



Primary Industries and Energy Legislation Amendment Act (No. 3) 1989

No. 16 of 1990

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AMENDMENT OF ACTS



Primary Industries and Energy Legislation Amendment Act (No. 3) 1989

No. 16 of 1990

**An Act to amend and repeal various Acts relating to
matters dealt with by the Department of Primary Industries
and Energy, and for related purposes**

[Assented to 17 January 1990]

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

PART 1—INTRODUCTORY

Short title

1. This Act may be cited as the *Primary Industries and Energy
Legislation Amendment Act (No. 3) 1989*.

Commencement

2. (1) Subject to this section, this Act commences on the day on which
it receives the Royal Assent.

(2) Sections 21 and 23 commence on 1 July 1990.

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(3) Subject to subsection (4), Part 2 of this Act (other than sections 21, 23 and 26) commences on a day to be fixed by Proclamation.

(4) If a provision of Part 2 of this Act (other than section 21, 23 or 26) does not commence under subsection (3) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

(5) Subject to subsection (6), subsection 29 (2) and Part 2 of the Schedule commence on a day to be fixed by Proclamation.

(6) If subsection 29 (2) and Part 2 of the Schedule do not commence before 1 July 1990, they commence on that day.

(7) Subsection 29 (3) and Part 3 of the Schedule are to be taken to have commenced on 1 July 1989.

PART 2—AMENDMENTS OF THE WOOL MARKETING ACT 1987

Principal Act

3. In this Part, “**Principal Act**” means the *Wool Marketing Act 1987*¹.

Definitions

4. Section 3 of the Principal Act is amended:

(a) by inserting after paragraph (a) of the definition of “wool research and development activity” in subsection (1) the following paragraph:

“(aa) the commercial exploitation of any knowledge, information, process or product resulting from a project for wool research and development, being a project that is an approved research and development activity;”;

(b) by inserting “(aa),” after “(a),” in paragraph (e) of the definition of “wool research and development activity” in subsection (1);

(c) by omitting from subsection (1) the definition of “Selection Committee” and substituting the following definition:

“**‘Selection Committee’** means an Australian Wool Industry Selection Committee established under section 29 or 109B;”;

(d) by omitting from subsection (1) the definition of “Research Councils Selection Committee”;

(e) by inserting in subsection (1) the following definitions:

“**‘Association’** means the National Association of Testing Authorities, Australia, a company incorporated under the law of the State of Victoria;

‘authorised representative’, in relation to premises of a sampling site, laboratory or showfloor, means a person appointed under section 119M in relation to those premises;

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'examinable document' means a document relevant to:

- (a) the variation of the terms on which a sampling site, laboratory or showfloor is registered by the Association; or
- (b) the suspension or termination of registration by the Association of a sampling site, laboratory or showfloor; or
- (c) an allegation that:
 - (i) a sample used, or proposed to be used, for a test certificate for greasy wool was not drawn at a registered sampling site in accordance with the terms on which the site was registered by the Association; or
 - (ii) a test required for a test certificate for greasy wool was not performed at a registered laboratory in accordance with the terms on which the laboratory was registered by the Association; or
 - (iii) samples or bales of greasy wool were not displayed at a registered showfloor in accordance with the terms on which the showfloor was registered by the Association; or
- (d) the drawing of a sample at a registered sampling site; or
- (e) the performance of a test at a registered laboratory; or
- (f) the display of samples or bales of greasy wool at a registered showfloor;

'Executive Director' means the Executive Director of the Research Council;

'greasy wool' means greasy wool for sale for export;

'laboratory' means an establishment that:

- (a) performs tests on greasy wool at the establishment; and
- (b) grants certificates certifying the results of the tests;

'prescribed Council member' means a Council member mentioned in paragraph 103 (1) (d);

'registered laboratory' means a laboratory registered under the regulations;

'registered sampling site' means a sampling site registered under the regulations;

'registered showfloor' means a showfloor registered under the regulations;

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'showfloor' means a wool display area, together with any associated sample security area;

'terms' includes conditions;

'test' includes measurement;

'test certificate', in relation to a test on greasy wool performed at a registered laboratory, means a certificate that specifies the results of the test and contains such other matters (if any) as are prescribed;"

Powers of Corporation

5. Section 7 of the Principal Act is amended:

(a) by omitting from paragraph (g) "and";

(b) by adding at the end the following paragraphs:

“(j) make agreements with the Research Council; and

(k) undertake, on the recommendation of the Research Council, an approved research and development activity, being an activity of the kind mentioned in paragraph (aa) of the definition of 'wool research and development activity' in subsection 3 (1).”.

Abolition of Selection Committee

6. Section 33 of the Principal Act is amended by omitting “Presiding Member shall abolish the Committee” and substituting “Committee is abolished, by force of this section”.

Employees

7. Section 37 of the Principal Act is amended by inserting after subsection (1) the following subsections:

“(1A) One of the persons so employed is to be employed as the Executive Director of the Research Council.

“(1B) A person must not be employed as the Executive Director unless the person has been selected for that employment by the Managing Director and the Council Chairperson jointly.

“(1C) A person's employment as the Executive Director ends, if it has not already done so, when the person reaches 65.”.

Refund periods

8. Section 50 of the Principal Act is amended by omitting from subsection (1) “during” and substituting “for”.

Refunds

9. Section 51 of the Principal Act is amended:

(a) by adding at the end of subsection (1) “or to such other persons (if any) as are prescribed”;

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- (b) by omitting paragraph (3) (f);
- (c) by omitting from paragraph (3) (g) "\$5,000" and substituting "\$2,000".

Powers of Corporation in relation to quality assurance for wool

10. Section 74 of the Principal Act is amended by omitting from paragraphs (1) (f) and (g) "wool testing facilities" and substituting "laboratories".

Agreements relating to wool research and development etc.

11. Section 88 of the Principal Act is amended by omitting from subparagraph (2) (a) (ii) "are" and substituting "is".

Application of Research Fund

12. Section 94 of the Principal Act is amended by omitting from paragraph (1) (e) "the Research Councils Selection Committee in the performance of its functions under subsection 103 (5)" and substituting "a Selection Committee in the performance of its functions under Division 6A of this Part".

Research Council to prepare research and development plans

13. Section 95 of the Principal Act is amended:

- (a) by omitting subsection (1) and substituting the following subsections:

“(1) The Research Council must, before 1 June 1990, and before each successive 1 June, prepare a written research and development plan relating to the period of 5 years starting on the next 1 July.

“(1A) A research and development plan must:

- (a) define what, in the Research Council’s opinion, should be the principal objectives of the Corporation and the Research Council in relation to wool research and development during the period to which the plan relates; and
 - (b) give a broad outline of the strategies that should, in the Research Council’s opinion, be pursued by the Corporation and the Research Council in achieving those objectives.”;
- (b) by omitting from subsection (2) "(1)" and substituting "(1A)";
 - (c) by omitting subsections (4) and (5);
 - (d) by omitting from subsection (6) "a period determined in accordance with subsection (5)" and substituting "a research and development plan";
 - (e) by omitting from subsection (6) "the research and development plan for that period" and substituting "that research and development plan".

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Variation of research and development plans

14. Section 97 of the Principal Act is amended by omitting subsections (2) and (3).

Research Council to develop annual research and development programs

15. Section 100 of the Principal Act is amended by inserting after subsection (1) the following subsections:

“(1A) Before preparing an annual research and development program the Research Council must consult the Wool Council and any Department or other agency that the Research Council thinks appropriate.

“(1B) In preparing an annual research and development program, the Research Council must have regard to the views expressed as a result of any consultations under subsection (1A).”.

Approval for funding of particular wool research and development activities

16. Section 102 of the Principal Act is amended by omitting from subsection (1) all the words after “activity” (first occurring) and substituting “that is a wool research and development activity of a kind recommended for funding in that program”.

Constitution of Research Council

17. Section 103 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsection:

“(1) The Research Council consists of:

- (a) a Council Chairperson; and
- (b) a government member; and
- (c) the Executive Director; and
- (d) 7 other members.”;

(b) by inserting in subsection (2) “, other than the Executive Director,” after “members”;

(c) by omitting subsections (3), (4), (5) and (6) and substituting the following subsection:

“(3) The members mentioned in paragraph (1) (d) must be appointed from persons nominated by a Selection Committee under Division 6A of this Part.”;

(d) by inserting in subsection (7) “, other than the Executive Director,” after “members”;

(e) by inserting in subsection (8) “, other than the government member and the Executive Director,” after “member” (first occurring);

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- (f) by inserting after subsection (8) the following subsection:

“(8A) The government member holds office, subject to this Division, until he or she reaches 65.”;
- (g) by adding at the end of subsection (9) “mentioned in paragraph (1) (a), (b) or (d)”;
- (h) by inserting in subsection (10) “mentioned in paragraph (1) (a) or (d)” after “member”;
- (j) by inserting after subsection (10) the following subsection:

“(10A) The Minister may, in writing, extend the appointment of a Council member, other than the government member, for a specified period ending after the day on which the member reaches 65 if:

 - (a) the extension is reasonably necessary to enable a suitable replacement for the member to be appointed; and
 - (b) the Minister is satisfied that the member possesses special skills that the Research Council requires for the performance of its functions.”;
- (k) by inserting in subsection (11) “, other than the Executive Director,” after “member”.

Removal and resignation of Council members

18. Section 106 of the Principal Act is amended:

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

“(3) The Minister may terminate the appointment of a government member at any time.”;
- (b) by inserting in subsection (4) “, other than the Executive Director,” after “member” (first occurring).

Meetings of Research Council

19. Section 108 of the Principal Act is amended by omitting from paragraph (5) (a) “5” and substituting “6”.

20. After Division 6 of Part VI of the Principal Act the following Division is inserted:

***“Division 6A—Nomination and selection process for membership of
Research Council***

Minister must request nomination for membership

“109A. The Minister must:

- (a) for the purpose of appointing the prescribed Council members; or
- (b) for the purpose of filling a vacancy caused by a person ceasing to be a prescribed Council member;

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by written notice given to the Presiding Member, request the Presiding Member to establish a Selection Committee so that the Committee can give the Minister, within the period specified in the notice, the name of a person, or the names of persons, as the case requires, whom the Committee thinks suitable for appointment.

Selection Committee

“109B. (1) Where the Presiding Member receives a request under section 109A, the Presiding Member must:

- (a) establish an Australian Wool Industry Selection Committee for the purpose of nominating a person or persons in accordance with the request; and
- (b) give the Wool Council a written notice asking it to nominate to the Minister persons for appointment to the Selection Committee.

“(2) The function of the Selection Committee is to nominate a person or persons for appointment to the Research Council in response to the request under section 109A.

“(3) The Selection Committee has power to do all things that are necessary or convenient to be done in connection with the performance of its function.

“(4) The Selection Committee consists of:

- (a) the Presiding Member; and
- (b) not fewer than 3 nor more than 6 other members appointed by the Minister on the nomination of the Wool Council.

“(5) If the Minister is not satisfied that a person nominated by the Wool Council for appointment to the Selection Committee is suitable for that appointment, the Minister may reject the nomination and ask the Wool Council to make a further nomination.

Nominations for Research Council

“109C. (1) The Selection Committee must, within the period specified by the Minister in the notice under section 109A, inform the Minister in writing of the person whom it thinks suitable for appointment.

“(2) Without limiting subsection 109B (3), the Selection Committee:

- (a) must invite the Wool Council and the Corporation to give the Selection Committee the names of persons whom the Council or the Corporation, as the case may be, thinks suitable for appointment; and
- (b) may, by advertisement in a newspaper circulating throughout Australia, invite applications for nomination for appointment.

“(3) The Selection Committee must make only one nomination in respect of each appointment to be made by the Minister.

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“(4) Subject to section 109D, where:

- (a) 7 prescribed Council members are to be appointed; and
- (b) the Corporation has given the Selection Committee the names of one or more persons in response to an invitation under paragraph (2) (a);

the Selection Committee must nominate that person, or at least one, but not more than 3, of those persons, as the case may be, for appointment.

“(5) The information given to the Minister under subsection (1) must include:

- (a) a statement containing, in respect of each person nominated:
 - (i) details of the person’s qualifications and experience; and
 - (ii) such other information relating to the person as the Committee thinks appropriate to include to help the Minister to decide whether to appoint the person; and
- (b) a statement specifying how, in the opinion of the Committee, the nomination or nominations will best ensure that the members collectively possess qualifications and experience in the fields of activity mentioned in subsection 109D (1).

“(6) If the Minister considers the information contained in a statement is inadequate, the Minister may, by written notice, require the Committee to provide the Minister, by the day specified in the notice, with such further information of the kind mentioned in paragraph (5) (a) or (b) as the Minister specifies.

Selection of nominees for Research Council

“109D. (1) The Selection Committee must not nominate a person unless the person has qualifications relevant to, or has experience in, one or more of the following fields of activity:

- (a) wool growing or harvesting;
- (b) wool processing, including the manufacture of wool products;
- (c) wool research and development or other research and development;
- (d) the administration or management of wool research and development or other research and development;
- (e) marketing of wool or other commodities;
- (f) economics;
- (g) transport, storage or distribution;
- (h) finance;
- (j) science or technology, including technology transfer;
- (k) business management.

“(2) In selecting persons for nomination, the Selection Committee must choose from the available candidates persons who will best ensure that the

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Council members collectively possess qualifications and experience in the fields of activity referred to in subsection (1).

“(3) The Presiding Member must consult the Council Chairperson on the skills and qualities of members that should be reflected in the membership of the Research Council.

“(4) A person who is, or who has at any time been, a member of a particular Selection Committee must not be nominated by that Selection Committee.

“(5) A person may be nominated by a Selection Committee even though a proposal for the person’s nomination has been rejected at a previous meeting of the Committee or a nomination for the person’s appointment to the Research Council has previously been rejected by the Minister.

Minister may reject nomination

“109E. (1) If the Minister is not satisfied that a person nominated for appointment is suitable, the Minister may, by written notice given to the Selection Committee, reject the nomination and request the Committee to make a further nomination within the period specified in the notice.

“(2) For the purposes of section 109B, the further request is to be taken to be a notice under section 109A, and the period specified in the notice is to be taken to be the period specified in a notice under section 109A.

Abolition of Selection Committee

“109F. Where:

- (a) the Minister has appointed to the Research Council a person nominated by the Selection Committee; and
- (b) the Committee has not made any nominations for appointment that have yet to be accepted or rejected by the Minister; and
- (c) there are no outstanding matters in a request by the Minister under section 109A or 109E that are still to be dealt with by the Committee;

the Committee is abolished by force of this section.

Selection Committee procedures etc.

“109G. Sections 34, 35 and 36 apply to a Selection Committee established under section 109B in the same way as they apply to a Selection Committee established under section 29.”.

Annual report of Research Council

21. Section 110 of the Principal Act is amended by adding at the end the following subsection:

“(4) The Minister must cause the report to be laid before each House of the Parliament within 15 sitting days of that House after receipt by the Minister.”.

22. After Part VII of the Principal Act the following Part is inserted:

“PART VIIA—INSPECTIONS

“Division 1—Inspections relating to refunds

Appointment of inspectors to monitor compliance

“119A. (1) The Managing Director may, in writing, appoint an employee of the Corporation to be an inspector for the purposes of this Division.

“(2) The Managing Director must issue to an inspector an identity card containing a recent photograph of the inspector and stating that the holder of the card is an inspector for the purposes of this Division.

Entry and inspection: monitoring compliance

“119B. (1) Subject to subsection (2), a person who is an inspector for the purposes of this Division may, for the purpose of finding out whether the requirements of this Act and the regulations relating to refunds have been, or are being, complied with:

- (a) enter any premises; and
- (b) exercise the powers set out in subsection (3).

“(2) An inspector must not enter any premises, or exercise any power, under subsection (1) unless:

- (a) the owner, occupier, or person apparently in charge, of the premises consents to the entry, or the exercise of the power, as the case may be; or
- (b) a warrant under section 119C authorises the entry, or the exercise of the power, as the case may be.

“(3) The powers of an inspector who enters premises under this section are as follows:

- (a) to inspect any refund document found on the premises;
- (b) to take copies of, and make extracts from, any such document;
- (c) to require any person on the premises to make available to the inspector any refund document kept on the premises.

“(4) A person must not, without reasonable excuse, fail to comply with a requirement made of the person under paragraph (3) (c).

Penalty: \$3,000.

“(5) It is a reasonable excuse for the purpose of subsection (4) for a person to refuse or fail to make a refund document available that making it available might tend to incriminate the person.

“(6) In this section:

‘refund document’ means any book or other document relating to refunds under this Act.

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Monitoring warrants: refunds

“119C. (1) A person who is an inspector for the purposes of this Division may apply to a magistrate for a warrant under this section in relation to particular premises.

“(2) A magistrate may issue a warrant if satisfied, by information on oath, that it is reasonably necessary that the inspector should have access to the premises, for the purposes of finding out whether the requirements of this Act and the regulations relating to refunds are being complied with.

“(3) The warrant must:

- (a) state the name of the inspector; and
- (b) authorise the inspector, with such assistance and by such force as is necessary and reasonable:
 - (i) to enter the premises; and
 - (ii) to exercise the powers mentioned in subsection 119B (3); and
- (c) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
- (d) state a day, not being more than 6 months after the issue of the warrant, on which the warrant ceases to have effect.

“Division 2—Inspections of certain registered premises

Appointment of inspectors of registered premises

“119D. (1) The Secretary of the Department may, in writing, appoint a person to be an inspector for the purposes of this Division.

“(2) The Secretary must issue to an inspector an identity card containing a recent photograph of the inspector and stating that the holder of the card is an inspector for the purposes of this Division.

Entry and inspection: registered premises

“119E. (1) Subject to subsection (2), a person who is an inspector for the purposes of this Division may, for the purposes of finding out:

- (a) in the case of a registered sampling site—whether samples used, or proposed to be used, for tests required for test certificates for greasy wool have been, or are, drawn at the site in accordance with the terms on which it is registered by the Association; and
- (b) in the case of a registered laboratory—whether tests required for test certificates for greasy wool have been, or are, performed at the laboratory in accordance with the terms on which the laboratory is registered by the Association; and
- (c) in the case of a registered showfloor—whether samples or bales of greasy wool have been or are displayed at the showfloor in accordance with the terms on which the showfloor is registered by the Association;

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enter the premises of the registered sampling site, laboratory or showfloor and exercise the powers set out in subsection (3).

“(2) An inspector must not enter any premises, or exercise any power, under subsection (1) unless:

- (a) the authorised representative, occupier or person apparently in charge, of the premises consents to the entry, or the exercise of the power, as the case may be; or
- (b) a warrant under section 119G authorises the entry, or the exercise of the power, as the case may be.

“(3) The powers of an inspector who enters premises under this section are as follows:

- (a) to inspect the buildings and equipment on the premises;
- (b) in the case of a registered sampling site:
 - (i) to inspect any samples of greasy wool on or near the premises; and
 - (ii) where the wool from which those samples were drawn, or are alleged to have been drawn, is on or near the premises—to inspect and take samples from that wool;
- (c) to observe any sampling method or test being performed on the premises;
- (d) to observe any other use made of the premises;
- (e) to inspect examinable documents on or near the premises;
- (f) to take copies of, and make extracts from, any such documents;
- (g) to require the authorised representative of the premises, or the occupier, or other person apparently in charge of, the premises, to make available to the inspector any examinable documents kept on or near the premises.

“(4) A person must not, without reasonable excuse, fail to comply with the requirement made by the person under paragraph (3) (g).

Penalty: \$3,000.

“(5) It is a reasonable excuse for the purposes of subsection (4) for a person to refuse or fail to make an examinable document available that making it available might tend to incriminate the person.

Entry and inspection: premises of the Association

“119F. (1) Subject to subsection (2), a person who is an inspector for the purposes of this Division may, for the purposes of finding out:

- (a) whether a sample used, or proposed to be used, for a test required for a test certificate for greasy wool was drawn at a registered sample site in accordance with the terms on which the site is registered by the Association; or

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- (b) whether a test required for a test certificate for greasy wool was performed at a registered laboratory in accordance with the terms on which the laboratory is registered by the Association; or
- (c) whether a registered showfloor satisfies the terms on which the showfloor is registered by the Association;

enter any premises of the Association and exercise the powers set out under subsection (3).

“(2) An inspector must not enter any premises, or exercise any power, under subsection (1) unless:

- (a) an officer of the Association, or the occupier, or the person apparently in charge, of the premises, consents to the entry or the exercise of the power, as the case may be; or
- (b) a warrant under section 119G authorises the entry, or the exercise of the power, as the case may be.

“(3) The powers of an inspector who enters premises under this section are as follows:

- (a) to inspect any examinable document on or near the premises;
- (b) to take copies of, or make extracts from, any such documents;
- (c) to require an officer of the Association to make available to the inspector any examinable document kept on or near the premises.

“(4) A person must not, without reasonable excuse, fail to comply with a requirement made by a person under paragraph (3) (c).

Penalty: \$3,000.

“(5) It is a reasonable excuse for the purposes of subsection (4) for a person to refuse or fail to make an examinable document available that making it available might tend to incriminate the person.

Monitoring warrants: registered premises etc.

“119G. (1) A person who is an inspector for the purposes of this Division may apply to a magistrate for a warrant under this section in relation to particular premises of a registered sampling site, laboratory or showfloor, or of the Association.

“(2) A magistrate may issue a warrant if satisfied, by information on oath, that it is reasonably necessary that the inspector should have access to the premises for the purposes of finding out:

- (a) in the case of premises of a registered sampling site—the matter mentioned in paragraph 119E (1) (a); or
- (b) in the case of premises of a registered laboratory—the matter mentioned in paragraph 119E (1) (b); or
- (c) in the case of premises of a registered showfloor—the matter mentioned in paragraph 119E (1) (c); or

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- (d) in the case of premises of the Association—any of the matters referred to in subsection 119F (1).
- “(3) The warrant must:
- (a) state the name of the inspector; and
 - (b) authorise the inspector, with such assistance and by such force as is necessary and reasonable:
 - (i) to enter the premises; and
 - (ii) to exercise the powers mentioned in subsection 119E (3) or 119F (3), as the case requires; and
 - (c) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
 - (d) state a day, not being more than 6 months after the issue of the warrant, on which the warrant ceases to have effect.

“Division 3—Miscellaneous

Definition of inspector

“119H. In this Division:

‘inspector’ means a person appointed to be an inspector under section 119A or 119D.

Return of identity card

“119J. A person who stops being an inspector must, as soon as practicable, return his or her identity card to the person who issued it.

Penalty: \$100.

Proof of authority

“119K. An inspector is not entitled to exercise powers under this Part in relation to a person unless the inspector has first produced his or her identity card for inspection by the person.

Obstruction of inspectors

“119L. A person must not, without reasonable excuse, obstruct, hinder or resist an inspector in the performance of his or her functions under this Part.

Penalty: \$3,000.

Appointment of authorised representatives

“119M. The operator of a sampling site, laboratory or showfloor may, by written appointment given to the Secretary of the Department, appoint a person to be the authorised representative of the operator in all matters relating to premises of the sampling site, laboratory or showfloor that arise under this Part.”.

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- 23.** Section 123 of the Principal Act is amended:
- (a) by adding at the end of paragraph (3) (c) “and”;
 - (b) by omitting paragraph (3) (d).

Regulations

- 24.** Section 127 of the Principal Act is amended:
- (a) by omitting from subsection (1) “\$5,000” and substituting “\$2,000”;
 - (b) by omitting from paragraphs (2) (c) and (d) “wool test houses” and substituting “laboratories”;
 - (c) by omitting from paragraph (2) (e) “for the purposes of subsection 116 (2) of the *Commonwealth Functions (Statutes Review) Act 1981*”;
 - (d) by omitting from paragraphs (2) (g) and (h) “wool display areas and sample security areas” and substituting “showfloors”.

Continuation of committees

- 25.** Section 131 of the Principal Act is amended by omitting subsection (2).

26. Section 137 of the Principal Act is repealed and the following section is substituted:

Corporation not liable to be sued in certain cases

“137. The Corporation is not liable to be sued, and is not liable to an order for specific performance, in any case where, but for the repeal of section 118 of the *Commonwealth Functions (Statutes Review) Act 1981*, the Corporation would not have been so liable.”.

Transitional provisions

27. (1) Despite anything in this Part, the person who held office immediately before the commencing day as the Chairperson of the Wool Research and Development Council continues to hold office on and after that day as if he or she had been appointed as Chairperson of that Council under section 103 of the Principal Act, as amended by this Part, for the remainder of the term of his or her appointment.

(2) Despite anything in this Part, a person who held office immediately before the commencing day as a member of the Wool Research and Development Council (other than the Chairperson) continues to hold office on and after that day as if the person had been appointed as a member of the Council under section 103 of the Principal Act, as amended by this Part, until:

- (a) the end of the period of the person’s appointment; or
 - (b) the Minister terminates the appointment under this section;
- whichever happens first.

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(3) The Minister may at any time terminate the appointment of a person mentioned in subsection (2).

(4) Despite anything in this Part, the research and development plan prepared by the Research Council under section 95 of the Principal Act, and in force immediately before the commencement of section 13 of this Act, continues in force until the first research and development plan prepared by the Research Council under section 95 of the Principal Act, as amended by this Part, comes into force.

(5) In this section:

“commencing day” means the day on which section 17 commences.

PART 3—REPEAL AND AMENDMENT OF VARIOUS ACTS

Repeal of Acts

28. The following Acts are repealed:

Bass Strait Freight Adjustment Levy Act 1984;

Bass Strait Freight Adjustment Levy Collection Act 1984;

Bass Strait Freight Adjustment Trust Fund Act 1984;

Customs Tariff (Stand-by) Duty Act 1985.

Amendment of Acts

29. (1) The Acts specified in Part 1 of the Schedule are amended as set out in that Part.

(2) The Acts specified in Part 2 of the Schedule are amended as set out in that Part.

(3) The Acts specified in Part 3 of the Schedule are amended as set out in that Part.

SCHEDULE
AMENDMENT OF ACTS

PART 1

***Australian Meat and Live-stock Research and Development Corporation
Act 1985***

Section 7:

Add at the end the following subsection:

“(5) Subsection (3) does not require the Corporation to obtain the approval of the Minister for the purpose of investing any amount in accordance with section 63E of the *Audit Act 1901* in its application to the Corporation.”.

Subparagraph 24 (1) (a) (ii):

Omit “49”, substitute “56”.

Subsection 37 (2):

Omit the subsection, insert the following subsections:

“(2) The Executive Director is to be appointed on such terms and conditions, including remuneration and allowances, as are determined, in writing, by the Corporation and approved, in writing, by the Minister.

“(2A) Subject to subsection (9), the Corporation may, at any time, terminate the appointment of the Executive Director.”.

Subsection 37 (9):

Omit “(2)”, substitute “(2A)”.

Subsection 40 (1):

Omit “(2)”, substitute “(2A)”.

Subsection 41 (3):

Omit “, with the approval of the Public Service Board,”.

After subsection 41 (3):

Insert the following subsection:

“(3A) A person must not be appointed or engaged under subsection (1) on terms and conditions as to remuneration that:

- (a) in the case of a person appointed or engaged on a full-time basis—
are more favourable than the terms and conditions as to remuneration on which the Executive Director has been appointed; or

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- (b) in the case of a person appointed or engaged on a part-time basis—
are more favourable, when considered on a pro rata basis, than the
terms and conditions as to remuneration on which the Executive
Director has been appointed.”.

Paragraph 48 (1) (b):

Omit the paragraph.

Commonwealth Functions (Statutes Review) Act 1981

Part IV:

Repeal the Part.

Honey Levy Collection Act 1962

Subsection 6 (1):

Insert “and section 6A” after “subsection (2)”.

After section 6:

Insert the following section:

Annual payment of levy

“6A. (1) A person liable to pay a levy may apply for exemption from the requirement to pay levy in respect of each month under subsection 6 (1) if the person believes that his or her liability in the year in which the application is made will be less than:

- (a) the prescribed amount per month for at least 7 months of that year;
or
- (b) the prescribed amount per year for the whole of that year.

“(2) An application must be lodged with the Secretary in a form approved by the Secretary.

“(3) The Secretary must, within 21 days of the lodgment of the application:

- (a) make a decision to grant or refuse the application; and
- (b) notify the applicant in writing of the decision.

“(4) In considering an application, the Secretary must take into account:

- (a) the applicant’s liability under subsection 6 (1) (if any) in the last completed year; and
- (b) any information that is available to the Secretary about the amount of the liability that the applicant is likely to incur in the year in which the application is made; and
- (c) any other information that the Secretary thinks is relevant.

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“(5) If a person is granted an exemption, the amount of levy is due for payment on 28 February of the year next following the year in which the honey was sold or used in the production of other goods, as the case may be, by the producer.

“(6) Where an exemption is in force, and the person granted the exemption lodges a return for the year to which the exemption relates, the Secretary must consider whether to continue the exemption for the next year.

“(7) The Secretary must, within 21 days of the lodgment of the return referred to in subsection (6):

- (a) make a decision to continue, or to refuse to continue, the exemption; and
- (b) notify the applicant in writing of the decision.

“(8) In considering whether to extend an exemption under subsection (6), the Secretary must take into account:

- (a) the person’s liability (if any) under subsection 6 (1) or 6A (5) in the last completed year; and
- (b) any information that is available to the Secretary about the amount of the liability that the person is likely to incur in the current year; and
- (c) any other information that the Secretary thinks is relevant.

“(9) The Secretary may, by signed instrument, delegate all or any of the powers and functions of the Secretary under this section to an officer of the Department.

“(10) For the purposes of this section:

- (a) the prescribed amount per month is \$100 or, if another amount is prescribed for the purposes of this paragraph, that other amount; and
- (b) the prescribed amount per year is \$1,200 or, if another amount is prescribed for the purposes of this paragraph, that other amount.”.

Subsection 12A (1):

Omit the subsection, substitute the following subsection:

“(1) An application may be made to the Administrative Appeals Tribunal for review of a decision made by:

- (a) the Secretary, or a delegate of the Secretary, under subsection 6A (3) or (7); or
- (b) the Minister, or an authorised person, under subsection 8 (3).”.

Subsection 12A (2):

Omit “notice in writing of a decision made for the purposes of subsection”,

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substitute “written notice of a decision made under subsection 6A (3), 6A (7) or”.

Honey Marketing Act 1988

Paragraph 35 (1) (a):

Omit “deterimation”, substitute “determination”.

Subsection 62 (1):

Omit “commences”, substitute “receives the Royal Assent”.

Soil Conservation (Financial Assistance) Act 1985

Subsection 3 (1) (definition of “State”):

Insert “the Australian Capital Territory and” after “includes”.

Paragraph 11 (1) (c):

Omit “2 and not more than 4”, substitute “5”.

Paragraph 11 (6) (b):

Omit “2”, substitute “5”.

Subsection 17 (3):

Omit “4 members constitute”, substitute “the number of members equal to two-thirds of the current membership constitutes”.

PART 2

Barley Research Levy Collection Act 1980

Subsection 5 (1);

Omit “Subject to subsection (2), levy”, substitute “Levy”.

Subsections 5 (2) and (3):

Omit the subsections, substitute the following subsections:

“(2) For the purposes of this section, each of the following periods is to be taken to be a quarter:

- (a) the period of 3 months ending on the prescribed day;
- (b) the period of 4 months starting on the day after the prescribed day;
- (c) the period of 3 months starting after the last day of the period mentioned in paragraph (b), and each successive period of 3 months.

“(3) In this section:

‘prescribed day’ means the last day of whichever of the months of February, May, August or November occurred immediately before

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the commencement of subsection 29 (2) of the *Primary Industries and Energy Legislation Amendment Act (No. 3) 1989*.”.

Oilseeds Levy Act 1977

Subsection 4 (1):

- (a) Omit the definition of “levy year”.
- (b) Insert the following definition:
 - “‘**commencing day**’ means the day on which subsection 29 (2) of the *Primary Industries and Energy Legislation Amendment Act (No. 3) 1989* commences.”.

After subsection 4 (1):

Insert the following subsection:

“(1A) For the purposes of this Act, each of the following periods is to be taken to be a levy year:

- (a) each period of 12 months in the term starting on 1 November 1977 and ending on the 31 October last occurring before the commencing day;
- (b) the period starting on the day after the end of the term mentioned in paragraph (a) and ending on:
 - (i) if the commencing day is the last day of June—the commencing day; or
 - (ii) in any other case—the 30 June first occurring after the commencing day;
- (c) the period of 12 months starting on the day after the end of the period mentioned in paragraph (b), and each successive period of 12 months.”.

Oilseeds Levy Collection Act 1977

Section 5:

Repeal the section, substitute the following section:

Time for payment of levy

- “5. (1) Levy on leviable oilseeds is due and payable:
- (a) 28 days (or such longer period as is prescribed) after the end of the quarter in which leviable oilseeds are delivered by the grower of the leviable oilseeds to another person or are processed by the grower; or
 - (b) if the weight of leviable oilseeds of all kinds delivered to that person by the grower, or processed by the grower, in the levy year in which

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that quarter occurs reaches the exempt weight in a later quarter—28 days (or such longer period as is prescribed) after the end of that later quarter.

“(2) For the purposes of this section, each of the following periods is to be taken to be a quarter:

- (a) the period of 3 months starting on:
 - (i) if the commencing day is the first day of January, April, July or October—the commencing day; or
 - (ii) in any other case—the first day of whichever of the months of January, April, July or October first begins after the commencing day;
- (b) the period of 3 months starting on the day after the end of the period mentioned in paragraph (a), and each successive period of 3 months.

“(3) In this section:

‘commencing day’ means the day on which subsection 29 (2) of the *Primary Industries and Energy Legislation Amendment Act (No. 3) 1989* commences.”.

PART 3

Rural Industries Research Act 1985

Subsection 12 (2):

Omit “and the *Wheat Tax (Permit) Act 1984*”, substitute “, the *Wheat Tax (Permit) Act 1984* and the *Wheat Industry Fund Levy Act 1989*”.

Schedule 1, Part V:

- (a) Add at the end of Column 1 “Levy imposed by *Wheat Industry Fund Levy Act 1989*”.
- (b) Add at the end of Column 2 opposite the words added to the end of Column 1 by paragraph (a) “A percentage of the levy referred to in Column 1 as determined under subsection 85 (3) of the *Wheat Marketing Act 1989*”.

Schedule 2, Part II:

Add at the end of Column 1 “Levy imposed by *Wheat Industry Fund Levy Act 1989*”.

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Wheat Marketing Act 1989

Subsection 3 (1):

Insert the following definition:

“**‘borrowing’**, in relation to the Board, includes raising money or obtaining credit, whether by dealing in securities or otherwise, but does not include obtaining credit in a transaction forming part of the day-to-day operations of the Board;”.

Section 71:

Repeal the section, substitute the following sections:

Borrowing by the Board

“71. (1) The Board may, with the written approval of the Minister, borrow money on terms and conditions specified in, or consistent with, the approval.

“(2) An approval may be given in relation to a particular transaction or a class of transactions.

“(3) Money may be borrowed under subsection (1) wholly or partly in foreign currency.

Guarantee of borrowing

“71A. (1) The Treasurer may, on behalf of the Commonwealth, enter into a contract guaranteeing the performance by the Board of obligations incurred by it under section 71.

“(2) If the Treasurer determines in writing that obligations incurred by the Board under section 71 are guaranteed by the Commonwealth, the obligations are so guaranteed by force of this subsection.

“(3) A contract under subsection (1) may include:

- (a) a provision agreeing that proceedings under the contract may be taken in courts of a foreign country; or
- (b) a provision waving the immunity of the Commonwealth from suit in courts of a foreign country.

“(4) This section does not apply to obligations arising out of a borrowing from the Commonwealth.

Borrowing not otherwise permitted

“71B. The Board must not borrow money except under section 71 or 77.

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Board may give security

“71C. The Board may give security over the whole or part of its assets for:

- (a) the performance by the Board of any obligation incurred under section 71; or
- (b) the payment to the Commonwealth of amounts equal to amounts paid by the Commonwealth under a guarantee under section 71A.”.

Section 74:

Omit from paragraphs (1) (c) and (4) (c) “or raising” (wherever occurring).

After subsection 77 (2):

Insert the following subsections:

“(2A) An approval may be given in relation to a particular transaction or a class of transactions.

“(2B) Money may be borrowed under subsection (1) wholly or partly in foreign currency.”.

Subsection 78 (1):

Omit “repayment of the borrowing”, substitute “discharging of the liability”.

After subsection 78 (1):

Insert the following subsection:

“(1A) The Board must not use an amount paid to it under subsection (1) except for the discharging of the liability concerned.”.

Subsection 78 (3):

Omit from paragraphs (a) and (b) “repayment of”, substitute “discharging of a liability under”.

Paragraph 79 (4) (c):

Omit “or raising”.

Subsection 87 (2):

Omit “39E”, substitute “12”.

NOTE

1. No. 90, 1987, as amended. For previous amendments, see No. 51, 1988.

[*Minister's second reading speech made in—
House of Representatives on 31 October 1989
Senate on 19 December 1989*]