

Wool Industry Amendment Act 1980

No. 50 of 1980

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Wool Industry Amendment Act 1980

No. 50 of 1980

An Act to amend the *Wool Industry Act 1972*

[Assented to 23 May 1980]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

1. (1) This Act may be cited as the *Wool Industry Amendment Act 1980*.

(2) The *Wool Industry Act 1972*¹ is in this Act referred to as the Principal Act.

Commencement

2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Sections 3, 4 and 5, sub-sections 6 (1) and (3) and sections 8, 9 and 11 to 20 (inclusive) shall come into operation on 1 July 1980.

Interpretation

3. Section 6 of the Principal Act is amended—

(a) by omitting the definitions of “the Australian Wool Industry Conference” and “the Conference” in sub-section (1); and

(b) by inserting in sub-section (1), after the definition of “wool”, the following definition:

“ ‘Wool Council of Australia’ or ‘Council’ means the organization known as the Wool Council of Australia that was formed on 19 July 1979;”.

Membership of Corporation

4. Section 8 of the Principal Act is amended—

(a) by omitting from sub-section (3) “the Australian Wool Industry Conference” and substituting “the Wool Council of Australia”;

(b) by omitting from sub-section (4) “the Australian Wool Industry Conference” and substituting “the Wool Council of Australia”; and

- (c) by omitting from sub-section (4A) “the Australian Wool Industry Conference” and substituting “the Wool Council of Australia”.

Removal from office

5. Section 17 of the Principal Act is amended by omitting from sub-section (3) “the Australian Wool Industry Conference” and substituting “the Wool Council of Australia”.

Market Support Fund

6. (1) Section 28A of the Principal Act is amended by omitting from sub-section (2) “84B” and substituting “84A”.

(2) Section 28A of the Principal Act is further amended—

(a) by omitting sub-section (3) and substituting the following sub-section:

“(3) Moneys standing to the credit of the Market Support Fund—

(a) may be used by the Corporation—

(i) for the purchase of wool in the performance of its functions;

(ii) in the payment of advances to growers the marketing of whose wool has been delayed by the exercise of the powers and functions of the Corporation; or

(iii) in the payment of refunds, and in meeting the administrative expenses incurred in and in relation to the payment of refunds, in accordance with Part IIIA; or

(b) may be invested in accordance with section 36,

and the accounts of the Corporation shall identify amounts so used or invested.”;

(b) by omitting from sub-section (8) “being storage, handling, processing, manufacturing or selling costs but, subject to sub-sections (6) and (7), do not include costs incurred by the Corporation in connexion with wool or wool products before purchase by the Corporation” and substituting “being purchase, storage, handling, processing, manufacturing or selling costs”;

(c) by omitting sub-sections (14) and (15); and

(d) by omitting sub-section (18) and substituting the following sub-section:

“(18) In this section, ‘period’ means—

(a) the period that commenced on 2 September 1974 and ended on 30 June 1975; or

(b) any financial year after the period referred to in paragraph (a).”.

(3) Where moneys are paid to the Corporation after 30 June 1980 in accordance with section 84B of the Principal Act as it is continued in force under sub-section 17 (2) of this Act, those moneys shall be placed to the credit of the

Market Support Fund as if they were moneys paid to the Corporation in accordance with section 84A of the Principal Act as amended by this Act.

Profits and losses on certain activities of Corporation under Part III

7. Section 33 of the Principal Act is amended—

- (a) by inserting in paragraph (b) of sub-section (3) “purchase,” after “being”; and
- (b) by omitting from that sub-section “, but do not include costs incurred by the Corporation in that financial year in connexion with wool before it is purchased by the Corporation”.

Application of moneys of Corporation

8. (1) Section 35 of the Principal Act is amended—

- (a) by omitting from paragraph (d) “the Australian Wool Industry Conference” and substituting “the Wool Council of Australia”; and
- (b) by omitting from that paragraph “the Conference” and substituting “that Council”.

(2) Notwithstanding the amendments effected by sub-section (1), the moneys of the Corporation may be applied, after the commencement of this section, in making such grants as the Australian Wool Corporation thinks fit to the Australian Wool Industry Conference (being the organization known by that name which was formed on 24 October 1962) in respect of expenses incurred by that Conference before the commencement of this section.

Functions of Corporation in relation to wool marketing

9. Section 38 of the Principal Act is amended by omitting from paragraph (o) of sub-section (1) “the Australian Wool Industry Conference” and substituting “the Wool Council of Australia”.

Insertion of new Part IIIA

10. After Part III of the Principal Act the following Part is inserted:

“PART IIIA—REPAYMENT OF MONEYS PAID INTO MARKET SUPPORT FUND

“Division 1—Preliminary

Interpretation

“42A. (1) In this Part, unless the contrary intention appears—

‘Administration Act’ means the *Wool Tax (Administration) Act 1964*;

‘financial year to which this Part applies’ means—

- (a) the period that commenced on 2 September 1974 and ended on 30 June 1975;
- (b) the financial year that commenced on 1 July 1975; or
- (c) any subsequent financial year;

‘manufacturer’ has the same meaning as it has in the Administration Act;
‘participating wool’, in relation to a financial year to which this Part applies or to a declared period, means—

- (a) wool that was or is sold by or on behalf of the producer in Australia during that financial year or declared period, as the case may be;
- (b) wool that was or is subjected by or on behalf of the producer to a process of manufacture during that financial year or declared period, as the case may be; or
- (c) wool that was or is exported from Australia by or on behalf of the producer, where the entry of the wool for export under the *Customs Act* 1901 was or is made during that financial year or declared period, as the case may be;

‘producer’, in relation to wool, means—

- (a) except where paragraph (b) or (c) of this definition applies—the person who owns the wool immediately after it is shorn;
- (b) where an agreement to sell the wool separately from the sheep was made before the wool was shorn—the person who owned the sheep immediately before the sale; or
- (c) where a gift of the wool is made before any sale of the wool has taken place—the person to whom the wool is given,

and, for the purposes of this definition, a person who has rights in the nature of an equity of redemption in respect of wool or sheep the subject of a mortgage or other security shall be deemed to be the owner of the wool or sheep;

‘registered person’ means a person who is, or persons carrying on business as partners who are, registered under section 13, 14, 15 or 16 of the Administration Act or under any 2 or more of those sections;

‘registered wool-dealer’ means a person who is registered by the Commissioner of Taxation under section 14 of the Administration Act;

‘relevant section’, in relation to the Administration Act, means section 13, 14, 15 or 16 of that Act;

‘shorn wool’ has the same meaning as it has in the Administration Act;

‘wool’ means shorn wool;

‘wool-broker’ has the same meaning as it has in the Administration Act;

‘wool tax’ means tax payable under section 5 of any Wool Tax Act.

“(2) For the purposes of this Part, wool shall be taken to have been produced at the time at which a person becomes, for the purposes of this Part, the producer of that wool.

“(3) For the purposes of this Part, the sale of wool shall be deemed to have taken place at the time when the agreement for the sale was made.

“(4) In this Part, a reference to the sale or exportation of wool by or on behalf of the producer shall be read as including a reference to the sale or exportation of wool by or on behalf of a person exercising rights under a mortgage, lien, bill of sale or other charge given by the producer by way of security.

“(5) In this Part, unless the contrary intention appears, a reference to a State, in relation to the registration of a person under a relevant section of the Administration Act, shall be deemed to include a reference to the Northern Territory.

“Division 2—Declared Periods

Declared periods

“42B. (1) Subject to sub-section (2), the Minister may, with the consent, in writing, of the Wool Council of Australia, from time to time, by notice published in the *Gazette*, declare a financial year to which this Part applies, or 2 or more financial years to which this Part applies that constitute a continuous period, to be a declared period for the purposes of this Part.

“(2) The Minister shall not, in a particular financial year, make a declaration under sub-section (1), in respect of a financial year, or 2 or more financial years, to which this Part applies, unless—

- (a) the Minister is satisfied that the moneys that stood to the credit of the Market Support Fund at the commencement of the financial year in which the declaration is made are sufficient to enable the Corporation—
 - (i) to pay all liabilities incurred by the Corporation and payable out of that Fund;
 - (ii) to operate the reserve price scheme during the financial year in which the declaration is made; and
 - (iii) to pay the refunds that will become payable under Division 3 by reason of the making of the declaration and the expenses of the Corporation in, and in relation to, the payment of those refunds;
- (b) the Minister, in considering whether he is satisfied as mentioned in paragraph (a), has had regard to—
 - (i) the prices that may reasonably be expected to be paid, by persons other than the Corporation, for wool that is expected to be submitted for sale at auction during the financial year in which the declaration is made;
 - (ii) the reserve prices applicable to wool under the reserve price scheme operated by the Corporation; and
 - (iii) any other matters that he considers relevant; and
- (c) any period preceding the financial year or the earlier or earliest financial year to which the declaration relates that might have been declared under this section to be a declared period has been so declared.

“Division 3—Entitlements to Refunds

Refunds payable in respect of participating wool

“42C. Subject to this Part, where a period is declared by the Minister to be a declared period, refunds are payable by the Corporation in respect of wool that is participating wool in respect of that declared period.

Producers normally entitled to refund

“42D. Subject to sections 42E, 42F, 42G and 42H, the producer of participating wool is entitled to be paid the refund payable under this Part in respect of that wool.

Bankrupt estates

“42E. (1) Where any participating wool was produced by—

- (a) a person whose affairs have at any subsequent time been administered or are being administered, under any of the provisions of the *Bankruptcy Act* 1966, by a trustee;
- (b) a person who has died and whose estate has at any subsequent time been, or is being, so administered; or
- (c) a personal representative in the administration of an estate which has at any subsequent time been, or is being, so administered,

an amount by way of the refund that would otherwise be payable under this Part to the person who produced the participating wool or his personal representatives is, subject to this section, payable to the trustee.

“(2) An amount received by a trustee by virtue of this section shall, for all purposes of the *Bankruptcy Act* 1966 and of any instrument executed in pursuance of that Act, be deemed to be received by him in his capacity as trustee.

“(3) This section does not apply in any case in which—

- (a) the creditors who were entitled to share in distributions by the trustee have been paid in full; or
- (b) the trustee was acting under a sequestration order, and that order has been annulled.

Defunct companies and dissolved partnerships

“42F. (1) Where participating wool was produced by a company that is defunct, an amount by way of refund that would otherwise be payable under this Part to the company may be paid by the Corporation to such person as appears to the Corporation to be justly entitled to receive it.

“(2) Where participating wool was produced by a partnership that has been dissolved, an amount by way of refund that would otherwise be payable under this Part to the partnership may be paid by the Corporation to any former partner or partners (including the personal representatives of a deceased former partner).

“(3) Where an amount has been paid in pursuance of sub-section (1) or (2), the rights, duties and liabilities of the person to whom it is paid are the

same as if it were part of the proceeds of a sale of the wool by the company or partnership made at the time the wool was produced.

Deceased persons

“42G. Subject to section 42E, where participating wool was produced by a person who has died—

- (a) any amount by way of refund that would otherwise be payable under this Part to that person is payable to the personal representatives of that person; and
- (b) the rights, duties and liabilities of the personal representatives in respect of the amount are the same as if it were part of the proceeds of a sale of the wool by the deceased person made at the time the wool was produced.

Personal representatives and trustees

“42H. Subject to section 42E, where participating wool was produced by a person acting in the capacity of trustee, or of a personal representative of a deceased person, and there has been a change in the identity of the trustees of the trust or of the personal representatives of the deceased person, an amount otherwise payable by way of refund under this Part to the producer of the wool is payable to the trustees for the time being of the trust or the personal representatives for the time being of the deceased person.

Amount of refund

“42J. (1) The amount of the refund payable in respect of wool that is participating wool in respect of a declared period by reason that it was sold by or on behalf of the producer during that period is—

- (a) if the wool was sold by a wool-broker on behalf of the producer or was sold by the producer to a registered wool-dealer or to a manufacturer—
 - (i) in a case where the Corporation is satisfied that an amount in respect of the wool tax payable on the wool was recovered or retained as provided in section 12 of the Administration Act—an amount equal to such proportion of the amount so recovered or retained as is applicable to the sale by virtue of regulations made for the purposes of this sub-paragraph;
 - (ii) in a case where sub-paragraph (i) does not apply but the Corporation is satisfied that, under the agreement for sale of the wool, the producer was paid a price for the wool fixed after allowing an amount in respect of wool tax—an amount equal to such proportion of that price as is applicable to the sale by virtue of regulations made for the purposes of this sub-paragraph; or
 - (iii) in any other case—an amount equal to such proportion of the price paid for the wool as is applicable to the sale by virtue of regulations made for the purposes of this sub-paragraph; or

- (b) if the wool was sold by the producer to a person in circumstances other than those set out in paragraph (a)—
 - (i) in a case where the Corporation is satisfied that an amount in respect of the wool tax payable on the wool was recovered from the producer or retained by the person to whom the wool was sold from moneys due and payable to the producer—an amount equal to such proportion of the amount so recovered or retained as is applicable to the sale by virtue of regulations made for the purposes of this sub-paragraph;
 - (ii) in a case where sub-paragraph (i) does not apply but the Corporation is satisfied that, under the agreement for sale of the wool, the producer was paid a price for the wool fixed after allowing an amount in respect of wool tax—an amount equal to such proportion of that price as is applicable to the sale by virtue of regulations made for the purposes of this sub-paragraph; or
 - (iii) in any other case—an amount equal to such proportion of the price paid for the wool as is applicable to the sale by virtue of regulations made for the purposes of this sub-paragraph.

“(2) The amount of the refund payable in respect of wool that is participating wool in respect of a declared period by reason that it was used in manufacture by or on behalf of the producer during the declared period is an amount equal to such proportion of the amount paid on account of wool tax by the producer on the wool so used as is applicable to the use of the wool in manufacture by virtue of regulations made for the purposes of this sub-section.

“(3) The amount of the refund payable in respect of wool that is participating wool in respect of a declared period by reason that it was exported by or on behalf of the producer during the declared period is an amount equal to such proportion of the amount paid on account of wool tax by the producer on the wool as is applicable to the export of the wool by virtue of regulations made for the purposes of this sub-section.

“(4) Where the producer of wool is unable to establish the price that was paid for the wool under an agreement for sale of the wool but is able to establish that the wool was of a particular quality and was sold on a particular day, or during a particular period, the Corporation may, on the basis of information held by the Corporation concerning prices paid for wool of that quality during the declared period in which the wool was sold, determine the price that shall, for the purposes of this Part, be taken to be the price paid for the wool.

“(5) Where—

- (a) a wool-broker has furnished an account to a producer in respect of wool sold (whether in one lot or otherwise) by him on behalf of the producer, being wool that became participating wool in respect of a declared period by reason of its having been so sold;
- (b) a registered wool-dealer has furnished an account to a producer in respect of wool purchased (whether in one lot or otherwise) by him from

the producer, being wool that became participating wool in respect of a declared period by reason of its having been so purchased;

- (c) a manufacturer has furnished an account to a producer in respect of wool purchased (whether in one lot or otherwise) by him from the producer, being wool that became participating wool in respect of a declared period by reason of its having been so purchased;
- (d) a manufacturer has furnished an account to a producer in respect of wool subjected by him to a process of manufacture, being wool that became participating wool in respect of a declared period by reason of its having been subjected by him to a process of manufacture; or
- (e) an exporter has furnished an account to a producer in respect of wool exported from Australia (whether in one lot or otherwise) by him on behalf of the producer, being wool that became participating wool in respect of a declared period by reason of its having been so exported,

a refund is not payable under this Part in respect of any of the wool to which the account relates if the refund, or the total of the refunds, that would, but for this sub-section, be payable in respect of all the wool to which the account relates is less than \$25 or such other amount as is prescribed from time to time by the regulations for the purposes of this section.

“(6) Subject to sub-section (5), where, but for this sub-section, the refund payable under this Part in respect of any wool that is participating wool in respect of a declared period would be less than \$25 or such other amount as is prescribed from time to time by the regulations for the purposes of this section, a refund is not payable under this Part in respect of that wool.

“Division 4—Method of Distribution

Persons by whom refunds in respect of participating wool are to be made

“42K. (1) Subject to this Part, refunds that are payable in respect of wool that is participating wool in respect of a declared period shall be made by registered persons on behalf of the Corporation, or by the Corporation, in accordance with this section.

“(2) Where wool has become participating wool in respect of a declared period by reason of the sale of the wool by a wool-broker on behalf of the producer, the refund payable in respect of that wool shall, subject to this section, be paid by that wool-broker on behalf of the Corporation.

“(3) Where wool has become participating wool in respect of a declared period by reason of the sale of the wool by the producer to a registered wool-dealer, the refund payable in respect of that wool shall, subject to this section, be paid by the registered wool-dealer on behalf of the Corporation.

“(4) Where wool has become participating wool in respect of a declared period by reason of the sale of the wool by the producer to a manufacturer, the refund payable in respect of the wool shall, subject to this section, be paid by the manufacturer on behalf of the Corporation.

“(5) Where wool has become participating wool in respect of a declared period by reason of the subjecting of the wool to a process of manufacture by a

manufacturer on behalf of the producer, the refund payable in respect of the wool shall, subject to this section, be paid by the manufacturer on behalf of the Corporation.

“(6) Where wool has become participating wool in respect of a declared period by reason of the exportation of the wool by a registered exporter on behalf of the producer, the refund payable in respect of that wool shall, subject to this section, be payable by the registered exporter on behalf of the Corporation.

“(7) Where—

- (a) a refund in respect of participating wool would, but for this sub-section be required to be made by a person who has been a registered person but is no longer a registered person; or
- (b) a refund in respect of participating wool would, but for this sub-section, be required to be made by a registered person but the registered person is, for any reason, unable to make that payment,

payment of the refund shall be made by the Corporation.

“(8) Subject to sub-sections (2), (3), (4), (5) and (6), payments of refunds in respect of participating wool shall be made by the Corporation.

Registered persons to make refunds on behalf of Corporation

“42L. (1) Where a period becomes, by virtue of section 42B, a declared period, a registered person who dealt with wool during that period shall, within one month after the date of publication of the declaration in the *Gazette*—

- (a) furnish to the Corporation, in accordance with a form approved by the Corporation, such information and calculations in relation to the refunds becoming payable in accordance with this Part in respect of that wool as are required by the regulations to be furnished and are in his possession or under his control; and
- (b) where the person is unable to furnish some or all of the information that is required by the regulations to be furnished in respect of any of that wool—furnish to the Corporation a statement, in writing, that he is unable to furnish that information and setting out particulars of the reasons why he is unable to furnish that information.

Penalty: \$1,000.

“(2) Where a registered person has duly furnished information and calculations to the Corporation in accordance with sub-section (1) in relation to wool, the Corporation shall, after examining that information and those calculations and making such inspection of any relevant documents and such inquiries arising out of that inspection as it thinks necessary, within 3 months after the date of publication of the declaration in the *Gazette*, authorize the registered person to make payments of such amounts as appear to the Corporation to be payable by that registered person.

“(3) Without limiting the generality of sub-section (2), the power of the Corporation to make inquiries arising out of an inspection of the information

and calculations furnished by a registered person in accordance with sub-section (1) extends to requiring that person or another person, by notice in writing furnished to the person on whom the requirement is made, within such period after the making of the requirement as is specified in the notice—

- (a) to furnish to the Corporation such further information, or such information, as the case requires, relating to the refund payable in respect of any participating wool as is specified in the notice and is in his possession or under his control; and
- (b) where he is unable to furnish some or all of the information required by the notice by reason that the information is not in his possession or under his control—to furnish to the Corporation a statement, in writing, that he is unable to furnish that information and setting out particulars of the reasons why he is unable to furnish that information.

“(4) A person on whom a requirement is made under sub-section (3) shall not fail to comply with the requirement.

Penalty: \$1,000.

“(5) In any proceedings for an offence against sub-section (1) or (4), a certificate in writing under the seal of the Corporation stating that the Corporation did not receive from a person who failed to furnish information that he was required to furnish under paragraph (1) (a) or (3) (a) a statement under paragraph (1) (b) or (3) (b), as the case requires, in relation to that failure is *prima facie* evidence that that information was in his possession or under his control.

“(6) For the purposes of this section, a registered person shall be taken to have dealt with wool if and only if—

- (a) in his capacity as a wool-broker, he has sold wool;
- (b) in his capacity as a registered wool-dealer, he has purchased wool from a person other than a wool-broker;
- (c) in his capacity as a manufacturer, he has purchased wool from a person other than a wool-broker or a registered wool-dealer;
- (d) in his capacity as a manufacturer, he has subjected wool (not being wool purchased by him) to a process of manufacture; or
- (e) in his capacity as a registered exporter, he has exported wool from Australia,

and the wool so sold, purchased, subjected to a process of manufacture or exported by him was not wool on which wool tax had already been paid.

Payments authorized under section 42L

“42M. (1) Where the Corporation authorizes a registered person furnishing information and calculations under section 42L to make payments in respect of participating wool, it shall pay to the registered person such moneys as are required to enable him to make the payments so authorized.

“(2) Subject to this Part, where the Corporation provides a registered person, in accordance with sub-section (1), with moneys for the purpose of enabling him to make payments in respect of participating wool—

- (a) the registered person shall not make a payment out of those moneys except in accordance with an authorization by the Corporation; and
- (b) the registered person shall make each payment authorized by the Corporation as soon as practicable after receipt of those moneys.

Penalty: \$5,000 or imprisonment for 2 years, or both.

“(3) If, for any reason, a registered person to whom moneys have been provided in accordance with sub-section (1) to make a payment authorized by the Corporation in respect of participating wool does not make the payment within 1 month after his receipt of those moneys, he shall forthwith pay to the Corporation an amount equal to the amount of the payment so authorized and inform the Corporation, in writing, of the reason why he did not make the payment.

Penalty: \$5,000 or imprisonment for 2 years, or both.

“(4) Where, after a payment authorized by the Corporation to be made by a registered person in respect of participating wool has been made, the cheque by which the payment is made is returned to the registered person or is not presented for payment within 12 months after it was drawn, the registered person shall forthwith pay an amount equal to the amount of the payment so authorized to the Corporation and inform the Corporation, in writing, of his reasons for so doing.

Penalty for a contravention of this sub-section: \$5,000 or imprisonment for 2 years, or both.

Claims made upon the Corporation

“42N. (1) A person who claims to be entitled to be paid an amount in respect of wool that is participating wool in respect of a declared period may, if he has not received payment of an amount equal to that amount in respect of that wool from a registered person within 4 months after the date of publication in the *Gazette* of the declaration of the period as the declared period, make a claim upon the Corporation for payment to him of the amount, or the balance of the amount, as the case requires, that he claims to be payable to him in respect of that wool.

“(2) The Corporation is not required to make a payment in respect of wool that is participating wool in respect of a declared period unless—

- (a) the claim for that payment is delivered to the Corporation within the period of 6 months after the date of publication in the *Gazette* of the period as a declared period; or
- (b) the Corporation is satisfied that there is a sufficient reason why the claim was not delivered to the Corporation within that period of 6 months and a period of a year since the publication of the declaration has not expired.

“(3) A claim upon the Corporation under sub-section (1) shall be made, in writing, in accordance with a form approved by the Corporation and shall contain or be accompanied by such information and evidence as are required under the regulations.

“(4) The regulations may require any information that a person making a claim is required to furnish to be verified by a statutory declaration.

“(5) As soon as practicable after receipt of a claim in respect of participating wool, the Corporation shall make a thorough investigation of the claim without regard to legal forms and—

- (a) if it is satisfied that the claimant is entitled to a payment, or additional payment, in respect of that wool under this Part—inform the claimant, in writing, that it is satisfied that he is entitled to payment or additional payment of a specified amount under this Part in respect of that wool and furnish to the claimant its reasons for so deciding, including the basis on which it has determined the specified amount; or
- (b) if it is not so satisfied—inform the claimant, in writing, that it is not satisfied that he is entitled to any payment, or additional payment, under this Part in respect of that wool and furnish to the claimant its reasons for so deciding.

“(6) Where the Corporation makes a decision under paragraph (a) of sub-section (5) to the effect that a claimant is entitled to the payment, or additional payment, of a specified amount in respect of the wool under this Part, it shall, when informing the claimant, in writing, that it has so decided, also effect payment to the claimant of the specified amount.

“(7) In investigating a claim under this section, the Corporation is not bound by rules of evidence, but shall inform itself on any relevant matters in such manner as it thinks fit.

Manner of payment of refund

“42P. (1) Payment in respect of participating wool shall be made only by cheque and each such cheque shall be crossed specially ‘account payee only’.

“(2) Where the Corporation or a registered person makes a payment in respect of participating wool to a person, it or he shall deliver to that person a statement in writing showing the amount of the payment separate from any other amount paid to that person.

Moneys paid under section 42M to be held in trust

“42Q. Where moneys are paid to a registered person by the Corporation under section 42M for the purpose of enabling the person to make payments in respect of participating wool, those moneys shall be deemed to be moneys held in trust for the Corporation until applied by the person in accordance with this Part.

Investment of moneys received under section 42M

“42R. (1) Where moneys are paid to a registered person by the Corporation under section 42M for the purpose of enabling him to make payments in respect of participating wool, he shall, until the moneys are applied by him in accordance with this Part, cause the moneys to be—

- (a) held in an account with a bank as defined in sub-section (1) of section 5 of the *Banking Act* 1959, being an account opened and maintained only for the purposes of this Part; or
- (b) invested in a prescribed manner.

“(2) Interest earned on money invested by a registered person in accordance with sub-section (1) shall be paid by the registered person to the Corporation as soon as practicable after it is received.

Penalty: \$5,000 or imprisonment for 2 years, or both.

False documents, &c.

“42S. (1) A person shall not—

- (a) do an act or thing for the purpose of obtaining or receiving, or causing or enabling another person to obtain or receive, a payment that is not payable to him or to that other person under this Part in respect of participating wool or that exceeds the amount payable to him or to that other person under this Part in respect of participating wool; or
- (b) with intent to defraud, forge or alter a declaration in writing or other document required, intended to be used or capable of being used for the purposes of this Part.

Penalty: \$2,000 or imprisonment for 12 months, or both.

“(2) A person shall not—

- (a) sign a declaration in writing or other document required, intended to be used or capable of being used for the purposes of this Part which, to his knowledge, contains information or a statement that is false or misleading in a material particular; or
- (b) present or deliver to another person, including the Corporation, a declaration in writing or other document, whether signed by him or not, that is presented or delivered for the purposes of this Part, or is required, intended to be used or capable of being used for those purposes, being a declaration or document that, to his knowledge, contains information or a statement that is false or misleading in a material particular.

Penalty for a contravention of this sub-section: \$1,000.

Person receiving payment to which he is not entitled

“42T. (1) A person who receives, in respect of a refund in respect of participating wool, a payment that, to his knowledge, is not payable to him, or exceeds the amount payable to him, shall, as soon as practicable, inform the Corporation accordingly.

Penalty: \$1,000.

“(2) For the purposes of sub-section (1), a registered person shall be taken to be a person who receives a payment in respect of participating wool where he receives that payment in his capacity as producer of that wool or as the person entitled to receive that payment by virtue of the operation of section 42E, 42F, 42G or 42H but not otherwise.

Court may order refunds

“42U. (1) Where a person is convicted of an offence against sub-section (1) of section 42S, the court may, in addition to imposing a penalty, order the person to repay to the Corporation so much of a payment in respect of participating wool as was paid to him as a result of the offence.

“(2) Where a person is convicted of an offence under section 42T, the court may, in addition to imposing a penalty, order the person to repay to the Corporation the amount of the payment in respect of participating wool or the amount by which the payment in respect of participating wool exceeded the amount properly payable, as the case may be.

“(3) Where a court has made an order under this section, a certificate under the hand of the clerk or other appropriate officer of the court specifying the amount ordered to be refunded and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court.

“(4) For the purposes of this section, a registered person shall be taken to be a person who receives a payment in respect of participating wool where he receives that payment in his capacity as producer of that wool or as the person entitled to receive that payment by virtue of the operation of section 42E, 42F, 42G or 42H but not otherwise.

Overpayments

“42V. Where the Corporation has made, or a registered person has, with the authority of the Corporation, made—

- (a) a payment in respect of participating wool that was not payable, or was not payable to the person to whom it was paid; or
- (b) a payment in respect of participating wool that exceeds the amount that was payable,

the amount of the payment, or of the excess, as the case may be, if not otherwise recovered, may be recovered by the Corporation from the person to whom it was paid, as a debt due to the Corporation, by action in a court of competent jurisdiction.

“Division 5—Review of Decisions of Corporation

Review of decisions of Corporation

“42W. Application may be made to the Administrative Appeals Tribunal for the review of a decision made by the Corporation under sub-section (5) of section 42N.

“Division 6—Miscellaneous**Corporation to keep records of persons registered under Administration Act**

“42X. (1) The Corporation shall maintain, in relation to each relevant section of the Administration Act and in relation to each State, a register of all persons who have been registered under that section in respect of that State at any time during the period commencing on 2 September 1974 and ending on the day preceding the date of commencement of this section or become so registered on or after the date of commencement of this section.

“(2) Where a person who is, at any time after 1 September 1974, registered in relation to a relevant section and in relation to a State has subsequently ceased or, after the commencement of this section, ceases to be so registered, the register shall indicate the date when he so ceased.

“(3) For the purpose of enabling the Corporation to keep and maintain the registers referred to in sub-section (1), the Commissioner of Taxation shall furnish to the Corporation a copy of each register kept by him in relation to registration of persons under a relevant section of the Administration Act in respect of a particular State to the extent that each such register relates to matters referred to in sub-section (1) and a copy of each alteration made after the commencement of this section to each register so kept by him.

“(4) For the purpose of sub-section (1), the copy of each register kept by the Commissioner of Taxation in relation to registration of persons under a relevant section of the Administration Act in respect of a particular State, and the copy of each alteration to that register, that is furnished to the Corporation in accordance with sub-section (3) shall be deemed to be incorporated in, and to form part of, the register required to be kept by the Corporation under sub-section (1) in relation to that section and that State.

“(5) A register maintained by the Corporation in accordance with this section shall not be made available for inspection by members of the public.

“(6) Where a person—

- (a) is or claims to be entitled to a payment in respect of participating wool; and
- (b) is or claims to be unable to confirm whether a person who sold, subjected to a process of manufacture or exported that wool on his behalf or who purchased that wool from him did so in his capacity as a wool-broker, manufacturer, or exporter registered under the Administration Act or as a registered wool-dealer, as the case may be,

the first-mentioned person may make a written request of the Corporation that it inform the person whether the registers maintained by it under this section shows the person referred to in paragraph (b) to have been registered in the capacity referred to in that paragraph at the time of the transaction or activity concerned and whether the person so referred to is, at the time of the request, a registered person, and the Corporation shall, unless it has reason to doubt that the inquiry is properly made, inform the person making the inquiry of the matters inquired into.

Commissioner of Taxation to keep Corporation informed of particulars of wool tax paid

“42Y. (1) The Commissioner of Taxation shall, as soon as practicable after the commencement of this section, cause the Corporation to be furnished, in relation to each financial year to which this Part applies that ended before the commencement of this section, with such information in respect of wool that was participating wool in respect of that year and wool tax as the Corporation requires and as is included in returns lodged with the Commissioner of Taxation by registered persons.

“(2) The Commissioner of Taxation shall, as soon as practicable after the expiration of each financial year to which this Part applies that ends after the commencement of this section, cause the Corporation to be furnished with such information in respect of wool that was participating wool in respect of that year and wool tax as the Corporation requires and as is included in returns lodged with the Commissioner of Taxation by registered persons.

Remuneration of registered persons making payments under this Part

“42Z. The Corporation shall, in accordance with principles approved by the Minister, make payments to registered persons in respect of costs incurred by them in and in relation to the making of payments to other persons in accordance with this Part.

Officers to observe secrecy

“42AA. (1) In this section, ‘officer’ means a person who is or has been appointed as a member of the Corporation or employed as a member of the staff of the Corporation.

“(2) Subject to this section, an officer shall not, either directly or indirectly, and either while he is, or after he ceases to be, an officer, make a record of, or divulge or communicate to any person, any information that he has acquired with respect to the affairs of another person by reason of his appointment or employment as an officer or in the course of his employment as an officer except in the performance of his duties as an officer in connection with the performance by the Corporation of its functions under this Part.

“(3) An officer shall not be required to produce in court a return or other document that came into his possession, or to divulge or communicate to a court a matter or thing coming under his notice, in connection with the performance by the Corporation of its functions under this Part except when it is necessary to do so for the purpose of carrying into effect the provisions of this Part.

Penalty: \$5,000 or imprisonment for 2 years, or both.

Persons paying wool tax to furnish returns to Corporation in relation to each financial year

“42AB. (1) The Corporation may, by notice in writing delivered to a registered person who, in the capacity of a registered person, dealt with wool during

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a financial year to which this Part applies that ended on or before 30 June 1979, require that person—

- (a) to furnish to the Corporation, in accordance with a form approved by the Corporation, a return setting out such information in respect of all wool dealt with by him as a registered person during that financial year as is required by the regulations to be furnished and is in his possession or under his control; and
- (b) where the person is unable to furnish some or all of the information that is required by the regulations to be furnished in respect of any of that wool—to furnish to the Corporation a statement, in writing, that he is unable to furnish that information and setting out particulars of the reasons why he is unable to furnish that information.

“(2) A person shall not fail to comply with a requirement made on him under sub-section (1).

Penalty: \$1,000.

“(3) A registered person who, in the capacity of a registered person, has dealt with wool during a financial year to which this Part applies that ends after 30 June 1979, shall, within the period of one month, or such longer period as the Corporation allows, after the expiration of that financial year—

- (a) furnish to the Corporation a return, in accordance with a form approved by the Corporation, setting out such information in respect of all wool dealt with by him as a registered person during that financial year as is required by the regulations to be furnished and is in his possession or under his control; and
- (b) where the person is unable to furnish some or all of the information that is required by the regulations to be furnished in respect of any of that wool—furnish to the Corporation a statement, in writing, that he is unable to furnish that information and setting out particulars of the reasons why he is unable to furnish that information.

Penalty: \$1,000.

“(4) In any proceedings for an offence against sub-section (2) or (3) a certificate in writing under the seal of the Corporation stating that the Corporation did not receive from a person who failed to furnish information that he was required to furnish under paragraph (1) (a) or (3) (a) a statement under paragraph (1) (b) or (3) (b), as the case requires, in relation to that failure is *prima facie* evidence that that information was in his possession or under his control.

“(5) For the purposes of this section, a registered person shall be taken to have dealt with wool if and only if—

- (a) in his capacity as a wool-broker, he has sold wool;
- (b) in his capacity as a registered wool-dealer, he has purchased wool from a person other than a wool-broker;
- (c) in his capacity as a manufacturer, he has purchased wool from a person other than a wool-broker or a registered wool-dealer;

(d) in his capacity as a manufacturer, he has subjected wool (not being wool purchased by him) to a process of manufacture; or

(e) in his capacity as a registered exporter, he has exported wool from Australia,

and the wool so sold, purchased, subjected to a process of manufacture or exported by him was not wool on which wool tax had already been paid.

Registered person to account to Corporation

“42AC. (1) A registered person shall account to the Corporation, in the manner and at the times required by the Corporation by notice in writing, in respect of moneys provided by the Corporation for the purpose of payments in respect of participating wool.

“(2) A registered person shall, if required by the Corporation by notice in writing to do so, submit his books and accounts relating to the performance of his functions in effecting payments in respect of participating wool on behalf of the Corporation to the Corporation for audit by the Corporation.

Penalty: \$1,000.

Access to premises

“42AD. (1) An authorized person may, with the consent of the occupier of any premises, enter the premises for the purpose of exercising the functions of an authorized person under this section.

“(2) Where an authorized person has reasonable ground to believe that there are on any premises books, documents or papers relating to the sale or purchase of wool, the subjecting of wool to a process of manufacture or the export of wool or to other matters relevant to the operation or administration of this Part, the authorized person may make application to a Magistrate for a warrant authorizing the authorized person to enter the premises for the purpose of exercising the functions of an authorized person under this section.

“(3) If, on an application under sub-section (2), the Magistrate is satisfied by information on oath—

(a) that there is reasonable ground to believe that there are on the premises to which the application relates any books, documents or papers relating to the sale or purchase of wool, the subjecting of wool to a process of manufacture or the export of wool or to other matters relevant to the operation or administration of this Part; and

(b) that the issue of the warrant is reasonably required for the purposes of this Part,

the Magistrate may grant a warrant authorizing the authorized person, with such assistance as he thinks necessary, to enter the premises, during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, if necessary by force, for the purpose of exercising the functions of an authorized person under this section.

“(4) Where an authorized person has entered premises in pursuance of sub-section (1) or in pursuance of a warrant granted under sub-section (3), he may exercise the functions of an authorized person under this section.

“(5) The functions of an authorized person under this section are to search for, inspect, take extracts from and make copies of any books, documents or papers relating to the sale or purchase of wool, the subjecting of wool to a process of manufacture or the export of wool or to other matters relevant to the operation or administration of this Part.

“(6) In this section ‘authorized person’ means—

- (a) a person appointed by the Minister, by instrument in writing, to be an authorized person for the purposes of this section; or
- (b) a person included in a class of persons appointed by the Minister, by instrument in writing, to be authorized persons for the purposes of this section.

Arrangements with States and Northern Territory

“42AE. (1) The Governor-General may arrange with the Governor of a State for the performance by all or any of the persons who from time to time hold office as Magistrates in that State of the functions of a Magistrate under section 42AD.

“(2) The Governor-General may make arrangements with the Administrator of the Northern Territory for the performance by all or any of the persons who from time to time hold office as Magistrates in that Territory of the functions of a Magistrate under section 42AD.

“(3) Where an arrangement under sub-section (1) or (2) is in force, a person to whom the arrangement applies who holds an office specified in the arrangement is required to perform the functions of a Magistrate for the purposes of section 42AD.

Offences

“42AF. (1) Subject to this section, an offence against this Part, other than an offence against a provision referred to in sub-section (2) shall be prosecuted summarily.

“(2) Subject to sub-section (3), an offence against sub-section (2), (3) or (4) of section 42M, sub-section (1) or (2) of section 42R or against section 42AA shall be prosecuted on indictment.

“(3) Where a person is charged with an offence against a provision referred to in sub-section (2), a court of summary jurisdiction may, with the consent of the defendant and of the prosecutor and if the court is satisfied that it is appropriate to do so, determine the charge summarily.

“(4) Where, in accordance with sub-section (1), a court of summary jurisdiction convicts a person of an offence against a provision referred to in sub-section (2), the penalty that the court may impose is a fine not exceeding \$2,000 or imprisonment for a period not exceeding 1 year, or both.

Destruction of records

“42AG. (1) This section applies to any person who is, or has been at any time after the commencement of this section, a registered person.

“(2) Notwithstanding anything to the contrary contained in any other law, a person to whom this section applies shall not—

- (a) destroy a relevant record otherwise than with the consent of the Corporation; or
- (b) part with the possession or control of a relevant record otherwise than in accordance with the instructions of the Corporation.

“(3) For the purposes of sub-section (2), a relevant record is any book, document, paper or other record that is in the possession or control of a person to whom this section applies and that relates to—

- (a) wool that is participating wool in respect of a financial year and in relation to which a refund under this Part has become or may, at some future time, become payable by that person on behalf of the Corporation or by the Corporation; or
- (b) the payment of moneys (including the payment of moneys under this Part) in connection with any such wool.

Penalty: \$1,000.”.

Payments to Fund

11. Section 68 of the Principal Act is amended—

(a) by omitting paragraph (a) of sub-section (1) and substituting the following paragraphs:

“(a) amounts equal to the amounts of tax received by the Commonwealth by virtue of—

- (i) paragraph (a) of sub-section (1) of section 5 of the *Wool Tax Act (No. 1) 1964*;
- (ii) paragraph (a) of sub-section (1) of section 5 of the *Wool Tax Act (No. 2) 1964*;
- (iii) paragraph (a) of sub-section (1) of section 5 of the *Wool Tax Act (No. 3) 1964*;
- (iv) paragraph (a) of sub-section (1) of section 5 of the *Wool Tax Act (No. 4) 1964*; and
- (v) paragraph (a) of sub-section (1) of section 5 of the *Wool Tax Act (No. 5) 1964*;

“(aa) such amounts as are payable to the Fund by virtue of the application, after 30 June 1980, of section 83 (as in force on that date) in accordance with sub-section 16 (2) of the *Wool Industry Amendment Act 1980*;

“(ab) amounts equal to the amounts from time to time expended from the account kept in accordance with paragraph 68A (a);”;

- (b) by omitting from sub-section (2) “, other than payments of amounts referred to in paragraph (a) of that sub-section”.

12. After section 68 of the Principal Act the following section is inserted:

Separate accounts to be kept

“68A. Separate accounts shall be kept—

- (a) of the moneys in the Fund representing the amounts paid into the Fund in respect of the year commencing on 1 July 1980 and of subsequent years in accordance with paragraph (a) of sub-section (1) of section 68; and
- (b) of the moneys in the Fund representing—
 - (i) the amount standing to the credit of the Fund at 30 June 1980; and
 - (ii) the amounts paid into the Fund after that date in accordance with paragraphs (aa), (ab), (b), (c), (d) and (e) of sub-section (1) of section 68.”.

Functions of Corporation in relation to research expenditure

13. Section 69 of the Principal Act is amended by omitting “credit of the Fund” (wherever occurring) and substituting “credit of an account kept in accordance with section 68A”.

Application of Fund

14. Section 70 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “credit of the Fund” and substituting “credit of an account kept in accordance with section 68A”;
- (b) by omitting from sub-section (2) “credit of the Fund” and substituting “credit of an account kept in accordance with section 68A”; and
- (c) by omitting sub-section (3).

Delegation of power of Minister to approve expenditure from Fund

15. Section 71 of the Principal Act is amended by omitting from sub-section (1) “credit of the Fund” and substituting “credit of an account kept in accordance with section 68A”.

16. (1) Section 83 of the Principal Act is repealed and the following section substituted:

Payments to Corporation

“83. There are payable to the Corporation amounts equal to the amounts of tax received by the Commonwealth by virtue of—

- (a) paragraph (b) of sub-section (1) of section 5 of the *Wool Tax Act (No. 1) 1964*;
- (b) paragraph (b) of sub-section (1) of section 5 of the *Wool Tax Act (No. 2) 1964*;

- (c) paragraph (b) of sub-section (1) of section 5 of the *Wool Tax Act (No. 3) 1964*;
- (d) paragraph (b) of sub-section (1) of section 5 of the *Wool Tax Act (No. 4) 1964*; and
- (e) paragraph (b) of sub-section (1) of section 5 of the *Wool Tax Act (No. 5) 1964*.”.

(2) Notwithstanding the repeal of section 83 of the Principal Act effected by sub-section (1) of this section, section 83 of the Principal Act continues to apply, after the commencement of this section, to and in relation to tax that—

- (a) was imposed before the commencement of this section by any *Wool Tax Act*; and
- (b) was received by the Commissioner of Taxation before, or is received by the Commissioner of Taxation after, the commencement of this section.

(3) Moneys payable to the Corporation or to the Fund under section 83 of the Principal Act in its application in accordance with sub-section (2) of this section are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

17. (1) Sections 84A and 84B of the Principal Act are repealed and the following section is substituted:

Payment to Corporation of proceeds of marketing levy

“84A. In addition to moneys payable to the Corporation under the foregoing provisions of this Part, there are payable to the Corporation, from time to time as determined by the Minister, amounts equal to the amounts of tax received by the Commonwealth by virtue of—

- (a) paragraph (c) of sub-section (1) of section 5 of the *Wool Tax Act (No. 1) 1964*;
- (b) paragraph (c) of sub-section (1) of section 5 of the *Wool Tax Act (No. 2) 1964*;
- (c) paragraph (c) of sub-section (1) of section 5 of the *Wool Tax Act (No. 3) 1964*;
- (d) paragraph (c) of sub-section (1) of section 5 of the *Wool Tax Act (No. 4) 1964*; and
- (e) paragraph (c) of sub-section (1) of section 5 of the *Wool Tax Act (No. 5) 1964*.”.

(2) Notwithstanding the repeal of section 84B of the Principal Act effected by sub-section (1) of this section, section 84B of the Principal Act continues to apply, after the commencement of this section, to and in relation to tax that—

- (a) was imposed before the commencement of this section by sub-section (2) of section 5 of any *Wool Tax Act*; and

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(b) was received by the Commissioner of Taxation before, or is received by the Commissioner of Taxation after, the commencement of this section.

(3) Moneys payable to the Corporation under section 84B of the Principal Act in its application in accordance with sub-section (2) of this section are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

Appropriation

18. Section 84C of the Principal Act is amended by omitting “section 84B” and substituting “section 84A”.

19. Section 88 of the Principal Act is repealed and the following section substituted:

Corporation may provide Council with clerical assistance

“88. The Corporation may, for the purpose of providing the Wool Council of Australia with clerical assistance, make members of the staff of the Corporation available to the Council at such times as the Corporation determines.”.

Corporation to hold annual discussions with Council

20. Section 91 of the Principal Act is amended by omitting “Australian Wool Industry Conference” and substituting “Wool Council of Australia”.

NOTE

1. No. 111, 1972, as amended. For previous amendments, see No. 63, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 65 and 152, 1974; No. 71, 1976; Nos. 43 and 92, 1977; Nos. 36 and 71, 1978; and Nos. 31 and 49, 1979.