



Dairy Adjustment Levy Termination Act 2008

No. 123, 2008

**An Act to amend the *Dairy Produce Act 1986*, and
for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	2
Schedule 1—Amendment of the Dairy Produce Act 1986		4
Part 1—Winding up the Dairy Adjustment Authority		4
Part 2—Terminating the dairy adjustment levy		6
Part 3—Winding up the Dairy Structural Adjustment Fund		7
Schedule 2—Repeal of Acts		9
<i>Dairy Adjustment Levy (Customs) Act 2000</i>		9
<i>Dairy Adjustment Levy (Excise) Act 2000</i>		9
<i>Dairy Adjustment Levy (General) Act 2000</i>		9
Schedule 3—Consequential amendments		10
<i>Income Tax Assessment Act 1997</i>		10
<i>Remuneration Tribunal Act 1973</i>		10
<i>Social Security Act 1991</i>		10
Schedule 4—Regulations about transitional matters		11



Dairy Adjustment Levy Termination Act 2008

No. 123, 2008

An Act to amend the *Dairy Produce Act 1986*, and for related purposes

[Assented to 25 November 2008]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Dairy Adjustment Levy Termination Act 2008*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day after this Act receives the Royal Assent.	26 November 2008
2. Schedule 1	The day after this Act receives the Royal Assent.	26 November 2008
3. Schedule 2	The day after the day declared for the purposes of subclause 94(1) of Schedule 2 to the <i>Dairy Produce Act 1986</i> .	
4. Schedule 3, items 1 and 2	The day after this Act receives the Royal Assent.	26 November 2008
5. Schedule 3, item 3	Immediately after the day specified for the purposes of subclause 55(2) of Schedule 2 to the <i>Dairy Produce Act 1986</i> .	
6. Schedule 3, item 4	The day after this Act receives the Royal Assent.	26 November 2008
7. Schedule 4	The day after this Act receives the Royal Assent.	26 November 2008

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule

concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Dairy Produce Act 1986

Part 1—Winding up the Dairy Adjustment Authority

1 Clause 55 of Schedule 2

Before “The”, insert “(1)”.

2 At the end of clause 55 of Schedule 2

Add:

- (2) The Minister may, by legislative instrument, declare that the Dairy Adjustment Authority ceases to exist immediately after a specified day.
- (3) A declaration under subclause (2) has effect accordingly.

3 Applying provisions referring to the Dairy Adjustment Authority after it ceases to exist

- (1) This item applies to a reference to the Dairy Adjustment Authority, to the extent that the reference concerns a power or function of that body, in any of the following:
 - (a) a provision of Schedule 2 to the *Dairy Produce Act 1986* or a regulation made for the purposes of that Schedule;
 - (b) a provision of the DEP scheme, the DSAP scheme or the SDA scheme (all within the meaning of that Schedule);
 - (c) a provision of another Act (other than this Act) or a regulation made for the purposes of another Act.
- (2) If, because of subclause 55(3) of Schedule 2 to the *Dairy Produce Act 1986*, the Dairy Adjustment Authority has ceased to exist after a specified day, then, for the purposes of the provision referred to in subitem (1) after that day, the reference is taken to be a reference to a function or power performed or exercised by the Secretary of the Department.
- (3) To avoid doubt, if, because of subclause 55(3) of Schedule 2 to the *Dairy Produce Act 1986*, the Dairy Adjustment Authority has ceased to exist after a specified day:

- (a) a reference in subclause 73(1) of Schedule 2 to the *Dairy Produce Act 1986* to the DAA's functions and powers; or
- (b) a reference in subparagraph 79(i)(ii) of that Schedule to the functions, or the powers, of the DAA;

is taken, after that day, to be a reference to the functions and the powers, or the functions or the powers, of the Secretary of the Department to the extent that the Dairy Adjustment Authority was, before that day, capable of performing or exercising the power or function.

Part 2—Terminating the dairy adjustment levy

4 After paragraph 79(i) of Schedule 2

Insert:

- (ia) in meeting the expenses incurred by the Commonwealth in relation to the termination of the program known as the Dairy Industry Adjustment Program; and

5 After subclause 83(3) of Schedule 2

Insert:

- (3A) The Minister may, by legislative instrument, declare that subclauses (1) and (2) do not apply to any amount received by the Commonwealth after the day specified in the instrument. The day specified must not be earlier than the day declared for the purposes of subclause 94(1).

6 Subclause 94(1) of Schedule 2

Repeal the subclause, substitute:

- (1) The Minister may, by legislative instrument, declare that the seventh day after the day on which the instrument is registered on the Federal Register of Legislative Instruments established under the *Legislative Instruments Act 2003* is the *levy termination day* for the purposes of this clause.

7 Subclause 94(2) of Schedule 2

Omit “is no reasonable likelihood of money being paid out of the Dairy Structural Adjustment Fund, at any time after that 28th day, for any of”, substitute “will be sufficient money in the Dairy Structural Adjustment Fund after the day declared under subclause (1), for”.

Part 3—Winding up the Dairy Structural Adjustment Fund

8 After clause 77A of Schedule 2

Insert:

77AA Winding up the Dairy Structural Adjustment Fund

- (1) The Minister may, by written notice, specify a day or days on which there is to be paid to the Commonwealth an amount specified in the notice and standing, at the beginning of that day, to the credit of the Dairy Structural Adjustment Fund.
- (2) The amount specified in the notice and standing to the credit of the Dairy Structural Adjustment Fund at the beginning of the day specified in the notice is to be paid to the Commonwealth.
- (3) If no amount is standing to the credit of the Dairy Structural Adjustment Fund immediately after the time an amount has been paid under subclause (2), that Fund is taken to be wound up immediately after that time.
- (4) A notice made under subclause (1) is not a legislative instrument.

9 At the end of Part 4 of Schedule 2

Add:

132 Compensation for acquisition of property

- (1) If the operation of this Schedule would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (3) In this clause:

Schedule 1 Amendment of the Dairy Produce Act 1986
Part 3 Winding up the Dairy Structural Adjustment Fund

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

Schedule 2—Repeal of Acts

Dairy Adjustment Levy (Customs) Act 2000

1 The whole of the Act

Repeal the Act.

Dairy Adjustment Levy (Excise) Act 2000

2 The whole of the Act

Repeal the Act.

Dairy Adjustment Levy (General) Act 2000

3 The whole of the Act

Repeal the Act.

Schedule 3—Consequential amendments

Income Tax Assessment Act 1997

1 Paragraph 118-37(1)(e)

Repeal the paragraph.

2 Application

The amendment of the *Income Tax Assessment Act 1997* made by this Schedule applies in relation to the 2009-2010 income year and later income years.

Remuneration Tribunal Act 1973

3 Paragraph 7(9)(ab)

Repeal the paragraph.

Social Security Act 1991

4 Subsection 23(1) (definition of *Farm Household Support Act 1992*)

Omit “the DEP scheme,”.

Schedule 4—Regulations about transitional matters

1 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) In particular, regulations may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Act.

*[Minister's second reading speech made in—
House of Representatives on 24 September 2008
Senate on 16 October 2008]*

(188/08)
