

AECL considers that without increased levy proceeds there will be under funding of the R&D required to respond to the productivity and sustainability challenges faced by the industry. AECL's submission to the Commonwealth proposing an increased levy notes that the egg industry's current R&D effort lags substantially behind that undertaken by competing industries and other food commodities.² There is an estimated return of \$12.60 for every egg R&D levy dollar.³

AECL's submission estimated that implementing its proposed two stage levy increase would result in proceeds from the R&D levy increasing from \$0.77 million in 2008–09 to \$1.56 million in 2011–12. With the increased matching Commonwealth contributions gross R&D funds available will increase from \$1.5 million to \$3.1 million over the same period.⁴

It is noted that AECL's estimates of the additional levy proceeds and matching Government contributions in 2009–10 and 2010–11 assumed the levy increases would occur on 1 July 2009 and 1 July 2010. With the first increase not being implemented until 1 December 2009 the increase in available R&D funds for 2009–10 will have been less than originally estimated. And if the Government maintains AECL's original plan for a twelve month gap between the two levy increases then there will be a similar impact on the 2010–11 estimates.

Changing levies

Primary industry levies are initiated and amended under the provisions of the Department of Agriculture, Fisheries and Forestry's (DAFF) [Levy Principles and Guidelines](#).⁵ One of the central requirements is for any levy proposal, whether for a new or changed levy, to have demonstrated industry support from those who choose to participate in a ballot and/or consultation process.

As a result of an industry strategic planning process AECL proposed a two stage increase in the laying chicken R&D levy over a twelve month period – an initial increase from 7.2 cents to 10 cents per chick from 1 July 2009, to be followed by a further rise to 13.5 cents from 1 July 2010.

A ballot on the proposal conducted by AECL resulted in:

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1. Australian Egg Corporation Limited (AECL), *Ensuring productivity & sustainability in the Australian egg industry*, February 2009, pp. 6 and 12, viewed 1 July 2010, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query%3DId%3A%22library%2Fjrnart%2FVW2X6%22>
 2. AECL, *Ensuring productivity & sustainability in the Australian egg industry*, op. cit. pp. 21 and 22.
 3. AECL, *Ensuring productivity & sustainability in the Australian egg industry*, op. cit. p. 6.
 4. AECL, *Ensuring productivity & sustainability in the Australian egg industry*, op. cit. p. 30.
 5. Department of Agriculture, Fisheries and Forestry, *Levy principles and guidelines*, January 2009, viewed 1 July 2010, http://www.daff.gov.au/data/assets/pdf_file/0003/253353/levy-principles-guidelines.pdf

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- a majority of hatcheries that voted supporting the proposed levy increased
- a majority, on a production-weighted basis, of egg producers that voted supporting the proposed levy increase
- a majority, on a one egg-producer one vote basis, of egg producers that voted voting against the proposed levy increase.⁶

The first stage increase was achieved using an amendment to the relevant regulation although it did not take effect until December 2009. The Bill, if passed, will allow for a regulation to give effect to the second stage increase. Increasing the maximum allowable levy rate to 30 cents was not part of the AECL submission however DAFF considered this is a reasonable cap “to accommodate potential for future increases in the levy rate.”⁷

Following formal receipt of AECL’s proposal the Government invited dissenting comments during a six week period. None were received and DAFF considers some of the opposition to the proposal expressed in the results of the ballot has come from egg producers who do not intend to remain in the industry.⁸

Financial implications

The proposed change to the Act itself has been assessed as having no financial impact on the Commonwealth Government and affected parties.⁹ However, any increase in the operative rate would necessitate an increase in the Government’s matching R&D contributions.¹⁰ The Explanatory Memorandum advises that:

1. had the first stage levy increase occurred on 1 July 2009 the cost to Government would have been approximately \$275 000 and
2. additional matching government funding of over \$0.7 million per annum will be required if the levy is set at 13.5 cents per chick.¹¹

Main provisions

The Bill only makes an amendment to one Act, the *Primary Industries (Excise) Levies Act 1999* (Cth) (the Act). **Schedule 1** of the Bill amends **paragraph 4(a) of Schedule 16** of the Act by omitting “10” and substituting “30”. The effect is to increase the maximum allowable levy rate cap in the laying chicken industry from 10 to 30 cents per chicken.

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6. Explanatory Memorandum, Primary Industries (Excise) Levies Amendment Bill 2010, p. 3. Over 50 per cent of Australia’s egg supply comes from the five largest producers and the largest twenty producers account for over 80 per cent of output. Hence under industry voting arrangements this proposal can be considered to have demonstrated industry support.
 7. Explanatory Memorandum, op. cit., p.11.
 8. Ibid.
 9. Explanatory Memorandum, op. cit., p. 3.
 10. Ibid.
 11. Explanatory Memorandum, op. cit., p. 8.

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Concluding comments

This Bill is a mechanical one which provides for an increase in the maximum rate of levy for R&D in the laying chicken industry from 10 cents to 30 cents per chick. The industry has requested an increase in the operative levy to 13.5 cents in order to fund the research it considers necessary to meet future industry challenges. With the levy rate having been unchanged for nearly two decades the 'purchasing power' of the funds generated by the levy has declined significantly over the period.

The chicken industry has sought the levy increase and followed the consultative procedures required for proposing an amendment to a levy. The proposal has demonstrated industry support. If passed the Bill will result in a higher Commonwealth contribution to R&D in the laying chicken industry in line with the long standing matching funding arrangements which apply to this and many other rural industries.

This will facilitate the egg industry's request to increase the operative levy rate to 13.5 cents and will provide for future increases to the levy rate which may be sought by industry to account for inflation or strategic levy increases.

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