



Primary Industries and Energy Research and Development Act 1989

No. 17 of 1990

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SCHEDULE 1

ABOLITION OF SPECIAL RESEARCH COUNCIL AND SPECIAL RESEARCH FUND

SCHEDULE 2

AMENDMENTS OF OTHER ACTS



Primary Industries and Energy Research and Development Act 1989

No. 17 of 1990

**An Act to provide for the undertaking of research and
development relating to primary industries, energy and
natural resources, 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—PRELIMINARY

Short title

1. This Act may be cited as the *Primary Industries and Energy Research and Development Act 1989*.

Commencement

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

(2) Section 9, subsections 26 (2), 31 (2), 36 (2) and 39 (2), Part 3, section 156 and Schedule 1 commence on 1 July 1990.

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Objects

3. The objects of this Act are to make provision for the funding and administration of research and development relating to primary industries with a view to:

- (a) increasing the economic, environmental or social benefits to members of primary industries and to the community in general by improving the production, processing, storage, transport or marketing of the products of primary industries; and
- (b) achieving the sustainable use and sustainable management of natural resources; and
- (c) making more effective use of the resources and skills of the community in general and the scientific community in particular; and
- (d) improving accountability for expenditure upon research and development activities in relation to primary industries.

Definitions

4. (1) In this Act, unless the contrary intention appears:

“annual general meeting”, in relation to an R&D Corporation, means an annual general meeting that the Corporation is required to convene under section 58;

“annual operational plan” means:

- (a) an annual operational plan of an R&D Corporation in force under Division 3 of Part 2; or
- (b) an annual operational plan of an R&D Council in force under Division 3 of Part 3;

“borrowing” 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 an R&D Corporation;

“Chairperson” means:

- (a) in relation to an R&D Corporation—the Chairperson of the Corporation; and
- (b) in relation to an R&D Council—the Chairperson of the Council;

“Collection Act”, in relation to a levy, means the legislation providing for the collection of the levy;

“Deputy Chairperson” means:

- (a) in relation to an R&D Corporation—the Deputy Chairperson of the Corporation; and
- (b) in relation to an R&D Council—the Deputy Chairperson of the Council;

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“director” means a director of an R&D Corporation, and includes:

- (a) the Chairperson; and
- (b) the government director; and
- (c) the Executive Director;

of the Corporation;

“eligible levy payer”, in relation to an R&D Corporation, means a person (within the meaning of section 57) who is included in a list of levy payers prepared by the Corporation under section 57;

“government director” means the government director of an R&D Corporation;

“government member” means the government member of an R&D Council;

“levy” includes:

- (a) an export charge; and
- (b) an excise on the produce of a primary industry;

“list of levy payers”, in relation to an R&D Corporation, means a list prepared by the Corporation under section 57 for a particular financial year;

“member” means:

- (a) in relation to an R&D Council—a member of the Council, and includes:
 - (i) the Chairperson; and
 - (ii) the government member;of the Council; and
- (b) in relation to a Selection Committee—a member of the Selection Committee, and includes the Presiding Member of the Selection Committee;

“nominated director” means a director of an R&D Corporation, other than the Chairperson, government director or Executive Director of the Corporation;

“nominated member” means a member of an R&D Council other than the Chairperson or government member of the Council;

“order” means an order made under section 150;

“prescribed” includes prescribed by an order;

“Presiding Member” means a person appointed under section 122 as the Presiding Member of Selection Committees for an R&D Corporation and:

- (a) in relation to a Selection Committee for an R&D Corporation—means the Presiding Member who established the Selection Committee under section 124 or 125; or
- (b) in relation to a Selection Committee for an R&D Council—means the Presiding Member who established the Selection Committee under section 126;

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“primary industry” means any field of endeavour whose objective is:

- (a) the production of agricultural or other primary produce; or
- (b) the extraction from the environment of:
 - (i) minerals; or
 - (ii) substances from which energy is made available; or
 - (iii) energy; or
- (c) the conservation and the sustainable use and management of a natural resource;

“R&D activity”, in relation to a primary industry or class of primary industries, means:

- (a) an R & D project in respect of that industry or class; or
- (b) the training of persons to carry out research and development in respect of that industry or class; or
- (c) the dissemination of information, or the provision of advice or assistance, to persons or organisations engaged in any aspect of:
 - (i) that industry or class; or
 - (ii) the production, processing, storage, transport or marketing of goods that are the produce, or that are derived from the produce, of that industry or class;for the purpose of encouraging those persons or organisations to adopt technical developments designed or adapted to improve that aspect of the industry or class, or that production, processing, storage, transport or marketing; or
- (d) the publication of reports, periodicals, books or papers containing information that is related to research and development in respect of that industry or class; or
- (e) an activity incidental to an activity referred to in paragraph (a), (b), (c) or (d);

“R&D Corporation” means:

- (a) a Research and Development Corporation established under section 8; or
- (b) the Rural Industries Research and Development Corporation established under section 9;

“R&D Council” means a Research and Development Council established under section 92;

“R&D Fund” means a Research and Development Fund established under section 107;

“R&D plan” means:

- (a) an R & D plan of an R & D Corporation in force under Division 3 of Part 2; or
- (b) an R & D plan of an R & D Council in force under Division 3 of Part 3;

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“R&D project”, in relation to a primary industry or class of primary industries, means a project for research and development in respect of that industry or class;

“refund”, in relation to a levy, means the amount of refund required to be paid by the Commonwealth in respect of an amount:

(a) paid to an R&D Corporation under paragraph 30 (1) (a);
or

(b) paid into an R&D Fund under paragraph 108 (1) (a);

in respect of the levy;

“regulations” includes orders;

“representative organisation” means:

(a) in relation to an R&D Corporation, an organisation declared under section 7 to be a representative organisation in relation to the Corporation; and

(b) in relation to an R&D Council, an organisation declared under section 7 to be a representative organisation in relation to the Council;

“research and development”, in relation to a primary industry or class of primary industries, means systematic experimentation and analysis in any field of science, technology or economics (including the study of the social or environmental consequences of the adoption of new technology) carried out with the object of:

(a) acquiring knowledge that may be of use in obtaining or furthering an objective of that primary industry or class, including knowledge that may be of use for the purpose of improving any aspect of the production, processing, storage, transport or marketing of goods that are the produce, or that are derived from the produce, of that primary industry or class; or

(b) applying such knowledge for the purpose of attaining or furthering such an objective;

“research component”, in relation to a levy, means so much of the levy as the regulations declare to be the research component of the levy under paragraph 5 (3) (a);

“Research Council” has the same meaning as in the *Rural Industries Research Act 1985*;

“Research Fund” has the same meaning as in the *Rural Industries Research Act 1985*;

“RIR&D Corporation” means the Rural Industries Research and Development Corporation established under section 9;

“Selection Committee” means:

(a) a Selection Committee for an R&D Corporation established under section 124 or 125; or

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(b) a Selection Committee for an R&D Council established under section 126;

“Special Research Fund” means the Australian Special Research Fund that was, prior to the commencement of section 156, established under section 32 of the *Rural Industries Research Act 1985*;

“State Research Committee” has the same meaning as in the *Rural Industries Research Act 1985*;

“this Act” includes the regulations;

“tobacco levy” means a charge imposed by the *Tobacco Charge Act (No. 1) 1955*, the *Tobacco Charge Act (No. 2) 1955* or the *Tobacco Charge Act (No. 3) 1955*.

(2) A reference in this Act to expenses incurred by a Selection Committee includes a reference to the remuneration and allowances payable to the Presiding Member and other members of the Selection Committee and persons employed or engaged by the Selection Committee.

(3) A reference in this Act to the primary industry or class of primary industries to which a levy relates is a reference to the primary industry or class of primary industries that the regulations declare under paragraph 5 (3) (b) to be the primary industry or class of primary industries to which the levy relates.

Levies attached to R&D Corporations or R&D Funds

5. (1) For the purposes of this Act, a levy is attached to an R&D Corporation or an R&D Fund if, and only if, the levy has, or is included in a class of levies that has:

- (a) been declared by the regulations to be attached to the Corporation or the Fund, as the case may be; and
- (b) not ceased, because of section 6, to be attached to the Corporation or the Fund, as the case may be.

(2) For the purposes of this Act, a class of levies is attached to an R&D Corporation or an R&D Fund if, and only if, the class:

- (a) has been declared by the regulations to be attached to the Corporation or the Fund, as the case may be; and
- (b) has not ceased, because of section 6, to be attached to the Corporation or the Fund, as the case may be.

(3) Where a levy or class of levies is declared by the regulations to be so attached, the regulations must declare:

- (a) the whole or a specified proportion of the levy, or of each levy included in the class, as the case may be, to be the research component of the levy; and
- (b) a primary industry or class of primary industries to be the primary industry or class of primary industries to which the levy, or each

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levy included in the class, relates, being a primary industry or class of primary industries:

- (i) if the levy is attached to an R&D Corporation—in respect of which the Corporation is established; and
- (ii) if the levy is attached to an R&D Fund—in respect of which is established the R&D Council in respect of which the Fund is established.

Redirecting levies

6. (1) Where:

- (a) at a particular time, a levy or class of levies becomes attached to an R&D Corporation; and
- (b) immediately before that time, the levy or class was attached to another R&D Corporation or to an R&D Fund;

then, for the purposes of this Act, the levy or class:

- (c) is redirected at that time to the first-mentioned R&D Corporation from the other R&D Corporation or from the R&D Fund, as the case may be; and
- (d) ceases at that time to be attached to the other R&D Corporation or to the R&D Fund, as the case may be.

(2) Where:

- (a) at a particular time, a levy or class of levies becomes attached to an R&D Fund; and
- (b) immediately before that time, the levy or class was attached to another R&D Fund or to an R&D Corporation;

then, for the purposes of this Act, the levy or class:

- (c) is redirected at that time to the first-mentioned R&D Fund from the other R&D Fund or from the R&D Corporation, as the case may be; and
- (d) ceases at that time to be attached to the other R&D Fund or to the R&D Corporation, as the case may be.

Representative organisations

7. (1) The Minister may, by notice published in the *Gazette*, declare one or more specified organisations to be representative organisations in relation to an R&D Corporation or an R&D Council.

(2) A declaration may be made in respect of an R&D Corporation or an R&D Council at any time after the making of regulations under section 8 or 92 establishing the Corporation or Council, even if the regulations concerned are not in force at that time.

(3) The Minister must, in relation to each R&D Corporation and each R&D Council, declare at least one organisation to be a representative organisation.

PART 2—RESEARCH AND DEVELOPMENT CORPORATIONS

Division 1—Establishment, functions and powers of Research and Development Corporations

Establishment of Research and Development Corporations

8. Where the regulations declare the establishment of a Research and Development Corporation in respect of a primary industry or class of primary industries and specify a name for the Corporation:

- (a) a Research and Development Corporation is established in respect of that primary industry or class of primary industries; and
- (b) the Corporation is to be known by the name specified in the regulations.

Establishment of the Rural Industries Research and Development Corporation

9. (1) The Rural Industries Research and Development Corporation is established.

(2) The regulations may specify the primary industries or class of primary industries in respect of which the Rural Industries Research and Development Corporation is established.

R&D Corporation is body corporate etc.

10. (1) An R&D Corporation:

- (a) is a body corporate with perpetual succession; and
- (b) is to have a common seal; and
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

(2) The common seal of an R&D Corporation is to be kept in such custody as the Corporation directs, and is not to be used except as authorised by the Corporation.

(3) All courts, judges and persons acting judicially must:

- (a) take judicial notice of the imprint of the common seal of an R&D Corporation appearing on a document; and
- (b) presume the imprint was duly affixed.

Functions

11. The functions of an R&D Corporation are:

- (a) to investigate and evaluate the requirements for research and development in relation to the primary industry or class of primary industries in respect of which it was established and, on the basis of such investigation and evaluation:
 - (i) to prepare an R&D plan under section 19; and

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- (ii) to review and revise the plan; and
- (b) to prepare an annual operational plan under section 25 for each financial year; and
- (c) to co-ordinate or fund the carrying out of R&D activities that are consistent with the annual operational plan prepared by the Corporation and in force at the time; and
- (d) to:
 - (i) monitor; and
 - (ii) evaluate; and
 - (iii) report to the Parliament, the Minister and its representative organisations on;
R&D activities that are co-ordinated or funded, wholly or partly, by the Corporation; and
- (e) to facilitate the dissemination, adoption and commercialisation of the results of research and development in relation to the primary industry or class of primary industries in respect of which the Corporation was established; and
- (f) such other functions as are conferred on the Corporation by this Act or any other Act.

Powers

12. (1) Subject to subsection (2), an R&D Corporation has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions and, in particular, may:

- (a) enter into agreements under section 13 for the carrying out of R&D activities by other persons; and
- (b) enter into agreements under section 14 for the carrying out of R&D activities by the Corporation and other persons; and
- (c) make applications, including joint applications, for patents; and
- (d) deal with patents vested in the Corporation or in the Corporation and other persons; and
- (e) make charges for work done, services rendered, and goods and information supplied, by it; and
- (f) accept gifts, grants, bequests and devises made to it, and act as trustee of money and other property vested in it on trust; and
- (g) acquire, hold and dispose of real and personal property for the purposes of this Act; and
- (h) join in the formation of a company; and
- (j) do anything incidental to any of its powers.

(2) Where an R&D Corporation holds a controlling interest in a company, the Corporation must ensure that the company does not do anything that the Corporation is not itself empowered to do.

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Agreements for carrying out R&D activities by other persons

13. (1) Without limiting the generality of subsection 12.(1), an R&D Corporation may enter into an agreement with a person for the carrying out of R&D activities by the person.

(2) Without limiting the matters that may be included in the agreement, the agreement may:

- (a)** provide for the money provided under the agreement, and any property acquired or goods produced with that money, or with money that includes that money, to be used for the purposes specified in the agreement; and
- (b)** provide for the payment by the person to the Corporation of an amount equal to the whole, or such part as the Corporation determines, of the money provided under the agreement if any of the money, property or goods referred to in paragraph (a) is or are used for a purpose not specified in the agreement; and
- (c)** make provision with respect to:
 - (i)** assigning inventions and interests in inventions; and
 - (ii)** applying for patents for inventions; and
 - (iii)** commercially exploiting patented inventions; and
 - (iv)** granting licences under patented inventions;

being inventions made in the course of undertaking R&D activities or doing anything else with that money or with money that includes that money; and

- (d)** provide for the payment by the person to the Corporation of an amount equal to the whole, or such part as the Corporation determines, of any net income derived by the person from the money, property or goods referred to in paragraph (a) or patents or interests referred to in paragraph (c); and
- (e)** provide for the assignment by the person to the Corporation of any money, property, goods, patents or interests referred to in paragraph (d); and
- (f)** provide for the payment by the person to the Corporation of an amount of money determined by the Corporation in accordance with the agreement in the event of the disposal (otherwise than to the Corporation) of any property, goods, patents or interests referred to in paragraph (d).

Agreements for carrying out R&D activities with other persons

14. (1) Without limiting the generality of subsection 12 (1), an R&D Corporation may enter into an agreement (including a joint venture agreement or a partnership agreement) with a person for R&D activities to be carried out by the Corporation and the person.

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(2) Without limiting the matters that may be included in the agreement, the agreement is to specify:

- (a) the objectives of the R&D activities; and
- (b) the expected duration of the R&D activities; and
- (c) the nature and extent of the contribution to be made by the Corporation towards the R&D activities; and
- (d) the basis for the distribution of profits and other benefits derived from the R&D activities.

Consultations with persons and organisations

15. (1) Without limiting the generality of subsection 12 (1), an R&D Corporation may make arrangements for consulting:

- (a) persons and bodies representative of the primary industry or class of primary industries in respect of which the Corporation was established (including any of the Corporation's representative organisations); and
- (b) Commonwealth, State and Territory authorities concerned with that primary industry or class of primary industries.

(2) Arrangements made by an R&D Corporation under subsection (1) may provide for:

- (a) the Corporation agreeing to meet travel expenses reasonably incurred by a person in connection with consultations with the Corporation; and
- (b) subject to written guidelines given to the Corporation by the Minister, the Corporation agreeing to meet expenses (other than travel expenses) reasonably incurred by a representative organisation of the Corporation, or a member of a representative organisation of the Corporation, in connection with consultations with the Corporation.

Division 2—Constitution of Research and Development Corporations

Constitution

16. (1) An R&D Corporation consists of:

- (a) a Chairperson; and
- (b) a government director; and
- (c) an Executive Director; and
- (d) such number of other directors, not fewer than 4 nor more than 6, as the Minister determines, in writing, to be appropriate for that Corporation.

(2) The performance of the functions and the exercise of the powers of an R&D Corporation are not affected merely because of vacancies in the Corporation's directorship.

Appointment of directors

17. (1) The directors of an R&D Corporation (other than the Executive Director) are to be appointed by the Minister.

(2) The Minister must not appoint a person as the government director of an R&D Corporation unless the Minister is satisfied that the person has experience in, and knowledge of, government policy processes and public administration.

(3) The nominated directors of an R&D Corporation are to be appointed from persons nominated by a Selection Committee under Part 4.

(4) The Minister must not appoint a person aged 65 or over as a director of an R&D Corporation.

(5) The appointment of a person as a director of an R&D Corporation is not invalid because of a defect or irregularity in connection with the person's nomination or appointment.

Members of executive of representative organisation not eligible for appointment etc.

18. (1) A person who is a member of the executive of a representative organisation of an R&D Corporation must not be appointed as a director of the Corporation.

(2) A director of an R&D Corporation who becomes a member of the executive of a representative organisation of the Corporation ceases to hold office as a director of the Corporation.

Division 3—R&D plans and annual operational plans

R&D plans

19. (1) An R&D Corporation must prepare, in written form, an R&D plan for each successive period referred to in subsections (3) and (4).

(2) An R&D Corporation's R&D plan is to include:

- (a) a statement of the Corporation's objectives and priorities for the period to which the plan is expressed to relate; and
- (b) an outline of the strategies that the Corporation intends to adopt in order to achieve those objectives.

(3) The first R&D plan is to be expressed to relate to:

- (a) if the R&D Corporation is established in the first 9 months of a financial year—that financial year and the 4 subsequent financial years; or
- (b) if the R&D Corporation is established in the last 3 months of a financial year—the next financial year and the 4 subsequent financial years.

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(4) Each subsequent R&D plan is to be expressed to relate to the period of 5 years commencing at the end of the period to which the immediately preceding R&D plan relates.

Approval of R&D plans

20. (1) An R&D plan is to be submitted to the Minister for approval no later than 2 months, or such shorter period as the Minister, in special circumstances, allows, before the intended day of commencement of the period to which the plan relates.

(2) Where the Minister is of the opinion that an R&D Corporation's R&D plan, submitted under subsection (1) or (3) for his or her approval, should be revised in some respect, the Minister may give to the Corporation a written notice:

- (a) requesting the Corporation to make such a revision; and
- (b) setting out the reasons for the request.

(3) Where an R&D Corporation receives such a request, it must:

- (a) consider the request and the statement of reasons; and
- (b) make such revision of the R&D plan it considers appropriate; and
- (c) submit the plan, as so revised, to the Minister for approval.

(4) Where a copy of an R&D plan is submitted to the Minister for approval under subsection (1) or (3), a copy of the plan is at the same time also to be provided to the Presidents (or the holders of the equivalent office) within each of the representative organisations of the Corporation.

(5) Where an R&D plan of an R&D Corporation is approved by the Minister, the Corporation is, no later than one month after the day on which it is approved by the Minister, to notify the approval to each of the representative organisations of the primary industry or class of primary industries in respect of which the Corporation was established.

(6) An R&D plan does not come into operation until:

- (a) the day on which it is approved by the Minister; or
- (b) the day of commencement of the period to which it relates;

whichever is the later.

Variation of R&D plans

21. (1) An R&D Corporation must:

- (a) as soon as practicable after 30 June next following the day on which its R&D plan comes into operation; and
- (b) as soon as practicable after each subsequent 30 June occurring before the day of expiration of the plan;

review the plan and consider whether a variation of it is necessary.

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(2) An R&D Corporation may, at any other time, review its R&D plan (whether or not the plan has come into operation) and consider whether a variation of it is necessary.

(3) Where the Minister gives to an R&D Corporation a notice requesting that the Corporation vary its R&D plan and setting out the reasons for making the request, it must consider, having regard to the reasons, whether the requested variation of the plan is appropriate.

(4) Where an R&D Corporation considers that:

- (a) a variation of its R&D plan is necessary; or
- (b) a variation of its R&D plan, requested by the Minister, is appropriate;

it may vary the plan with the Minister's approval.

(5) When requesting the Minister's approval for a variation of the plan, the Corporation must, unless the variation was requested by the Minister, provide the Minister with:

- (a) a statement of its reasons for making the request; and
- (b) such other information as the Minister requests.

(6) The Minister may, after considering the request (together with the material (if any) provided under subsection (5)):

- (a) approve the requested variation; or
- (b) reject the requested variation.

(7) Where the Minister approves a requested variation, the Corporation is, no later than one month after the day on which it is approved by the Minister, to provide a copy of the varied plan as approved by the Minister to the Presidents (or the holders of the equivalent office) within each of the representative organisations of the Corporation.

(8) If the Minister rejects the requested variation he or she must give the Corporation his or her written reasons for doing so.

Approval for varied R&D plans to run for 4 years from next 1 July

22. (1) Where an R&D Corporation requests the Minister's approval for a variation of its R&D plan, and that plan is in force, the Corporation may also request the Minister's approval for the plan as varied to be in force until the end of 4 years beginning on the next 1 July after the day on which the variation takes effect.

(2) When making a request under subsection (1), the Corporation must provide the Minister with:

- (a) a statement of its reasons for making the request; and
- (b) such other information as the Minister requests.

(3) Where:

- (a) a request is made under subsection (1); and

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- (b) the Minister approves a variation of the plan under subsection 21 (6); and
- (c) the Minister is satisfied that it is appropriate for the request under subsection (1) to be granted;

the Minister may, by notice in writing given to the Corporation, give his or her approval for the plan as varied to be in force until the end of 4 years beginning on the next 1 July after the day on which the variation takes effect.

When variations of R&D plans take effect

23. (1) Where the Minister approves a variation of an R&D plan, the variation takes effect on:

- (a) if the Minister also gives his or her approval under section 22 for the plan as varied to be in force as mentioned in that section—the day specified by the Minister in giving the approval under that section, or, where no such day is specified, the next 1 July after the day of approval of the variation; or
- (b) in any other case—the day of approval of the variation.

(2) If the operation of an R&D plan (being a plan that has come into force) takes effect on the day of the Minister's approval of the variation, the plan as varied continues in force, on and after that day, as if the Minister had originally approved the plan as varied.

Consultation

24. Before preparing or varying an R&D plan, or making a request under subsection 22 (1), an R&D Corporation must consult, and have regard to the views expressed by:

- (a) each of its representative organisations; and
- (b) such other persons or organisations as it considers appropriate.

Annual operational plans

25. (1) An R&D Corporation must, for each financial year during which an R&D plan is in force, prepare, in written form, an annual operational plan that is expressed to relate to that financial year.

- (2) The annual operational plan is to:
 - (a) specify the broad groupings of R&D activities that the R&D Corporation proposes to fund, wholly or partly, during the financial year; and
 - (b) describe how and to what extent funding those activities will:
 - (i) give effect to the R&D plan in force during that financial year; and
 - (ii) in particular, pursue the strategies outlined in the R&D plan and help to achieve the objectives described in the R&D plan; and

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(c) provide an estimate of:

- (i) the total amounts likely to be spent by the Corporation in respect of each broad grouping of R&D activities the Corporation proposes to fund during the financial year; and
- (ii) the total of the amounts likely to be spent by the Corporation under section 33, other than paragraph 33 (1) (a), during the financial year; and
- (iii) the total of the amounts referred to in subparagraphs (i) and (ii); and
- (iv) the total of the amounts that are likely to be paid to the Corporation during the financial year (other than the amounts paid under section 30).

(3) A reference in this section to R&D activities that an R&D Corporation proposes to fund includes a reference to R&D activities that the Corporation is prepared, subject to its examination of specific proposals, to fund.

Approval of annual operational plans

26. (1) An annual operational plan of an R&D Corporation (other than the RIR&D Corporation) is to be submitted to the Minister for approval no later than 2 months, or such shorter period as the Minister in special circumstances allows, before the intended day of commencement of the period to which the plan relates.

(2) An annual operational plan of the RIR&D Corporation is to be submitted to the Minister for approval no later than one month, or such shorter period as the Minister in special circumstances allows, before the intended day of commencement of the period to which the plan relates.

(3) Where the Minister is of the opinion that an R&D Corporation's annual operational plan, submitted under subsection (1), (2) or (4) for his or her approval, is inconsistent with the provisions of an R&D plan of the Corporation, being an R&D plan that relates to a period overlapping with the period of the annual operational plan, the Minister may give to the Corporation his or her written notice:

- (a) requesting the Corporation to revise the annual operational plan; and
- (b) setting out the reasons for the request.

(4) Where an R&D Corporation receives such a request, it must:

- (a) consider the request and the statement of reasons; and
- (b) make such revision of the annual operational plan as it considers appropriate; and
- (c) submit the plan, as so revised, to the Minister for approval.

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(5) Where an R&D Corporation considers that variation of an annual operational plan of the Corporation that is in force is necessary, it may submit such variation to the Minister for approval.

(6) Where:

- (a)** a proposed variation of an R&D plan of an R&D Corporation is to be submitted to the Minister for approval; and
- (b)** the R&D plan relates to a period that overlaps with that of an annual operational plan of the Corporation; and
- (c)** the Corporation is of the opinion that the annual operational plan would be inconsistent with the provisions of the R&D plan as varied;

the Corporation must, when submitting the variation of the R&D plan for approval, also submit for the Minister's approval such variation of the annual operational plan as it considers appropriate.

(7) Where:

- (a)** an annual operational plan is submitted to the Minister for approval under subsection (1), (2) or (4); or
- (b)** a variation of an annual operational plan is submitted to the Minister for approval under subsection (5) or (6);

a copy of the plan or the variation of the plan (as the case may be) is at the same time also to be provided to the Presidents (or the holders of the equivalent office) within each of the representative organisations of the Corporation.

(8) Where:

- (a)** an annual operational plan is submitted to the Minister for approval under subsection (1), (2) or (4); or
- (b)** a variation of an annual operational plan is submitted to the Minister for approval under subsection (5) or (6);

the Minister must approve the plan or the variation of the plan (as the case may be) unless the Minister is of the opinion that it is inconsistent with the provisions of an R&D plan that relates to a period that overlaps with that of the annual operational plan.

(9) Where the Minister approves an annual operational plan or the variation of the plan (as the case may be), the Corporation is, no later than one month after the day on which it is approved by the Minister, to notify the approval to each of the representative organisations of the primary industry or class of primary industries in respect of which the Corporation was established.

(10) An annual operational plan does not come into operation until:

- (a)** the day on which it is approved by the Minister; or
- (b)** the day of commencement of the period to which it relates;

whichever is the later.

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(11) Where the Minister approves a variation of an annual operational plan after the plan has come into operation, the plan as so varied continues in force from the date of approval as if it had originally been approved by the Minister as so varied.

Compliance with R&D plans and annual operational plans

27. To the extent that it is practicable to do so, an R&D Corporation must ensure that, at any time:

- (a) the performance of its functions; and
- (b) the exercise of its powers;

are consistent with, and designed to give effect to, any R&D plan, and any annual operational plan, prepared by it and in force at the time.

Division 4—Accountability

Annual report

28. (1) Without limiting the matters that an R&D Corporation may include in its annual report under section 63H of the *Audit Act 1901* for a period, it must include in the report:

- (a) particulars of:
 - (i) the R&D activities that it co-ordinated or funded, wholly or partly, during the period; and
 - (ii) the amount that it spent during the period in relation to each of those activities; and
 - (iii) revisions of its R&D plan or annual operational plan approved by the Minister during the period; and
 - (iv) the entering into of agreements under sections 13 and 14 during the period and its activities during the period in relation to agreements entered into under that section during or prior to the period; and
 - (v) its activities during the period in relation to applying for patents for inventions, commercially exploiting patented inventions and granting licences under patented inventions; and
 - (vi) the activities of any companies in which the Corporation has an interest; and
 - (vii) any activities relating to the formation of a company; and
 - (viii) significant acquisitions and dispositions of real property by it during the period; and
- (b) an assessment of the extent to which its operations during the period have:
 - (i) achieved its objectives as stated in its R&D plan; and
 - (ii) implemented the annual operational plan applicable to the period; and

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- (c) an assessment of the extent to which the Corporation has, during the period, contributed to the attainment of the objects of this Act as set out in section 3; and
- (d) in respect of the grain industry or such other primary industry or class of primary industries as is prescribed in the regulations, particulars of sources and expenditure of funds, including:
 - (i) commodity, cross commodity and regional classifications; and
 - (ii) funds derived from transfer of:
 - (A) assets, debts, liabilities and obligations under section 144; and
 - (B) levies attached to Research Funds under the *Rural Industries Research Act 1985* under section 151 of this Act.

(2) If an R&D Corporation is not established at the beginning of a financial year, section 63H of the *Audit Act 1901* has effect in relation to the period commencing on the day the Corporation is established and ending on the next 30 June as if:

- (a) where the period is less than 3 months—the period were included in the next financial year; or
- (b) in any other case—the period were a financial year.

Accountability to representative organisations

29. The Chairperson of an R&D Corporation (other than an R&D Corporation to which Division 7 applies) must, as soon as practicable after the Corporation's annual report has been submitted to the Minister, provide copies of the report to each of the Corporation's representative organisations, and make arrangements with each of those organisations to attend the organisation's annual conference, or a meeting of the organisation's executive, for the purpose of enabling:

- (a) the annual report to be considered; and
- (b) the Chairperson to deliver an address in relation to:
 - (i) the Corporation's activities in the period to which the report relates; and
 - (ii) the Corporation's intended activities in the financial year following the end of the period; and
 - (iii) in respect of the grain industry and such other primary industry or class of primary industries as is prescribed in the regulations, particulars of sources and expenditure of funds, including:
 - (A) commodity, cross commodity and regional classifications; and
 - (B) funds derived from transfer of:
 - (AA) assets, debts, liabilities and obligations under section 144; and

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- (AB) levies attached to Research Funds under the *Rural Industries Research Act 1985* under section 151 of this Act; and
- (c) the Chairperson to be questioned in relation to those activities.

Division 5—Finance

Payments to R&D Corporations

30. (1) There are to be paid to an R&D Corporation (other than an R&D Corporation to which no levy is attached) amounts equal to:

- (a) where a levy is attached to the Corporation—the amounts from time to time received by the Commonwealth, under the Collection Act for each levy attached to the Corporation, as:
- (i) the research component of that levy; and
 - (ii) amounts (if any) paid, on behalf of a person liable to pay that levy, by another person, in respect of the research component of that levy; and
 - (iii) amounts of penalty for non-payment of that levy, to the extent that the penalty is attributable to the non-payment of the research component of that levy; and
- (b) subject to subsection (2) and sections 31 and 32, amounts equal to one-half of the amounts required to be spent by the Corporation under section 33 (other than paragraph 33 (1) (d)).

(2) No amounts are payable under paragraph (1) (b) to an R&D Corporation established in respect of the coal industry.

(3) Amounts payable under subsection (1), or under section 37 or 38, are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

(4) There are to be paid to an R&D Corporation to which no levy is attached the amounts from time to time appropriated for the purpose by the Parliament.

Government matching payments not to exceed levy and certain other payments

31. (1) Where:

- (a) a levy is attached to an R&D Corporation; and
 - (b) the Corporation is not a Corporation declared by the regulations to be an R&D Corporation to which this section does not apply;
- the sum of the amounts paid to the Corporation under paragraph 30 (1) (b) is not to exceed the sum of:
- (c) the amounts paid to the Corporation under subparagraphs 30 (1) (a) (i) and (ii) (less the sum of any refunds in relation to levies attached to the Corporation); and

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(d) amounts in relation to which subsection (2) applies.

(2) Where an R&D Corporation is established in respect of the dairy industry, and that Corporation accepts an amount paid to it by way of gift or grant from a co-operative company (as defined by sections 117 and 118 of the *Income Tax Assessment Act 1936*) in the dairy industry, for the purposes of research and development, the Corporation may, subject to the regulations, determine that this subsection applies in relation to the amount.

(3) This section does not apply in relation to the RIR&D Corporation.

Commonwealth's matching payments not to exceed certain proportion of production

32. (1) Subject to subsection (3), where a levy is attached to an R&D Corporation, the sum of the amounts that, during a particular financial year, are paid to the Corporation under paragraph 30 (1) (b), in respect of amounts spent by the Corporation under section 33 for R&D activities in respect of the goods that are the produce of the primary industry or class of primary industries to which the levy relates, is not to exceed an amount equal to 0.5% of the amount that the Minister determines to be the gross value of production, for that financial year, of those goods.

(2) The regulations may provide for the manner in which the Minister is to determine the amount of the gross value of production of goods for a financial year.

(3) Where tobacco levies are attached to an R&D Corporation, the sum of the amounts that, during a particular financial year beginning at any time before 1 July 1991, are paid to the Corporation under paragraph 30 (1) (b), in respect of amounts spent by the Corporation under section 33 for R&D activities in respect of tobacco leaf to which the levies relate, is not to exceed an amount equal to 3.5 cents per kilogram for the tobacco leaf in respect of which those levies are imposed in that financial year.

Expenditure of money of R&D Corporations

33. (1) An R&D Corporation's money may be spent only:

- (a) for the purpose of funding R&D activities included in the broad groupings of R&D activities specified in an annual operational plan prepared by the Corporation and in force when payments are made; and
- (b) in payment or discharge of the expenses and liabilities incurred by the Corporation in the performance of its functions or the exercise of its powers; and
- (c) in payment of remuneration and allowances payable:
 - (i) under sections 68 and 81 to the Corporation's directors; or
 - (ii) under section 89 to members of committees established by the Corporation under that section; and

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- (d) in payment to the Commonwealth of amounts payable under section 34 or 35; and
- (e) in payment of amounts in respect of expenses (including the payment of remuneration and allowances) incurred by a Selection Committee in performing its function, and exercising its powers, in relation to the selection of directors for appointment to the Corporation; and
- (f) in making any other payments that the Corporation is authorised or required to make under this Act.

(2) An R&D Corporation is liable to pay the expenses, and discharge the liabilities, incurred by a Selection Committee in connection with the performance of its function, and the exercise of its powers, in relation to the selection of directors for appointment to the Corporation.

Commonwealth to be paid levy expenses from R&D Corporations

34. Where a levy is attached to an R&D Corporation, the Corporation must pay to the Commonwealth amounts equal to the expenses incurred by the Commonwealth in relation to:

- (a) the collection or recovery of amounts of the kind referred to in paragraph 30 (1) (a) that are receivable by the Commonwealth under the Collection Act for that levy; and
- (b) the administration of paragraph 30 (1) (a) in respect of that levy.

Commonwealth to be reimbursed for refunds of levy

35. Where a levy is attached to an R&D Corporation, the Corporation must pay to the Commonwealth amounts equal to the amounts of any refunds paid by the Commonwealth in respect of amounts of levy of the kind referred to in paragraph 30 (1) (a).

Transfers of money where levies redirected

36. (1) Where:

- (a) a levy becomes attached to an R&D Corporation; and
- (b) immediately before becoming so attached, the levy was attached to another R&D Corporation (in this subsection called the “other Corporation”);

the other Corporation must pay to the first-mentioned Corporation an amount equal to so much of the other Corporation’s money as is attributable to money paid to the other Corporation:

- (c) as a result of the levy being attached to the other Corporation; or
- (d) as a result of the other Corporation being established in respect of the primary industry or class of primary industries to which the levy relates.

(2) Where:

- (a) a levy becomes attached to an R&D Corporation; and

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- (b) immediately before becoming so attached, the levy was attached to an R&D Fund;

the RIR&D Corporation must pay to the first-mentioned R&D Corporation the amount equal to so much of the money standing to the credit of the Fund as is attributable to money paid into the Fund:

- (c) as a result of the levy being attached to the Fund; or
- (d) as a result of the R&D Council, in respect of which the Fund is established, being established in respect of the primary industry or class of primary industries to which the levy relates.

(3) Where 2 R&D Corporations are unable to agree on:

- (a) whether one of them is required to pay money to the other under this section; or
- (b) the amount of money that one of them is required to pay to the other under this section;

the amount (if any) that is required to be paid is an amount determined by the Minister.

Payment of amounts of levy where levies redirected

37. Where:

- (a) a levy becomes attached to an R&D Corporation; and
- (b) immediately before becoming so attached, the levy was attached to another R&D Corporation (in this section called the “other Corporation”) or to an R&D Fund; and
- (c) while the levy was attached to the other Corporation, or to the R&D Fund, the Commonwealth was obliged to pay money to the other Corporation under paragraph 30 (1) (a) or into the Fund under paragraph 108 (1) (a); and
- (d) the Commonwealth had not so paid the money before the levy became attached to the first-mentioned Corporation;

then:

- (e) the Commonwealth must pay the money to the first-mentioned Corporation; and
- (f) notwithstanding paragraph 30 (1) (a) or 108 (1) (a), as the case may be, the Commonwealth ceases, from the time the levy becomes so attached, to be obliged to pay the money to the other Corporation, or into the Fund, as the case may be.

Payment of matching contributions where levies redirected

38. Where:

- (a) a levy becomes attached to an R&D Corporation; and
- (b) immediately before becoming so attached, the levy was attached to another R&D Corporation (in this section called the “other Corporation”) or to an R&D Fund; and

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- (c) while the levy was attached to the other Corporation, or to the R&D Fund, the other Corporation spent money under section 33, or money in the Fund was spent under section 112, in connection with:
 - (i) research and development relating to the primary industry or class of primary industries to which the levy relates; or
 - (ii) administering the funding of such research and development; and
- (d) as a result of the expenditure, the Commonwealth was obliged to pay money to the other Corporation under paragraph 30 (1) (b) or into the Fund under paragraph 108 (1) (b); and
- (e) the Commonwealth had not so paid the money before the levy became attached to the first-mentioned Corporation;

then:

- (f) the Commonwealth must pay the money to the first-mentioned Corporation; and
- (g) notwithstanding paragraph 30 (1) (b) or 108 (1) (b), as the case may be, the Commonwealth ceases, from the time the levy becomes so attached, to be obliged to pay the money to the other Corporation, or into the Fund, as the case may be.

Treatment of amounts received, after levies redirected, as a result of earlier expenditure

39. (1) Where:

- (a) a levy becomes attached to an R&D Corporation; and
- (b) immediately before becoming so attached, the levy was attached to another R&D Corporation (in this subsection called the “other Corporation”); and
- (c) after the levy becomes so attached, the other Corporation receives an amount:
 - (i) from the sale of property paid for; or
 - (ii) from the sale of property produced, or from dealing with patents in respect of inventions made, in the course of carrying out an R&D activity; or
 - (iii) in respect of work paid for;by the spending of money under section 33 in connection with research and development relating to the primary industry or class of primary industries to which the levy relates;

the other Corporation must pay the amount to the first-mentioned Corporation.

(2) Where:

- (a) a levy becomes attached to an R&D Corporation; and

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- (b) immediately before becoming so attached, the levy was attached to an R&D Fund; and
- (c) after the levy becomes so attached, the RIR&D Corporation receives an amount:
 - (i) from the sale of property paid for; or
 - (ii) from the sale of property produced, or from dealing with patents in respect of inventions made, in the course of carrying out an R&D activity; or
 - (iii) in respect of work paid for;by the spending of money under section 112 in connection with research and development relating to the primary industry or class of primary industries to which the levy relates;

the RIR&D Corporation must pay the amount to the first-mentioned R&D Corporation.

- (3) Where 2 R&D Corporations are unable to agree on:
 - (a) whether one of them is required to pay money to the other under this section; or
 - (b) the amount of money that one of them is required to pay to the other under this section;

the amount (if any) that is required to be paid is an amount determined by the Minister.

Separate accounting records

- 40. (1) The regulations may:
 - (a) require an R&D Corporation to keep separate accounting records in relation to the funding of specified classes of R&D activities; and
 - (b) specify the amounts to be credited and debited in the accounting records and the manner in which the amounts are to be calculated.

(2) Where the regulations require an R&D Corporation to keep separate accounting records in relation to the funding of classes of R&D activities, the regulations may make provision in relation to the expenditure of money to which the accounting records relate.

Borrowing from Commonwealth

41. The Minister for Finance may, on behalf of the Commonwealth, out of money appropriated by the Parliament for the purpose, lend money to an R&D Corporation on such terms and conditions as the Minister for Finance determines in writing.

Borrowing from persons other than the Commonwealth

42. (1) An R&D Corporation may, with the written approval of the Treasurer, borrow money from persons other than the Commonwealth on terms and conditions specified in, or consistent with, the approval.

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(2) Money may be borrowed wholly or partly in foreign currency.

Guarantee of borrowing

43. (1) The Treasurer may, on behalf of the Commonwealth, enter into a contract guaranteeing the performance by an R&D Corporation of obligations incurred by it under section 42.

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

(3) A contract may be entered into under subsection (1), and a determination may be made under subsection (2), in relation to a particular transaction or class of transactions.

(4) A contract under subsection (1) may include either or both of the following provisions:

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

Borrowing not otherwise permitted

44. An R&D Corporation must not borrow money except under this Division.

R&D Corporations may give security

45. An R&D Corporation may give security over the whole or part of its assets for:

- (a) the performance by the Corporation of any obligation incurred under section 41 or 42; or
- (b) the payment to the Commonwealth of amounts equal to amounts paid by the Commonwealth under a guarantee under section 43.

Liability to taxation

46. (1) An R&D Corporation is subject to taxation (other than income tax) under the laws of the Commonwealth.

(2) Subject to subsections (3) and (4), an R&D Corporation is not subject to taxation under a law of a State or Territory.

(3) The regulations may provide that subsection (2) does not apply in relation to:

- (a) a specified law of a State or Territory; or
- (b) laws in a specified class of laws of a State or Territory.

(4) Stamp duty under the law of a State or a Territory is payable by an R&D Corporation in respect of transactions entered into by, and instruments and documents executed by or on behalf of, the Corporation.

Division 6—Meetings of Research and Development Corporations

Times and places of meetings

47. (1) An R&D Corporation must hold such meetings as is necessary for the efficient performance of its functions.

(2) Subject to subsections (3) and (4), meetings are to be held at such times and places as the Corporation from time to time determines.

(3) The Chairperson may call a meeting at any time.

(4) The Chairperson must call a meeting if requested to do so in writing by a majority of the directors.

Presiding at meetings

48. (1) The Chairperson is to preside at all meetings at which he or she is present.

(2) If the Chairperson is not present at a meeting and the Deputy Chairperson is present, the Deputy Chairperson is to preside.

(3) If the Chairperson and Deputy Chairperson are not present at a meeting, the directors present are to appoint one of their number to preside.

Quorum

49. A majority of the directors constitutes a quorum.

Voting at meetings

50. (1) A question is to be decided by a majority of the votes of the directors present and voting.

(2) The person presiding at a meeting has a deliberative vote and, if necessary, also has a casting vote.

Conduct of meetings

51. (1) An R&D Corporation may, subject to this Division, regulate proceedings at its meetings as it considers appropriate.

(2) Without limiting subsection (1), an R&D Corporation may permit a director to participate in a meeting by telephone or any other means of communication.

(3) A director who is permitted to participate in a meeting under subsection (2) is to be regarded as being present at that meeting.

Resolutions without meetings

52. Where an R&D Corporation so determines, a resolution is to be taken to have been passed at a meeting of the Corporation if:

- (a)** without meeting, a majority of the number of directors indicate agreement with the resolution in accordance with the method determined by the Corporation; and

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- (b) that majority would, if present at a meeting of the Corporation and entitled to vote on the resolution at that meeting, have constituted a quorum under section 49.

Minutes

53. An R & D Corporation must keep minutes of its meetings.

Disclosure of interests

54. (1) If:

- (a) a director of an R & D Corporation has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Corporation; and
- (b) the interest could conflict with the proper performance of the director's duties in relation to the consideration of the matter;

the director must, as soon as practicable after the relevant facts come to the director's knowledge, disclose the nature of the interest at a meeting of the Corporation.

(2) The disclosure is to be recorded in the minutes of the meeting and, unless the Corporation otherwise determines, the director must not:

- (a) be present during any deliberation of the Corporation in relation to the matter; or
- (b) take part in any decision of the Corporation in relation to the matter.

(3) For the purpose of a determination being made under subsection (2) by the Corporation in relation to a director who has made a disclosure under subsection (1), a director who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Corporation for the purpose of making the determination; or
- (b) take part in the making by the Corporation of the determination.

Persons may be invited to attend meetings

55. An R & D Corporation may invite a person to attend a meeting for the purpose of advising or informing it on any matter.

Division 7—Annual general meetings

R & D Corporations to which this Division applies

56. This Division applies to an R & D Corporation if:

- (a) a levy is attached to the Corporation; and
- (b) the regulations declare that this Division applies to the Corporation.

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List of levy payers

57. (1) An R&D Corporation must, in respect of each financial year, prepare a list of persons whom the Corporation knows became, during the immediately preceding financial year or the 3 months after the end of the immediately preceding financial year, liable to pay a levy that is attached to the Corporation.

(2) The Corporation must complete its preparation of the list for the financial year:

- (a)** no sooner than the day on or before which applications from persons seeking to be entered on the list must be received by the Corporation, in accordance with the notice published under subsection 59 (1), for the Corporation's annual general meeting in that financial year; and
- (b)** no later than 30 days after that day.

(3) The Corporation must not include in the list for the financial year persons whose applications to be entered on the list are received by the Corporation after the day referred to in paragraph (2) (a).

(4) The Corporation must not use such a list otherwise than for the purposes of this Division.

(5) In this section:

“**person**” includes a partnership and the trustee or trustees, from time to time, of a trust estate.

R&D Corporation to convene annual general meeting

58. (1) Where an R&D Corporation is required by the representative organisation to hold an annual general meeting, the Corporation must cause the meeting to be held in each financial year at a time and place determined by the Corporation.

(2) The Corporation must ensure that a period of not more than 15 months elapses between each annual general meeting.

Notice of the convening of an annual general meeting

59. (1) An R&D Corporation must, not later than 70 days before the day on which an annual general meeting is to be held in a financial year, cause a notice to be published in the *Gazette*, and in a newspaper that circulates throughout Australia, specifying:

- (a)** the day, time and place of the meeting; and
- (b)** the day (not being earlier than 14 days after the notice is published) before which applications from persons seeking to be entered on the list of levy payers for the financial year must be received by the Corporation.

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(2) In addition to publishing a notice under subsection (1), the Corporation:

- (a) must give copies of the notice to each of its representative organisations; and
- (b) may cause particulars of the annual general meeting to be made public in such a way as the Corporation determines at any time before the day referred to in paragraph (1) (b).

Purpose of annual general meeting

60. The purpose of an R&D Corporation's annual general meeting is to provide an opportunity for eligible levy payers:

- (a) to consider the most recent annual report of the Corporation; and
- (b) to receive an address by the Chairperson of the Corporation concerning:
 - (i) the Corporation's performance in the financial year to which the annual report relates; and
 - (ii) the outlook for the primary industry or class of primary industries in respect of which the Corporation was established and the Corporation's intended activities in the following financial year; and
- (c) to question the directors about any aspect of the Corporation's activities during the financial year to which the annual report relates and any aspect of the Corporation's intended activities; and
- (d) to debate, and vote upon:
 - (i) any motion relating to a matter within the Corporation's responsibilities other than a matter relating to the making of regulations prescribing an amount of levy in respect of a levy attached to the Corporation or declaring the research component of such a levy; or
 - (ii) any motion moved on behalf of the Corporation to endorse a recommendation that the Corporation proposes to make to the Minister in relation to the making of such regulations; or
 - (iii) any motion of no confidence in the Chairperson or in the Corporation.

Regulations may provide for certain matters

61. The regulations may make provision with respect to one or more of the following:

- (a) notifying an Corporation of the terms of any motion proposed to be moved by an eligible levy payer of the Corporation at an annual general meeting;
- (b) notifying the Corporation's eligible levy payers of:
 - (i) the day, time and place of an annual general meeting of the Corporation; and

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- (ii) the terms of motions proposed to be moved in the meeting;
and
- (iii) other matters relevant to the conducting of the meeting;
- (c) the appointment of persons to act as proxies of eligible levy payers of the Corporation in an annual general meeting and the participation of such proxies in the meeting;
- (d) the method or methods by which a motion or class of motions is to be taken to have been passed at an annual general meeting of the Corporation;
- (e) the method of determining the number of votes that an eligible levy payer of the Corporation who is entitled to vote at an annual general meeting may cast when voting at such a meeting, being a method that has regard to the research component of any levy (being a levy that is attached to the Corporation) for which the eligible levy payer became liable during, or within 3 months after the end of, the financial year immediately preceding the meeting;
- (f) the adoption of a procedure relating to voting at annual general meetings that will ensure that amounts of levy for which an eligible levy payer became liable remains confidential.

Conduct of annual general meetings

62. (1) An annual general meeting of an R&D Corporation may be attended by:

- (a) the directors of the Corporation; and
- (b) the eligible levy payers of the Corporation who are included in the list of levy payers for the financial year in which the meeting is held; and
- (c) the members of the executive of each of the Corporation's representative organisations; and
- (d) persons invited by the Corporation to attend the meeting; and
- (e) such employees and consultants of the Corporation as the Chairperson determines, having regard to the business of the meeting.

(2) The Chairperson must preside at an annual general meeting at which he or she is present.

(3) An eligible levy payer of the Corporation is entitled to vote upon any matter to be determined at an annual general meeting if the eligible levy payer is included in the Corporation's list of levy payers for the financial year in which the meeting is held.

(4) The Corporation must keep a record of the proceedings of an annual general meeting.

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Motions of no confidence

63. (1) Where a motion of no confidence in an R&D Corporation or in the Chairperson is moved at an annual general meeting:

- (a) the person presiding at the meeting must cease to preside until the motion has been voted on; and
- (b) an employee of the Corporation selected by the Chairperson is to preside.

(2) Where a motion of no confidence in the Corporation is passed at the meeting:

- (a) the office of each of the directors (other than the Executive Director) is to be taken to be vacant for the purposes of Part 4 immediately after the meeting; and
- (b) the Minister must:
 - (i) within one month after the meeting, by notice published in the *Gazette*, terminate the appointment of each of the directors (other than the Executive Director) with effect from a day specified in the notice; and
 - (ii) under section 17, appoint a different Chairperson and a different government director; and
 - (iii) under section 17, appoint persons, in accordance with Part 4, in the place of the nominated directors whose appointments have been so terminated.

(3) The fact that a person's appointment as a director has been terminated under subparagraph (2) (b) (i) does not prevent the person being re-appointed under subparagraph (2) (b) (iii).

(4) Where a motion of no confidence in the Chairperson is passed at the meeting, the Minister must:

- (a) terminate the Chairperson's appointment as soon as possible after the meeting; and
- (b) within 2 months after the meeting, appoint another person as the Chairperson.

Representative organisations to receive copy of resolutions

64. An R&D Corporation must, within one month after the holding of an annual general meeting, provide to each of its representative organisations a copy of the text of all motions passed at the meeting.

Division 8—Provisions relating to directors other than Executive Directors

Definition

65. In this Division:

“**director**” means a director of an R&D Corporation other than the Executive Director.

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Term of office

66. (1) A director:

- (a) is to be appointed with effect from the day specified in the instrument of appointment; and
- (b) holds office, subject to this Act:
 - (i) in the case of a director other than the government director— for such term (not exceeding 3 years) as is specified in the instrument of appointment, but is eligible for re-appointment in accordance with this Act; or
 - (ii) in the case of the government director—during the Minister's pleasure.

(2) If a director (other than the government director) ceases to hold office before the end of the term of appointment, another person may, in accordance with this Act, be appointed in the director's place until the end of the term.

(3) The Minister must not appoint a person as a director for a term that extends beyond the day on which the person will turn 65.

Directors hold office on part-time basis

67. Directors hold office on a part-time basis.

Remuneration and allowances of directors

68. (1) A director is to be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Tribunal is in operation, is to be paid such remuneration as is prescribed.

(2) A director is to be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

Terms and conditions of appointment not provided for by Act

69. A director holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, in writing, by the Minister.

Outside employment

70. A director must not engage in any paid employment that, in the Minister's opinion, conflicts or may conflict with the proper performance of the director's duties.

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Leave of absence

71. (1) The Minister may grant leave of absence to the Chairperson on such terms and conditions as the Minister considers appropriate.

(2) The Chairperson may grant leave of absence to a nominated director, or the government director, on such terms and conditions as the Chairperson considers appropriate.

Resignation

72. (1) A director may resign by written notice signed and delivered to the Minister.

(2) The resignation takes effect (unless the director's appointment is sooner terminated):

- (a) if a date of effect is stated in the notice of resignation—at the end of that day; or
- (b) in any other case—on the day on which the notice is given.

Termination of appointment

73. (1) The Minister may terminate the appointment of the Chairperson or a nominated director:

- (a) for misbehaviour or physical or mental incapacity; or
- (b) if the Chairperson or nominated director:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of such creditors; or
- (c) if the Chairperson or nominated director, without reasonable excuse, contravenes section 54.

(2) The Minister may terminate the appointment of the Chairperson if the Chairperson is absent, except with the leave of the Minister, from 3 consecutive meetings.

(3) The Minister may terminate the appointment of a nominated director of an R&D Corporation if the nominated director is absent, except with the leave of the Chairperson, from 3 consecutive meetings.

Deputy Chairperson

74. (1) The Minister must appoint a nominated director as the Deputy Chairperson.

(2) The Minister must, before making the appointment, consult with the Chairperson.

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(3) The Minister may at any time terminate an appointment made under subsection (1).

(4) A person appointed as Deputy Chairperson ceases to hold the office if the person ceases to be a nominated director of the Corporation.

(5) A person appointed as Deputy Chairperson may resign the office by writing signed by the person and delivered to the Minister.

(6) The Deputy Chairperson is to act as the Chairperson:

(a) during any vacancy in the office of the Chairperson; or

(b) during any period when the Chairperson is unable, for any reason, to perform the duties of the office.

(7) The Deputy Chairperson has, when acting as Chairperson, all the powers, duties, rights and entitlements of the Chairperson.

(8) Anything done by or in relation to a person purporting to act as the Chairperson under subsection (6) is not invalid merely because:

(a) there was a defect or irregularity in connection with the appointment of the person as the Deputy Chairperson; or

(b) the appointment of the person as the Deputy Chairperson had ceased to have effect; or

(c) the occasion for the person to act as the Chairperson had not arisen or had ceased.

Division 9—Executive Director

Executive Director

75. Each R&D Corporation is to have an Executive Director.

Duties

76. (1) The Executive Director is to conduct the affairs of the Corporation.

(2) In conducting the affairs of the Corporation, the Executive Director is to act in accordance with any policies determined by, and any directives given by, the Corporation.

(3) All acts and things done in the name of, or on behalf of, the Corporation by the Executive Director are to be taken to have been done by the Corporation.

Appointment

77. (1) The Executive Director is to be appointed by the Corporation.

(2) The Chairperson, the government director or a nominated director must not be appointed as the Executive Director.

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(3) A person who is a member of the executive of a representative organisation of the Corporation must not be appointed as the Executive Director.

(4) If the Executive Director becomes a member of the executive of a representative organisation of the Corporation, he or she ceases to hold office as the Executive Director.

(5) The Corporation must not appoint a person aged 65 or over as Executive Director.

(6) The appointment of a person as Executive Director is not invalid because of a defect or irregularity in connection with the person's appointment.

Term of appointment etc.

78. (1) The Executive Director:

- (a) is to be appointed with effect from the day specified in the instrument of appointment; and
- (b) holds office during the Corporation's pleasure.

(2) The Executive Director ceases to hold office on turning 65.

Executive Director holds office on full-time or part-time basis

79. The Executive Director holds office on a full-time basis or on a part-time basis, as specified in the instrument of appointment.

Executive Director not to engage in other paid employment

80. The Executive Director must not:

- (a) if the Executive Director holds office on a full-time basis—engage in paid employment outside the duties of the office without the Corporation's approval; or
- (b) if the Executive Director holds office on a part-time basis—engage in paid employment that, in the Corporation's opinion, conflicts or may conflict with the proper performance of the Executive Director's duties.

Terms and conditions of appointment

81. 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.

Leave of absence

82. The Chairperson may grant leave of absence to the Executive Director on such terms and conditions, as to remuneration or otherwise, as are determined, in writing, by the Corporation.

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Resignation

83. (1) The Executive Director may resign by written notice signed and delivered to the Chairperson.

(2) The resignation takes effect (unless the Executive Director's appointment is sooner terminated):

- (a) if a date of effect is stated in the notice of resignation—at the end of that day; or
- (b) in any other case—on the day on which the notice is given.

Disclosure of interests

84. The Executive Director must give written notice to the Chairperson of all direct or indirect pecuniary interests that the Executive Director has or acquires in any business or in any body corporate carrying on any business.

Acting Executive Director

85. (1) The Corporation may appoint a person (other than a director) to act as Executive Director:

- (a) during a vacancy in the office of Executive Director; or
- (b) during any period, or during all periods, when the Executive Director is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.

(2) In its application in relation to a person appointed to act as the Executive Director, section 33A of the *Acts Interpretation Act 1901* is modified as follows:

- (a) a determination under subparagraph 33A (b) (i) has effect only if it is approved, in writing, by the Minister;
- (b) a resignation by the person under paragraph 33A (d) is to be delivered to the Chairperson.

(3) Anything done by or in relation to a person purporting to act as Executive Director is not invalid merely because:

- (a) the occasion for the appointment had not arisen; or
- (b) there was a defect or irregularity in connection with the appointment; or
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act as Executive Director had not arisen or had ceased.

Exclusion of Executive Director etc. from certain deliberations

86. (1) The Executive Director of an R&D Corporation must not be present during any deliberation of, or take part in any decision of, the Corporation or a committee of the Corporation with respect to:

- (a) the appointment of a person as Executive Director; or

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- (b) the determination or application of any terms and conditions on which a person appointed as Executive Director holds office or may be granted leave; or
- (c) the termination of the appointment of the Executive Director; or
- (d) the giving or refusing of approval for the Executive Director to engage in paid employment outside the duties of the office.

(2) A person appointed to act as Executive Director of an R&D Corporation must not be present during any deliberation of, or take part in any decision of, the Corporation or a committee of the Corporation with respect to:

- (a) the appointment of a person as Executive Director or to act as Executive Director; or
- (b) the determination or application of any terms and conditions on which the Executive Director, or a person appointed to act as Executive Director, holds office or may be granted leave; or
- (c) the termination of the appointment of the person or the Executive Director; or
- (d) the giving or refusing of approval for the Executive Director, or a person acting as Executive Director, to engage in paid employment outside the duties of the office.

Division 10—Employees and consultants

Employees

87. (1) An R&D Corporation may engage such employees as it considers necessary for the performance of its functions and the exercise of its powers.

(2) The terms and conditions of employment are to be determined by the Corporation.

(3) A person must not be employed by the Corporation on terms and conditions as to remuneration that:

- (a) in the case of a person employed 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
- (b) in the case of a person employed 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.

Consultants

88. (1) An R&D Corporation may engage persons having suitable qualifications and experience as consultants to the Corporation.

(2) The terms and conditions of engagement are to be determined by the Corporation.

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Division 11—Miscellaneous

Committees

89. (1) An R & D Corporation may establish committees to assist it in the performance of its functions and the exercise of its powers.

(2) The Corporation may fix the number of members of a committee required to constitute a quorum at a meeting of the committee.

(3) Section 54 applies in relation to a member of a committee established by the Corporation as if:

(a) a reference to a director of the Corporation were a reference to a member of the committee (whether or not the member of the committee is also a director); and

(b) a reference to the Corporation were a reference to the committee.

(4) A member of a committee established by the Corporation who is not a director is to be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Tribunal is in operation, is to be paid such remuneration as is prescribed.

(5) Such a member is to be paid such allowances as are prescribed.

(6) This section has effect subject to the *Remuneration Tribunal Act 1973*.

Delegation by R&D Corporation

90. (1) An R & D Corporation may, by writing under its common seal, delegate all or any of its powers under this Act to:

(a) a committee of the Corporation; or

(b) a director of the Corporation; or

(c) an employee of the Corporation.

(2) In the exercise of a power delegated by the Corporation, the delegate is subject to the directions of the Corporation.

Delegation by Executive Director

91. (1) The Executive Director of an R & D Corporation may, by writing, delegate to an employee of the Corporation all or any of his or her powers under this Act.

(2) In the exercise of a power delegated by the Executive Director, the delegate is subject to the directions of the Executive Director.

**PART 3—RESEARCH AND DEVELOPMENT COUNCILS AND
RESEARCH AND DEVELOPMENT FUNDS**

***Division 1—Establishment, functions and powers of Research and
Development Councils***

Establishment

92. Where the regulations declare the establishment of a Research and Development Council in respect of a primary industry or class of primary industries and specify a name for the Council:

- (a) a Research and Development Council is established in respect of that primary industry or class of primary industries; and
- (b) the Council is to be known by the name specified in the regulations.

Functions

93. The functions of an R&D Council are:

- (a) to investigate and evaluate the requirements for research and development in relation to the primary industry or class of primary industries in respect of which it was established and, on the basis of such investigation and evaluation:
 - (i) to prepare an R&D plan under section 101; and
 - (ii) to review and revise the plan; and
- (b) to prepare an annual operational plan under section 102 for each financial year; and
- (c) to approve, under section 112, the payment of money from the Council's R&D Fund; and
- (d) to:
 - (i) monitor; and
 - (ii) evaluate; and
 - (iii) report to the Parliament, the Minister and its representative organisations on;
R&D activities that are funded, wholly or partly, by money from the Council's R&D Fund; and
- (e) to facilitate the dissemination, adoption and commercialisation of the results of research and development in relation to the primary industry or class of primary industries in respect of which the Council was established; and
- (f) such other functions as are conferred on the Council by this Act or any other Act.

Powers

94. An R&D Council has power to do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions.

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Consultations with persons and organisations

95. (1) Without limiting the generality of section 94, an R&D Council may make arrangements for consulting:

- (a) persons and bodies representative of the primary industry or class of primary industries in respect of which the Council was established (including any of the Council's representative organisations); and
- (b) Commonwealth, State and Territory authorities concerned with that primary industry or class of primary industries.

(2) Arrangements made by an R&D Council under subsection (1) may provide for:

- (a) the RIR&D Corporation agreeing to meet travel expenses reasonably incurred by a person in connection with consultations with the Council; and
- (b) subject to written guidelines given to the Council by the Minister, the RIR&D Corporation agreeing to meet expenses (other than travel expenses) reasonably incurred by a representative organisation of the Council, or a member of it, in connection with consultations with the Council.

Additional functions of the RIR&D Corporation

96. The RIR&D Corporation has the following additional functions:

- (a) to administer each R&D Fund;
- (b) where the Chairperson of an R&D Council has entered into an agreement with the Corporation under section 121—to perform administrative and clerical services for the Council in accordance with the agreement;
- (c) where it considers it appropriate to do so—to enter into agreements, under sections 13 and 14, on behalf of R&D Councils.

Division 2—Constitution and meetings of R&D Councils

Constitution of R&D Councils

97. (1) An R&D Council consists of:

- (a) a Chairperson; and
- (b) a government member; and
- (c) such number of other members, not fewer than 3 nor more than 7, as the Minister determines, in writing, to be appropriate for that Council.

(2) The performance of the functions and the exercise of the powers of an R&D Council are not affected merely because of vacancies in the Council's membership.

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Appointment of members

98. (1) The members of an R&D Council are to be appointed by the Minister.

(2) The Minister must not appoint a person as the government member of an R&D Council unless the Minister is satisfied that the person has experience in, and knowledge of, government policy processes and public administration.

(3) The nominated members of an R&D Council are to be appointed from persons nominated by a Selection Committee under Part 4.

(4) The Minister must not appoint a person aged 65 or over as a member of an R&D Council.

(5) The appointment of a person as a member of an R&D Council is not invalid because of a defect or irregularity in connection with the person's nomination or appointment.

Members of executive of representative organisation not eligible for appointment etc.

99. (1) A person who is a member of the executive of a representative organisation of an R&D Council must not be appointed as a member of the Council.

(2) A member of an R&D Council who becomes a member of the executive of a representative organisation of the Council ceases to hold office as a member of the Council.

Applied provisions

100. Divisions 6 and 8 of Part 2 (other than section 65) apply in relation to an R&D Council, the Chairperson of the R&D Council and the members of the R&D Council as if:

- (a)** references in those Divisions to an R&D Corporation were references to the R&D Council; and
- (b)** references in those Divisions to the Chairperson of an R&D Corporation were references to the Chairperson of the R&D Council; and
- (c)** references in those Divisions to a director of an R&D Corporation were references to a member of the R&D Council; and
- (d)** references in those Divisions to the Deputy Chairperson of an R&D Corporation were references to the Deputy Chairperson of the R&D Council; and
- (e)** references in Division 8 to the government director of an R&D Corporation were references to the government member of the R&D Council; and
- (f)** references in Division 8 to a nominated member of an R&D

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Corporation were references to a nominated member of the R&D Council.

Division 3—R&D plans and annual operational plans

R&D plans

101. (1) An R&D Council must prepare R&D plans.

(2) Subject to subsection (3), sections 19 to 24 (inclusive) apply in relation to an R&D plan prepared by an R&D Council as if references in those sections to an R&D Corporation were references to the R&D Council.

(3) An R&D Council must not:

- (a)** submit an R&D plan to the Minister for his or her approval; or
- (b)** request the Minister's approval to the variation of an R&D plan; or
- (c)** make a request to the Minister under subsection 22 (1) (as applied by this section);

unless:

- (d)** the Council has, at least one month beforehand, given a copy of the plan, variation or request to the RIR&D Corporation; and
- (e)** if the RIR&D Corporation has indicated to the Council that it wishes to have its comments accompany the plan, variation or request—the plan, variation or request is accompanied by the written comments that the RIR&D Corporation has provided to the Council for the purpose.

Annual operational plans

102. (1) An R&D Council must, for each financial year during which an R&D plan is in force, prepare, in written form, an annual operational plan that is expressed to relate to that financial year.

(2) The annual operational plan is to:

- (a)** specify the broad groupings of R&D activities that the R&D Council proposes to be funded, wholly or partly, from the Council's R&D Fund during the financial year; and
- (b)** describe how and to what extent funding those activities will:
 - (i)** give effect to the R&D plan in force during that financial year; and
 - (ii)** in particular, pursue the strategies outlined in the R&D plan and help to achieve the objectives described in the R&D plan; and
- (c)** provide an estimate of:
 - (i)** the total amounts likely to be spent from the Council's R&D Fund in respect of each broad grouping of R&D activities

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the Council proposes to be funded during the financial year;
and

- (ii) the total of the amounts likely to be spent from the Council's R&D Fund under section 112 (other than paragraph 112 (1) (a)), during the financial year; and
- (iii) the total of the amounts referred to in subparagraphs (i) and (ii); and
- (iv) the total of the amounts that are likely to be paid into the Council's R&D Fund during the financial year (other than amounts paid under section 108).

(3) A reference in this section to R&D activities that an R&D Council proposes to be funded from its R&D Fund includes a reference to R&D activities that the Council is prepared, subject to its examination of specific proposals, to have funded from its R&D Fund.

Approval etc. of annual operational plans

103. (1) Subject to subsection (2), section 26 (other than subsection 26 (2)) applies in relation to an annual operational plan prepared by an R&D Council as if references in those sections to an R&D Corporation were references to an R&D Council.

(2) An R&D Council must not submit an annual operational plan, or a variation of an annual operational plan, to the Minister for his or her approval unless:

- (a) the Council has, at least one month beforehand, given a copy of the plan or variation to the RIR&D Corporation; and
- (b) if the RIR&D Corporation has indicated to the Council that it wishes to have its comments accompany the plan or variation—the plan or variation is accompanied by the written comments that the Corporation has provided to the Council for the purpose.

Compliance with R&D plans and annual operational plans

104. To the extent that it is practicable to do so, an R&D Council must ensure that, at any time:

- (a) the performance of its functions; and
- (b) the exercise of its powers;

are consistent with, and designed to give effect to, any R&D plan, and any annual operational plan, prepared by it and in force at the time.

Division 4—Accountability

Annual report

105. (1) An R&D Council must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report of its operations during the financial year that ended on that day.

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(2) Without limiting the matters that an R&D Council may include in its annual report for a period, it must include in the report:

(a) particulars of:

- (i) the R&D activities that it proposed should be funded, wholly or partly, from its R&D Fund, during the period; and
- (ii) the amount that was spent from the Fund during the period in relation to each of those activities; and
- (iii) revisions of its R&D plan or annual operational plan approved by the Minister during the period; and
- (iv) agreements that the RIR&D Corporation entered into under section 14 on the Council's behalf during the period and the RIR&D Corporation's activities during the period in relation to agreements entered into under that section by the RIR&D Corporation during or prior to the period; and
- (v) the RIR&D Corporation's activities on the Council's behalf during the period in relation to applying for patents for inventions, commercially exploiting patented inventions and granting licences under patented inventions; and
- (vi) significant acquisitions and dispositions of real property by the RIR&D Corporation on the Council's behalf during the period; and

(b) an assessment of the extent to which its operations during the period have:

- (i) achieved its objectives as stated in its R&D plan; and
- (ii) implemented the annual operational plan applicable to the period; and

(c) an assessment of the extent to which the Council has, during the period, contributed to the attainment of the objects of the Act as set out in section 3.

(3) An R&D Council must not give its annual report to the Minister unless:

- (a) the Council has, at least one month beforehand, given a copy of the report to the RIR&D Corporation; and
- (b) if the RIR&D Corporation has indicated to the Council that it wishes to have its comments accompany the report—the report is accompanied by the written comments that the Corporation has provided to the Council for the purpose.

(4) If an R&D Council is not established at the beginning of a financial year, this section has effect in relation to the period commencing on the day the Council is established and ending on the next 30 June as if:

- (a) where the period is less than 3 months—the period were included in the next financial year; or
- (b) in any other case—the period were a financial year.

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(5) The Minister must cause a copy of an R&D Council's annual report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the annual report.

Accountability to representative organisations

106. The Chairperson of an R&D Council must, as soon as practicable after the Council's annual report has been submitted to the Minister, provide copies of the report to each of the Council's representative organisations, and make arrangements with each of those organisations to attend the organisation's annual conference, or a meeting of the organisation's executive, for the purpose of enabling:

- (a) the annual report to be considered; and
- (b) the Chairperson to deliver an address in relation to:
 - (i) the Council's activities in the period to which the report relates; and
 - (ii) the Council's intended activities in the financial year following the end of the period; and
- (c) the Chairperson to be questioned in relation to those activities.

Division 5—Research and Development Funds

Establishment of Research and Development Funds

107. (1) Where, as a result of the making of regulations, an R&D Council is established under section 92 on a particular day:

- (a) a Research and Development Fund is established in respect of the Council on that day; and
- (b) the Fund is to be known by the name specified in the regulations.

(2) An R&D Fund vests in, and is to be administered by, the RIR&D Corporation.

Money to be paid into R&D Funds

108. (1) There are to be paid into an R&D Fund (other than an R&D Fund to which no levy is attached) amounts equal to:

- (a) where a levy is attached to the Fund—the amounts from time to time received by the Commonwealth, under the Collection Act for each levy attached to the Fund, as:
 - (i) the research component of that levy; and
 - (ii) amounts (if any) paid on behalf of a person liable to pay that levy, by another person, in respect of the research component of that levy; and
 - (iii) amounts of penalty for non-payment of that levy, to the extent that the penalty is attributable to the non-payment of the research component of that levy; and

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(b) subject to sections 109 and 110, amounts equal to one-half of the amounts required to be paid out of the fund under section 112 (other than paragraph 112 (1)(d)).

(2) Amounts paid into an R&D Fund under subsection (1), or under section 116 or 117, are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

(3) There are to be paid into an R&D Fund to which no levy is attached the amounts from time to time appropriated for the purpose by the Parliament.

Government matching payments not to exceed levy payments

109. Where:

- (a) a levy is attached to an R&D Fund; and
- (b) the Fund is not a Fund declared by the regulations to be an R&D Fund to which this section does not apply;

the sum of the amounts paid into the Fund under paragraph 108 (1) (b) is not to exceed the sum of the amounts paid into the Fund under subparagraphs 108 (1) (a) (i) and (ii) (less the sum of any refunds in relation to levies attached to the Fund).

Commonwealth's matching payments not to exceed certain proportion of production

110. (1) Subject to subsection (3), where a levy is attached to an R&D Council, the sum of the amounts that, during a particular financial year, are paid into the Fund under paragraph 108 (1) (b), in respect of payments out of the Fund under section 112 for R&D activities in respect of the goods that are the produce of the primary industry or class of primary industries to which the levy relates, is not to exceed an amount equal to 0.5% of the amount that the Minister determines to be the gross value of production, for that financial year, of those goods.

(2) The regulations may provide for the manner in which the Minister is to determine the amount of the gross value of production of goods for a financial year.

(3) Where tobacco levies are attached to an R&D Fund, the sum of the amounts that, during a particular financial year (beginning at any time before 1 July 1991), are paid into the Fund under paragraph 108 (1) (b), in respect of payments out of the Fund under section 112 for R&D activities in respect of tobacco leaf to which the levies relate, is not to exceed an amount equal to 3.5 cents per kilogram for the tobacco leaf in respect of which those levies are imposed in that financial year.

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Additional money payable into R&D Funds

111. (1) In addition to money paid into an R&D Fund under section 108 and subsection (2) of this section, the RIR&D Corporation must pay into the Fund:

- (a) money paid to the Corporation for the purposes of the Fund; and
- (b) amounts received by the Corporation:
 - (i) from the sale of any property paid for with money from the Fund; or
 - (ii) from the sale of any property purchased, or from dealing with patents in respect of inventions made, in the course of carrying out an R&D activity paid for with money from the Fund; or
 - (iii) in respect of any work paid for with money from the Fund; and
- (c) amounts received by the Corporation as interest from the investment of money standing to the credit of the Fund.

(2) In addition to money paid into an R&D Fund under section 108 and subsection (1) of this section, the Commonwealth must pay into the Fund amounts paid to the Commonwealth for the purposes of the Fund.

Expenditure of money in R&D Funds

112. (1) Except as provided otherwise by this Act, money that is in an R&D Fund may, with the approval of the R&D Council in respect of which the Fund was established, be spent only:

- (a) for the purpose of funding R&D activities included in the broad groupings of R&D activities specified in an annual operational plan prepared by the Council and in force when payments are made; and
- (b) in payment or discharge of the expenses and liabilities incurred by the RIR&D Corporation in the administration of the Fund; and
- (c) in payment of remuneration and allowances payable under this Act to the members of the Council; and
- (d) in payment to the Commonwealth of amounts payable under section 113 or 114; and
- (e) in payment or discharge of liabilities incurred by the RIR&D Corporation as a result of entering into agreements on the Council's behalf; and
- (f) in making payments, in accordance with arrangements made between the Council and the RIR&D Corporation, for services provided by the RIR&D Corporation for the Council at the Council's request.

(2) The RIR&D Corporation must pay out of an R&D Fund amounts (if any) that the Corporation is obliged to pay to an R&D Corporation under subsection 36 (2) or to pay into another R&D Fund under section

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115 in relation to a levy that, having previously been attached to the first-mentioned Fund, has now become attached to the R&D Corporation or the other R&D Fund.

(3) The RIR&D Corporation is liable to pay, from an R&D Fund, amounts necessary to meet the expenses, and discharge the liabilities, incurred by a Selection Committee in connection with the performance of its function, and the exercise of its powers, in relation to the selection of members for appointment to the R&D Council in respect of which the Fund was established.

(4) The RIR&D Corporation is liable to pay, from an R&D Fund, amounts necessary to meet the expenses, and discharge the liabilities, incurred by the R&D Council in respect of which the Fund was established:

- (a) in employing persons under section 119; or
- (b) in engaging persons as consultants under section 120; or
- (c) under an agreement made under section 121.

(5) The reference in paragraph (1) (a) to an annual operational plan prepared by an R&D Council and in force when payments are made with the Council's approval includes a reference to such a plan, prepared by the Council and in force at that time, that had not yet been prepared, or was not yet in force, when the approval was given.

Commonwealth to be paid levy expenses from R&D Funds

113. Where a levy is attached to an R&D Fund, the RIR&D Corporation must pay to the Commonwealth, from the Fund, amounts equal to the expenses incurred by the Commonwealth in relation to:

- (a) the collection or recovery of amounts of the kind referred to in paragraph 108 (1) (a) that are receivable by the Commonwealth under the Collection Act for that levy; and
- (b) the administration of paragraph 108 (1) (a) in respect of that levy.

Commonwealth to be reimbursed for refunds of levy

114. Where a levy is attached to an R&D Fund, the RIR&D Corporation must pay to the Commonwealth, from the Fund, amounts equal to the amounts of any refunds paid by the Commonwealth in respect of amounts of levy of the kind referred to in paragraph 108 (1) (a).

Transfers of money where levies redirected

115. (1) Where:

- (a) a levy becomes attached to an R&D Fund; and
- (b) immediately before becoming so attached, the levy was attached to another R&D Fund (in this subsection called the "other Fund");

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the RIR&D Corporation must pay into the first-mentioned Fund an amount equal to so much of the money standing to the credit of the other Fund as is attributable to money paid into the other Fund:

- (c) as a result of the levy being attached to the other Fund; or
- (d) as a result of the R&D Council, in respect of which the Fund is established, being established in respect of the primary industry or class of primary industries to which the levy relates.

(2) Where:

- (a) a levy becomes attached to an R&D Fund; and
- (b) immediately before becoming so attached, the levy was attached to an R&D Corporation;

the R&D Corporation must pay to the RIR&D Corporation, for the purposes of the Fund, an amount equal to so much of the first-mentioned Corporation's money as is attributable to money paid to the first-mentioned Corporation:

- (c) as a result of the levy being attached to the first-mentioned Corporation; or
- (d) as a result of the first-mentioned Corporation being established in respect of the primary industry or class of primary industries to which the levy relates.

(3) Where the RIR&D Corporation and another R&D Corporation are unable to agree on:

- (a) whether the other Corporation is required to pay money to the RIR&D Corporation under subsection (2); or
- (b) the amount of money that the other Corporation is required to pay to the RIR&D Corporation under subsection (2);

the amount (if any) that is required to be paid is an amount determined by the Minister.

Payment of amounts of levy where levies redirected

116. Where:

- (a) a levy becomes attached to an R&D Fund; and
- (b) immediately before becoming so attached, the levy was attached to an R&D Corporation or to another R&D Fund (in this subsection called the "other Fund"); and
- (c) while the levy was attached to the R&D Corporation, or to the other Fund, the Commonwealth was obliged to pay money to the Corporation under paragraph 30 (1) (a) or into the other Fund under paragraph 108 (1) (a); and
- (d) the Commonwealth had not so paid the money before the levy became attached to the first-mentioned Fund;

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then:

- (e) the Commonwealth must pay the money to the first-mentioned Fund; and
- (f) notwithstanding paragraph 30 (1) (a) or 108 (1) (a), as the case may be, the Commonwealth ceases, from the time the levy becomes so attached, to be obliged to pay the money to the R&D Corporation, or into the other Fund, as the case may be.

Payment of matching contributions where levies redirected

117. Where:

- (a) a levy becomes attached to an R&D Fund; and
- (b) immediately before becoming so attached, the levy was attached to an R&D Corporation or to another R&D Fund (in this subsection called the “other Fund”); and
- (c) while the levy was attached to the R&D Corporation, or to the other Fund, the Corporation spent money under section 33, or money in the other Fund was spent under section 112, in connection with:
 - (i) research and development relating to the primary industry or class of primary industries to which the levy relates; or
 - (ii) administering the funding of such research and development; and
- (d) as a result of the expenditure, the Commonwealth was obliged to pay money to the Corporation under paragraph 30 (1) (b) or into the other Fund under paragraph 108 (1) (b); and
- (e) the Commonwealth had not so paid the money before the levy became attached to the first-mentioned Fund;

then:

- (f) the Commonwealth must pay the money into the first-mentioned Fund; and
- (g) notwithstanding paragraph 30 (1) (b) or paragraph 108 (1) (b), as the case may be, the Commonwealth ceases, from the time the levy becomes so attached, to be obliged to pay the money to the R&D Corporation, or into the other Fund, as the case may be.

Treatment of amounts received, after levies redirected, as a result of earlier expenditure

118. (1) Where:

- (a) a levy becomes attached to an R&D Fund; and
- (b) immediately before becoming so attached, the levy was attached to another R&D Fund; and
- (c) after the levy becomes so attached, the RIR&D Corporation receives an amount:
 - (i) from the sale of property paid for; or

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(ii) from the sale of property produced, or from dealing with patents in respect of inventions made, in the course of carrying out an R&D activity; or

(iii) in respect of work paid for;

by the spending of money under section 112 in connection with research and development relating to the primary industry or class of primary industries to which the levy relates;

the RIR&D Corporation must pay the amount into the first-mentioned R&D Fund.

(2) Where:

(a) a levy becomes attached to an R&D Fund; and

(b) immediately before becoming so attached, the levy or class was attached to an R&D Corporation; and

(c) after the levy becomes so attached, the Corporation receives an amount:

(i) from the sale of property paid for; or

(ii) from the sale of property produced, or from dealing with patents in respect of inventions made, in the course of carrying out a research and development activity; or

(iii) in respect of work paid for;

by the spending of money under section 33 in connection with research and development relating to the primary industry to which the levy relates;

then:

(d) the Corporation must pay the amount to the RIR&D Corporation; and

(e) the RIR&D Corporation must pay the amount into the R&D Fund.

(3) Where the RIR&D Corporation and another R&D Corporation are unable to agree on:

(a) whether the other Corporation is required to pay money to the RIR&D Corporation under this subsection (2); or

(b) the amount of money that the other Corporation is required to pay to the RIR&D Corporation under subsection (2);

the amount (if any) that is required to be paid is an amount determined by the Minister.

Division 6—Employees, consultants and administrative agreements

Employees

119. (1) The Chairperson of an R&D Council may, on behalf of the Council, employ persons to perform administrative and clerical services in connection with the performance of its functions and the exercise of its powers.

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(2) The terms and conditions of employment are to be determined by the Council.

Consultants

120. (1) The Chairperson of an R&D Council may, on behalf of the Council, engage persons having suitable qualifications and experience as consultants to the Council.

(2) The terms and conditions of engagement are to be determined by the Council.

Administrative agreements

121. The Chairperson of an R&D Council may, on behalf of the Council, enter into an agreement with another body under which the other body is to perform the administrative and clerical services necessary for the Council to perform its functions and exercise its powers.

PART 4—SELECTION COMMITTEES

Division 1—Establishment etc. of Selection Committees

Presiding Members of Selection Committees

122. (1) The Minister must appoint a person as the Presiding Member of Selection Committees for each R&D Corporation.

(2) A Presiding Member is to be appointed on a part-time basis.

(3) A Presiding Member holds office for the period, not exceeding 3 years, specified in the instrument of appointment but is eligible for re-appointment.

Minister may request the establishment of a Selection Committee

123. (1) The Minister must, for the purposes of:

- (a) appointing the nominated directors of an R&D Corporation; or
- (b) filling a vacancy caused by the resignation of, or the termination of the appointment of, any such director;

give a written notice to the Presiding Member of Selection Committees for that R&D Corporation:

- (c) requesting the Presiding Member to establish a Selection Committee; and
- (d) specifying the period within which the Selection Committee must nominate persons, or a person, for appointment.

(2) The Minister must, for the purpose of:

- (a) appointing the nominated members of an R&D Council; or
- (b) filling a vacancy caused by the resignation of, or the termination of the appointment of, any such member;

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give a written notice to the Presiding Member of the Selection Committee for the RIR & D Corporation:

- (c) requesting the Presiding Member to establish a Selection Committee; and
- (d) specifying the R&D Council in respect of which the Selection Committee is to be established; and
- (e) specifying the period within which the Selection Committee must nominate persons, or a person, for appointment.

(3) If the Minister believes on reasonable grounds that a vacancy of a kind referred to in subsection (1) or (2) is about to arise, the Minister may give a notice under subsection (1) or (2), as the case may be, before the vacancy arises.

Establishment of Selection Committees—R&D Corporations

124. (1) Where the Presiding Member of Selection Committees for an R&D Corporation (other than an R&D Corporation to which section 125 applies) receives a request under subsection 123 (1), the Presiding Member must:

- (a) establish a Selection Committee for the Corporation for the purpose of nominating a person or persons for appointment to the Corporation; and
- (b) give to each of the Corporation's representative organisations written notice requesting the organisation:
 - (i) where there is only one such organisation—to nominate to the Minister persons for appointment to the Selection Committee; or
 - (ii) where there is more than one such organisation—acting jointly with all the other representative organisations of the Corporation, to nominate to the Minister persons for appointment to the Selection Committee.

(2) The Selection Committee so established consists of the following members:

- (a) the Presiding Member;
- (b) 3, 4, 5 or 6 other members appointed by the Minister on the nomination of:
 - (i) where the Corporation has only one representative organisation—that organisation; or
 - (ii) where the Corporation has more than one representative organisation—all of those organisations acting jointly.

(3) Subject to subsections (4) and (5), the Minister must appoint the persons nominated by the representative organisation or representative organisations.

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(4) Where the Minister is not satisfied that a person nominated for appointment should be appointed, the Minister may reject the nomination and request another nomination.

(5) Where the Minister is satisfied that nominations for membership of a Selection Committee, as provided for under paragraph (2)(b) or subsection (4), will not be made within a reasonable time, the Minister may appoint persons to be members of the Selection Committee as if they had been so nominated.

(6) The performance of the function, and the exercise of the powers, of a Selection Committee for an R&D Corporation are not affected merely because of vacancies in the Selection Committee's membership.

Establishment of Selection Committees—predominantly Commonwealth funded R&D Corporations

125. (1) This section applies to an R&D Corporation if the regulations declare the Corporation to be a predominantly Commonwealth funded R&D Corporation.

(2) Where a request is made under subsection 123 (1) to the Presiding Member of Selection Committees for an R&D Corporation to which this section applies:

- (a) the Presiding Member must establish a Selection Committee for the Corporation for the purpose of nominating a person or persons for appointment to the Corporation; and
- (b) the Minister may appoint up to 6 persons as members of that Committee for the purposes of this paragraph; and
- (c) the Minister must inform the Presiding Member of any such appointment.

(3) Where the Minister has not appointed 6 persons under paragraph (2) (b), the Presiding Member must give to each of the Corporation's representative organisations written notice:

- (a) informing the organisation of any appointments made under paragraph (2) (b); and
- (b) requesting the organisation:
 - (i) where there is only one such organisation—to nominate to the Minister persons for appointment to the Selection Committee; or
 - (ii) where there is more than one such organisation—acting jointly with all the other representative organisations of the Corporation, to nominate to the Minister persons for appointment to the Selection Committee.

(4) The Selection Committee so established consists of the following members:

- (a) the Presiding Member;

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- (b) up to 6 other members, being:
 - (i) the members (if any) appointed by the Minister under paragraph (2) (b); and
 - (ii) unless the Minister has appointed 6 members under paragraph (2) (b)—such other members appointed by the Minister on the nomination of:
 - (A) where the Corporation has only one representative organisation—that organisation; or
 - (B) where the Corporation has more than one representative organisation—all of those organisations acting jointly.

(5) Subject to subsections (6) and (7), the Minister must appoint the persons nominated by the representative organisation or representative organisations.

(6) Where the Minister is not satisfied that a person nominated for appointment should be appointed, the Minister may reject the nomination and request another nomination.

(7) Where the Minister is satisfied that nominations for membership of a Selection Committee, as provided for under subparagraph (4) (b) (ii) or subsection (6), will not be made within a reasonable time, the Minister may appoint persons to be members of the Selection Committee as if they had been so nominated.

(8) The performance of the function, and the exercise of the powers, of a Selection Committee for an R&D Corporation to which this section applies are not affected merely because of vacancies in the Selection Committee's membership.

Establishment of Selection Committees—R&D Councils

126. (1) Where the Presiding Member of Selection Committees for the RIR&D Corporation receives a request under subsection 123 (2), the Presiding Member must:

- (a) establish a Selection Committee for the R&D Council specified in the request for the purpose of nominating a person or persons for appointment to the Council; and
- (b) give to each of the Council's representative organisations written notice requesting the organisation:
 - (i) where there is only one such organisation—to nominate to the Minister persons for appointment to the Selection Committee; or
 - (ii) where there is more than one such organisation—acting jointly with all the other representative organisations of the Council, to nominate to the Minister persons for appointment to the Selection Committee.

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(2) The Selection Committee so established consists of the following members:

- (a) the Presiding Member;
- (b) a member, appointed by the Minister for the purpose of this paragraph, to all Selection Committees for R & D Councils;
- (c) 1, 2 or 3 members appointed by the Minister on the nomination of:
 - (i) where the Council has only one representative organisation—that organisation; or
 - (ii) where the Council has more than one representative organisation—all of those organisations acting jointly.

(3) The Minister must not appoint a person for the purpose of paragraph (2) (b) unless the Minister is satisfied that the person has a knowledge of, and experience in, research and development, scientific matters or marketing.

(4) A person appointed for the purpose of paragraph (2)(b):

- (a) is to be appointed on a part-time basis; and
- (b) holds office for the period, not exceeding 3 years, specified in the instrument of appointment, but is eligible for re-appointment.

(5) Subject to subsections (6) and (7), the Minister must appoint the person or persons nominated by the representative organisation or representative organisations.

(6) Where the Minister is not satisfied that a person nominated for appointment should be appointed, the Minister may reject the nomination and request another nomination.

(7) Where the Minister is satisfied that nominations for membership of a Selection Committee, as provided for under paragraph (2)(c) or subsection (6), will not be made within a reasonable time, the Minister may appoint persons to be members of the Selection Committee as if they had been so nominated.

(8) The performance of the function, and the exercise of the powers, of a Selection Committee for an R & D Council are not affected merely because of vacancies in the Selection Committee's membership.

Function of Selection Committees

127. The function of a Selection Committee for an R & D Corporation or an R & D Council is to nominate, at the request of the Minister, persons to the Minister for appointment as nominated directors of the R & D Corporation or nominated members of the R & D Council, as the case may be.

Powers of Selection Committees

128. A Selection Committee has power to do all things that are necessary or convenient to be done in connection with the performance of its function.

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Presiding Member to abolish Selection Committee

129. Where:

- (a) the Minister has appointed to an R&D Corporation or an R&D Council a person nominated by a Selection Committee; and
- (b) the Selection 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 123 or 134 that are still to be dealt with by the Selection Committee;

the Presiding Member of the Selection Committee must abolish the Selection Committee.

Division 2—The selection process

Nominations to be made by Selection Committees

130. (1) A Selection Committee for an R&D Corporation or an R&D Council must, within the period specified by the Minister in a request under section 123, give to the Minister a written notice nominating the person or persons it considers suitable for appointment to the R&D Corporation or R&D Council.

(2) For the purpose of enabling it to make a nomination, the Selection Committee:

- (a) must invite nomination of persons for appointment by advertisements placed in a newspaper that circulates throughout Australia; and
- (b) must invite nomination of persons for appointment from the representative organisation or representative organisations of the R&D Corporation or R&D Council; and
- (c) may invite nomination of persons for appointment in any other way it considers appropriate.

(3) A notice under subsection (1) is to include a statement:

- (a) containing, in respect of each nominee:
 - (i) details of the nominee's qualifications and experience; and
 - (ii) any other information, relating to the nominee, that the Selection Committee considers will assist the Minister in deciding whether or not to appoint the nominee; and
- (b) specifying how, in the Selection Committee's opinion, the nomination or nominations will best ensure that the directors of the R&D Corporation concerned, or the members of the R&D Council concerned, collectively possess an appropriate balance of expertise in accordance with subsection 131 (2).

Selecting persons for nomination

131. (1) A Selection Committee must not nominate a person for appointment to an R & D Corporation or an R & D Council unless the person appears to the Selection Committee to be suitably qualified for appointment because of expertise in one or more of the following fields:

- (a) commodity production;
- (b) commodity processing;
- (c) commodity marketing;
- (d) conservation of natural resources;
- (e) management of natural resources;
- (f) science;
- (g) technology and technology transfer;
- (h) environmental and ecological matters;
- (j) economics;
- (k) administration of research and development;
- (m) finance;
- (n) business management.

(2) In making a nomination, the Selection Committee must choose from the available candidates the person who will best ensure that the directors of the R & D Corporation concerned, or the members of the R & D Council concerned, collectively possess an appropriate balance of expertise in as many as possible of the fields referred to in subsection (1), having regard to the particular primary industry or class of primary industries in respect of which the R & D Corporation or R & D Council is established.

(3) A person may be nominated by a Selection Committee even if, on one or more previous occasions:

- (a) a proposal for a nomination for the person's appointment to an R & D Corporation or R & D Council has been rejected at a meeting of a Selection Committee; or
- (b) the Minister has rejected such a nomination.

Selection Committee to make only one nomination

132. Subject to section 134, the Selection Committee is to nominate only one person in respect of each appointment to be made by the Minister.

Minister may request further information

133. Where the Minister considers the statement provided by a Selection Committee in a notice under subsection 130 (3) to be inadequate, the Minister may give to the Presiding Member of the Selection Committee a written notice requesting the Selection Committee to provide the Minister with further specified information within the period specified in the notice.

Minister may reject nomination

134. (1) Where the Minister is not satisfied that a nominee is suitable for appointment to an R&D Corporation or R&D Council (as the case may be), the Minister may give to the Presiding Member of the Selection Committee a written notice:

- (a) rejecting the nomination; and
- (b) requesting another nomination within a specified period.

(2) For the purposes of this Part (other than sections 124, 125 and 126):

- (a) such a notice is to be taken to be a notice under section 123; and
- (b) the period specified in the notice is to be taken to be the period specified in a notice under section 123.

Division 3—Preliminary selection arrangements

Selection arrangements for proposed R&D Corporations

135. (1) Where:

- (a) regulations declaring the establishment of an R&D Corporation (in this section called the “**proposed Corporation**”) under section 8 have been made but are not yet in force; and
- (b) the Minister has declared under section 7 one or more specified organisations to be representative organisations in relation to the proposed Corporation;

then:

- (c) the Minister may appoint a person under section 122 to be the Presiding Member of Selection Committees for the proposed Corporation; and
- (d) the Minister may appoint persons to be directors of the proposed Corporation, but such appointments are only to take effect when the regulations declaring the establishment of the proposed Corporation come into force; and
- (e) this Part applies in relation to appointments of nominated directors of the proposed Corporation as if the proposed Corporation were an R&D Corporation.

(2) The Commonwealth is liable to pay the expenses, and discharge the liabilities, incurred by a Selection Committee in connection with the performance of its function, and the exercise of its powers, in relation to the selection of directors for appointment to the proposed Corporation before the regulations declaring the establishment of the proposed Corporation as an R&D Corporation come into force.

(3) When the regulations come into force:

- (a) the R&D Corporation thus established is liable to reimburse the

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Commonwealth for any amounts the Commonwealth has paid as a result of a liability arising under subsection (2); and

- (b) any liability arising under subsection (2) in respect of which the Commonwealth has yet to make payments is to be taken to be transferred to the R&D Corporation and to be a liability incurred by the Corporation in the performance of its functions.

Selection arrangements for the RIR&D Corporation before its establishment

136. (1) Where the Minister has, before the commencement of section 9, declared under section 7 one or more specified organisations to be representative organisations in relation to the RIR&D Corporation:

- (a) the Minister may, before the commencement of section 9, appoint a person under section 122 to be the Presiding Member of Selection Committees for the RIR&D Corporation; and
- (b) the Minister may appoint persons to be directors of the RIR&D Corporation, but such appointments are only to take effect on the commencement of section 9; and
- (c) this Part applies, before the commencement of section 9, in relation to appointments of nominated directors of the RIR&D Corporation as if that section had commenced.

(2) The Commonwealth is liable to pay the expenses, and discharge the liabilities, incurred by a Selection Committee in connection with the performance of its function, and the exercise of its powers, in relation to the selection of directors for appointment to the RIR&D Corporation before the commencement of section 9.

(3) When section 9 commences:

- (a) the RIR&D Corporation is liable to reimburse the Commonwealth for any amounts the Commonwealth has paid as a result of a liability arising under subsection (2); and
- (b) any liability arising under subsection (2) in respect of which the Commonwealth has yet to make payments is to be taken to be transferred to the RIR&D Corporation and to be a liability incurred by the RIR&D Corporation in the performance of its functions.

(4) In this section:

“RIR&D Corporation” means:

- (a) if section 9 has not commenced—the Rural Industries Research and Development Corporation that will be established when that section commences; and
- (b) if section 9 has commenced—the Rural Industries Research and Development Corporation that is established under that section.

Selection arrangements for proposed R&D Councils

137. (1) Where:

- (a) regulations declaring the establishment of an R&D Council (in this section called the “**proposed Council**”) under section 92 have been made but are not yet in force; and
- (b) the Minister has declared under section 7 one or more specified organisations to be representative organisations in relation to the proposed Council; and
- (c) the Minister has appointed a person under section 122 to be the Presiding Member of Selection Committees for the RIR&D Corporation (whether or not section 9 has commenced);

then:

- (d) the Minister may appoint persons to be members of the proposed Council, but such appointments are only to take effect when the regulations declaring the establishment of the proposed Council come into force; and
- (e) this Part applies in relation to appointments of nominated members of the proposed Council as if the proposed Council were an R&D Council.

(2) Where section 9 has not commenced, the Commonwealth is liable to pay the expenses, and discharge the liabilities, incurred by a Selection Committee in connection with the performance of its function, and the exercise of its powers, in relation to the selection of members for appointment to the proposed Council before the regulations declaring the establishment of the proposed Council as an R&D Council come into force.

(3) When section 9 commences:

- (a) the RIR&D Corporation is liable to reimburse the Commonwealth for any amounts the Commonwealth has paid as a result of a liability arising under subsection (2); and
- (b) any liability arising under subsection (2) in respect of which the Commonwealth has yet to make payments is to be taken to be transferred to the RIR&D Corporation and to be a liability incurred by a Selection Committee for the R&D Council concerned in the performance of its function in relation to the selection of members for appointment to the Council.

(4) In this section:

“**RIR&D Corporation**” means:

- (a) if section 9 has not commenced—the Rural Industries Research and Development Corporation that will be established when that section commences; and
- (b) if section 9 has commenced—the Rural Industries Research and Development Corporation that is established under that section.

Division 4—Other provisions relating to Selection Committees

Applied provisions

138. Divisions 6 and 8 of Part 2 (other than subsection 48 (2) and sections 53, 65, 66 and 74) apply in relation to a Selection Committee, the Presiding Member of the Selection Committee and the members of the Selection Committee as if:

- (a) references in those Divisions to an R&D Corporation were references to the Selection Committee; and
- (b) references in those Divisions to the Chairperson of an R&D Corporation were references to the Presiding Member; and
- (c) references in those Divisions to a director of an R&D Corporation were references to a member of the Selection Committee; and
- (d) the reference in subsection 47 (1) to the functions of an R&D Corporation were a reference to the function of the Selection Committee; and
- (e) the reference in subsection 48 (3) to the Deputy Chairperson of an R&D Corporation were omitted; and
- (f) the references in section 73 to a nominated director of an R&D Corporation were references to a member of the Selection Committee.

Employees

139. (1) The Presiding Member of a Selection Committee may, on behalf of the Selection Committee, employ persons to perform administrative and clerical services in connection with the performance of its function and the exercise of its powers.

(2) The Presiding Member of a Selection Committee for an R&D Corporation must not employ a person who is an employee of the R&D Corporation.

(3) The Presiding Member of a Selection Committee for an R&D Council must not employ a person who, in the course of his or her employment with the RIR&D Corporation or any other body or authority, performs administrative or clerical services for the R&D Council.

(4) The terms and conditions of employment are to be determined by the Selection Committee.

Consultants

140. (1) The Presiding Member of a Selection Committee may, on behalf of the Selection Committee, engage persons having suitable qualifications and experience as consultants to the Selection Committee to assist it in identifying a suitable person or persons for nomination.

(2) The terms and conditions of engagement are to be determined by the Selection Committee.

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Annual reports of Selection Committees

141. (1) The Presiding Member of Selection Committees for an R&D Corporation must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report of the operations, during the immediately preceding financial year, of Selection Committees (if any) established by the Presiding Member or another person who was the Presiding Member of Selection Committees for the R&D Corporation.

(2) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister has received the report.

(3) Where the first appointment of a Presiding Member of Selection Committees for an R&D Corporation does not commence on 1 July, subsection (1) has effect in relation to the period commencing on the day the appointment commences and ending on the next 30 June as if:

- (a) where the period is less than 3 months—the period were included in the next financial year; or
- (b) in any other case—the period were a financial year.

(4) In this section:

“**R&D Corporation**” includes a proposed Corporation within the meaning of section 135.

PART 5—MISCELLANEOUS

Co-ordination meetings

142. (1) The Minister must, at least once in each financial year:

- (a) cause a co-ordination meeting to be held at the time and place determined by the Minister; and
- (b) nominate the Chairperson of an R&D Corporation to preside at the meeting.

(2) Co-ordination meetings are held for the purposes of considering, and, as far as practicable, co-ordinating, R&D activities pursued, or proposed to be pursued, by the R&D Corporations and R&D Councils.

(3) Each co-ordination meeting is to be attended by the Chairperson of each R&D Corporation.

(4) If a Chairperson of an R&D Corporation is unable to attend, a person who is nominated by that Corporation is to attend instead.

(5) As soon as practicable after the meeting has been called, the RIR&D Corporation must, for the purpose of enabling its Chairperson, or a person nominated under subsection (4), to represent each of the R&D Councils in a co-ordination meeting, give a written notice to each R&D Council requesting the Council to provide:

- (a) such information as the Corporation specifies; and

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(b) any other information the Council considers appropriate in relation to the meeting;
and specifying the period within which the information is to be provided.

(6) The Council must provide the information within the period specified in the request.

(7) Where the Chairperson nominated by the Minister to preside at a co-ordination meeting is unable to attend that meeting, the persons attending the meeting are to elect one of their number to preside.

(8) The person presiding at a co-ordination meeting may give directions regarding the procedure to be followed at or in connection with the meeting.

(9) At a co-ordination meeting:

(a) all questions are to be decided by a majority of votes of the persons present and voting; and

(b) the person presiding has a deliberative vote and, if necessary, also has a casting vote.

Minister may give directions

143. (1) The Minister may give to an R&D Corporation or an R&D Council written directions as to the performance of its functions and the exercise of its powers.

(2) Subject to subsection (3), particulars of any directions given in a financial year must be included in the annual report of the R&D Corporation or R&D Council concerned in that year.

(3) Subsection (2) does not apply if:

(a) the Minister, on the recommendation of the R&D Corporation or R&D Council concerned, determines, in writing, that compliance with the subsection would, or would be likely to, prejudice commercial activities carried on by or on behalf of the Corporation or Council; or

(b) the Minister determines, in writing, that compliance with the subsection would be contrary to the public interest.

Transfer of assets etc. on the establishment of an R&D Corporation or R&D Council

144. (1) Where an R&D Corporation is established, the Minister may cause to be transferred to the Corporation any assets held by the Commonwealth that the Minister considers appropriate to be transferred to the Corporation for the performance of its functions and the exercise of its powers.

(2) Where an R&D Council is established, the Minister may cause to be transferred to the R&D Corporation any assets held by the Commonwealth that the Minister considers appropriate to be transferred to

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the RIR&D Corporation for the performance of its additional functions under section 96, and the exercise of its powers in connection with those additional functions, for purposes connected with the R&D Council and its R&D Fund.

(3) Where an asset held by the Commonwealth is transferred to an R&D Corporation under this section, the Corporation becomes liable to pay and discharge all debts, liabilities and obligations of the Commonwealth (if any) that existed in respect of the asset immediately before the transfer.

Transfer of assets etc. on cessation of an R&D Corporation or R&D Council

145. (1) Where an R&D Corporation ceases to exist as a result of the repeal of regulations made under section 8 declaring the establishment of the Corporation, all the assets held by the Corporation immediately before the cessation are, on the cessation, to be taken to have been transferred to the Commonwealth.

(2) Before disposing of any of the assets so transferred, the Commonwealth must have regard to the views of each of the representative organisations concerning the disposal.

(3) Where an R&D Council ceases to exist as a result of the repeal of regulations made under section 92 declaring the establishment of the Council, the Minister may cause to be transferred to the Commonwealth any assets owned by the RIR&D Corporation immediately before the cessation, being assets that the Minister considers were held by the RIR&D Corporation in connection with the performance of its additional functions under section 96, and the exercise of its powers in connection with those additional functions, for purposes connected with the R&D Council and its R&D Fund.

(4) Where an asset held by an R&D Corporation is transferred to the Commonwealth under this section, the Commonwealth becomes liable to pay and discharge all debts, liabilities and obligations of the Corporation (if any) that existed in respect of the asset immediately before the transfer.

Alteration of agreements and instruments on establishment of an R&D Corporation or R&D Council

146. (1) Where an R&D Corporation is established, the Minister may, by writing signed by him or her, declare that specified agreements or specified instruments:

- (a) to which the Commonwealth or the Commonwealth Government is a party; and
- (b) that, immediately before the establishment of the Corporation, related to research and development in connection with the primary industry or class of primary industries in respect of which the Corporation is established;

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have effect, after the establishment of the Corporation, as if:

- (c) the Corporation were substituted for the Commonwealth or the Commonwealth Government, as the case may be, as a party to the agreements or instruments; and
- (d) any reference in the agreements or instruments to the Commonwealth were (except in relation to matters that occurred before the establishment of the Corporation) a reference to the Corporation;

and, where the Minister makes such a declaration, the agreements or instruments have effect accordingly.

(2) Where an R&D Council is established, the Minister may, by writing signed by him or her, declare that specified agreements or specified instruments:

- (a) to which the Commonwealth or the Commonwealth Government is a party; and
- (b) that, immediately before the establishment of the Council, related to research and development in connection with the primary industry or class of primary industries in respect of which the Council is established;

have effect, after the establishment of the Council, as if:

- (c) the RIR&D Corporation were substituted for the Commonwealth or the Commonwealth Government, as the case may be, as a party to the agreements or instruments; and
- (d) any reference in the agreements or instruments to the Commonwealth or the Commonwealth Government were (except in relation to matters that occurred before the establishment of the Council) a reference to the RIR&D Corporation;

and, where the Minister makes such a declaration, the agreements or instruments have effect accordingly.

Alteration of agreements and instruments on cessation of an R&D Corporation or R&D Council

147. (1) Where an R&D Corporation ceases to exist as a result of the repeal of regulations made under section 8 declaring the establishment of the Corporation, all the agreements and instruments to which the Corporation was a party immediately before the cessation have effect, after the cessation, as if:

- (a) the Commonwealth were substituted for the Corporation as a party to the agreement or instrument; and
- (b) any reference in the agreement or instrument to the Corporation were (except in relation to matters that occurred before the cessation) a reference to the Commonwealth.

(2) Where an R&D Council ceases to exist as a result of the repeal of regulations made under section 92 declaring the establishment of the Council,

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the Minister may, by writing signed by him or her, declare that specified agreements or specified instruments:

- (a) to which the RIR & D Corporation is a party; and
- (b) that, immediately before the cessation, related to research and development in connection with the primary industry or class of primary industries in respect of which the Council was established; have effect, after the cessation, as if:
 - (c) the Commonwealth were substituted for the RIR & D Corporation as a party to the agreements or instruments; and
 - (d) any reference in the agreements or instruments to the RIR & D Corporation were (except in relation to matters that occurred before the cessation) a reference to the Commonwealth;

and, where the Minister makes such a declaration, the agreements or instruments have effect accordingly.

Renaming of R&D Corporations and R&D Councils

148. The regulations may change the name of an R & D Corporation or R & D Council, and, when such regulations come into operation, subsection 25B (1) of the *Acts Interpretation Act 1901* applies as if the regulations were an Act.

Regulations

149. (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Before making a regulation for the purposes of section 8 or section 92 establishing an R & D Corporation or R & D Council in respect of a primary industry or class of primary industries, the Governor-General is to take into consideration any relevant recommendation made to the Minister by any of the organisations that, in the Minister's opinion, represent that primary industry or class of primary industries.

(3) Before making a regulation for the purposes of section 56 declaring that Division 7 of Part 2 applies to an R & D Corporation, the Governor-General is to take into consideration any relevant recommendation made to the Minister by any of the Corporation's representative organisations.

Orders

150. (1) The regulations may make provision for or in relation to empowering the Minister to make orders, not inconsistent with this Act, with respect to any matter for or in relation to which provision may be made by the regulations.

- (2)** An order must not be made prescribing any penalty.

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(3) An order is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

**PART 6—TRANSITIONAL PROVISIONS AND CONSEQUENTIAL
AMENDMENTS**

Transitional—Research Funds under the *Rural Industries Research Act 1985*

151. (1) Where:

- (a) at a particular time, a levy becomes attached to an R&D Corporation or R&D Fund under section 5; and
- (b) immediately before that time, the levy was attached to a Research Fund under section 6 of the *Rural Industries Research Act 1985*;

then:

- (c) the levy ceases to be attached to that Research Fund; and
- (d) if as a result there is no longer any levy attached to the Research Fund under that Act—the Research Fund is abolished;

and that Act and the regulations made under that Act have effect accordingly.

(2) Where:

- (a) a levy becomes attached to an R&D Corporation under section 5; and
- (b) as a result, the levy ceases under subsection (1) to be attached to a Research Fund;

then:

- (c) so much of the amounts (if any) standing to the credit of the Research Fund as are attributable to money paid into the Research Fund:
 - (i) as a result of the levy being attached to the Research Fund; or
 - (ii) as a result of the Research Fund being a Research Fund established in respect of goods of the kind in respect of which the levy is imposed;

are payable to the Corporation; and

- (d) so much of any investments that were held for the purposes of the Research Fund, immediately before the levy became attached to the Corporation, as are attributable to that money become, when the levy becomes so attached, investments held by the Corporation; and
- (e) so much of the present and future liabilities of the Research Fund, existing immediately before the levy became so attached, as are attributable to the use of that money become, when the levy becomes so attached, liabilities of the Corporation; and
- (f) if an amount that was payable, in connection with the levy or with the primary industries or class of primary industries to which the

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levy relates, by the Commonwealth into the Research Fund under subsection 7 (1) of the *Rural Industries Research Act 1985* has not been paid before the levy becomes so attached, on the levy becoming so attached:

- (i) the amount is payable by the Commonwealth to the Corporation; and
- (ii) notwithstanding subsection 7 (1) of that Act, the Commonwealth ceases to be obliged to pay the money into the Research Fund.

(3) Where:

- (a) a levy becomes attached to an R&D Fund under section 5; and
- (b) as a result, the levy ceases under subsection (1) to be attached to a Research Fund;

then:

- (c) so much of the amounts (if any) standing to the credit of the Research Fund as are attributable to money paid into the Research Fund:

- (i) as a result of the levy being attached to the Research Fund; or
- (ii) as a result of the Research Fund being a Research Fund established in respect of goods of the kind in respect of which the levy is imposed;

are payable to the RIR&D Corporation for the purposes of the R&D Fund; and

- (d) so much of any investments that were held for the purposes of the Research Fund, immediately before the levy became attached to the R&D Fund, as are attributable to that money become, when the levy becomes so attached, investments held by the RIR&D Corporation for the purposes of the R&D Fund; and
- (e) so much of the present and future liabilities of the Research Fund existing immediately before the levy became so attached, as are attributable to the use of that money become, when the levy becomes so attached, liabilities of the RIR&D Corporation, and are to be taken to have been incurred by the RIR&D Corporation in the administration of the R&D Fund; and
- (f) if an amount that was payable, in connection with the levy or with the primary industries or class of primary industries to which the levy relates, by the Commonwealth into the Research Fund under subsection 7 (1) of the *Rural Industries Research Act 1985* has not been paid before the levy becomes so attached, on the levy becoming so attached:
 - (i) the amount is payable by the Commonwealth to the RIR&D Corporation for the purposes of the R&D Fund; and
 - (ii) notwithstanding subsection 7 (1) of that Act, the

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Commonwealth ceases to be obliged to pay the money into the Research Fund.

- (4) Where:
- (a) a levy becomes attached to an R&D Corporation or R&D Fund under section 5; and
 - (b) as a result, the levy ceases under subsection (1) to be attached to a Research Fund; and
 - (c) the amount (in this subsection called the “**matched amount**”) equal to the sum of the amounts of money that had been paid or were payable into the Research Fund under paragraph 7 (1) (b) of the *Rural Industries Research Act 1985* in respect of the levy immediately before the levy becomes so attached is less than the amount (in this subsection called the “**maximum matching amount**”) equal to the difference between:
 - (i) the sum of the Fund credits (within the meaning of section 39A of the *Rural Industries Research Act 1985*) in relation to the levy immediately before the levy becomes so attached; and
 - (ii) the sum of the refunds (within the meaning of that section) in relation to the levy immediately before the levy becomes so attached;

an amount equal to the difference between the maximum matching amount and the matched amount is to be taken, for the purposes of sections 31 and 109, to be an amount paid to the Corporation under subparagraph 30 (1) (a) (i), or an amount paid into the Fund under subparagraph 108 (1) (a) (i), as the case may be.

Transitional—Research Councils and State Research Committees under the *Rural Industries Research Act 1985*

152. (1) Where:

- (a) at a particular time, a levy becomes attached to an R&D Corporation or R&D Fund under section 5; and
- (b) immediately before that time, the levy was attached to a Research Council under section 11 of the *Rural Industries Research Act 1985*;

then:

- (c) the levy ceases to be attached to the Research Council; and
- (d) if as a result there is no longer any levy attached to the Research Council—the Research Council is abolished;

and that Act and the regulations made under that Act have effect accordingly.

(2) Where:

- (a) at a particular time, a levy or class of levies becomes attached to an R&D Corporation or R&D Fund under section 5; and

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(b) immediately before that time, a State Research Committee was in existence as a result of the levy or class being declared by regulations made for the purposes of section 12 of the *Rural Industries Research Act 1985* to be a prescribed levy or class of levies;
the State Research Committee is abolished and that Act and the regulations made under that Act have effect accordingly.

(3) Where, under this section, a Research Council or State Research Committee is abolished as a result of a levy becoming attached to an R&D Corporation or an R&D Fund:

- (a) the outstanding obligations of the Research Council or State Research Committee under section 30 of the *Rural Industries Research Act 1985* continue until those obligations are met in relation to the report prepared in respect of the financial year in which the Research Council or State Research Committee is abolished; and
- (b) the obligations are to be met:
 - (i) if the levy becomes attached to an R&D Corporation—by the Corporation; or
 - (ii) if the levy becomes attached to an R&D Fund—by the R&D Council in respect of which the Fund is established; and
- (c) the persons who were members of the Research Council or State Research Committee concerned must give to the R&D Corporation or R&D Council, as the case requires, such information as is necessary to enable the Corporation or Council to meet those obligations; and
- (d) section 30 of the *Rural Industries Research Act 1985* has effect as if things done by the R&D Corporation or R&D Council, as the case requires, in meeting those obligations were done by the Research Council or State Research Committee concerned.

Transitional—Coal Research Trust Account

153. If the levy on the production of coal imposed by the *Excise Tariff Act 1921* becomes attached to an R&D Corporation, at the time it becomes so attached:

- (a) the Coal Research Trust Account established by section 4 of the *Coal Research Assistance Act 1977* is abolished; and
- (b) amounts (if any) standing to the credit of the Account are payable to the R&D Corporation; and
- (c) any investments that were held for the purposes of that Account immediately before that time become investments held by the R&D Corporation; and
- (d) all the present and future liabilities of the Account existing immediately before that time become liabilities of the R&D Corporation; and

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- (e) the *Coal Research Assistance Act 1977* has effect as if:
 - (i) the definition of "Research Account" in section 3 of that Act were omitted; and
 - (ii) sections 4, 5, 6 and 8 of that Act were repealed.

Other Trust Accounts

154. (1) Where:

- (a) a Trust Account has been established under section 62A of the *Audit Act 1901* for the purposes of funding research and development in relation to a primary industry or class of primary industries; and
- (b) an R&D Corporation has been established for that primary industry or class of primary industries;

the Minister may make a determination, in writing, to the effect that:

- (c) amounts (if any) standing to the credit of the Account are payable to the Corporation; and
- (d) the Account is to be taken to be closed under subsection 62A (4) of the *Audit Act 1901*;

and, where the Minister does so:

- (e) the determination takes effect accordingly on the day specified in the determination; and
- (f) any investments that were held for the purposes of the Account immediately before that day become, on that day, investments held by the Corporation; and
- (g) all the present and future liabilities of the Account existing immediately before that day become, on that day, liabilities of the Corporation.

(2) Where:

- (a) a Trust Account has been established under section 62A of the *Audit Act 1901* for the purposes of funding research and development in relation to more than one primary industry or class of primary industries; and
- (b) R&D Corporations have been established for each of those primary industries or classes of primary industries;

the Minister may make a determination, in writing, to the effect that:

- (c) amounts (if any) standing to the credit of the Account are payable to the Corporations in such proportions as the Minister specifies in the determination; and
- (d) the Account is to be taken to have been closed under subsection 62A (4) of the *Audit Act 1901*;

and, where the Minister does so:

- (e) the determination takes effect accordingly on the day specified in the determination; and

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- (f) any investments that were held for the purposes of the Account immediately before that time become, on that day, investments held by the Corporations in such proportions as the Minister specifies in the determination; and
- (g) all the present and future liabilities of the Account existing immediately before that day become, on that day, liabilities of the Corporations in such proportions as the Minister specifies in the determination.

Closure of Trust Accounts etc.

155. (1) Where:

- (a) a Research Fund is abolished under subsection 151 (1); or
 - (b) the Coal Research Trust Account is abolished under section 153;
- the Trust Account that, for the purposes of section 62A of the *Audit Act 1901*, constitutes the Research Fund or Coal Research Trust Account, as the case may be, is to be taken to have been closed under subsection 62A (4) of that Act.

(2) Amounts payable to an R&D Corporation under section 151, 153 or 154 are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

Abolition of Special Research Council and Special Research Fund

156. (1) The *Rural Industries Research Act 1985*¹ is amended as set out in Part 1 of Schedule 1.

(2) The Acts specified in Part 2 of Schedule 1 are amended as set out in that Part of that Schedule.

(3) On the commencement of this section:

- (a) amounts (if any) that, immediately before the commencement, were standing to the credit of the Special Research Fund are payable to the RIR&D Corporation; and
- (b) any investments that were, immediately before that commencement, held for the purposes of the Special Research Fund, become investments held by the RIR&D Corporation; and
- (c) any present and future liabilities of the Special Research Fund existing immediately before that commencement become liabilities of the RIR&D Corporation; and
- (d) the Trust Account that, for the purposes of section 62A of the *Audit Act 1901*, constitutes the Special Research Fund is to be taken to have been closed under subsection 62A (4) of that Act; and
- (e) if an amount was payable by the Commonwealth into the Special Research Fund under section 34 of the *Rural Industries Research Act 1985* but has yet to be paid, the amount is payable to the RIR&D Corporation.

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(4) Amounts payable to the RIR&D Corporation under paragraph (3)(a) or (e) are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

Amendments of other Acts

157. The Acts specified in Schedule 2 are amended as set out in that Schedule.

SCHEDULE 1

Section 156

**ABOLITION OF SPECIAL RESEARCH COUNCIL AND SPECIAL
RESEARCH FUND**

PART 1

**AMENDMENTS OF THE *RURAL INDUSTRIES RESEARCH ACT*
1985**

Subsection 4 (1) (definition of “Council”):

- (a) Omit from paragraph (a) “or the Special Research Council”.
- (b) Omit paragraph (b), substitute the following paragraph:
“(b) in relation to a Fund to which a levy is attached—the
Research Council to which that levy is attached;”.

Subsection 4 (1) (definition of “Fund”):

- (a) Omit from paragraph (a) “or the Special Research Fund”.
- (b) Omit paragraph (b), substitute the following paragraph:
“(b) in relation to a Research Council to which a levy is
attached—the Research Fund to which that levy is attached;
and”.

Subsection 4 (1) (definition of “matching amount”):

- (a) Omit “or 34 (cb)”.
- (b) Omit “, paragraph 8 (2) (a) or subsection 35 (2A)”, substitute “or
paragraph 8 (2) (a)”.

**Subsection 4 (1) (definitions of “prescribed organisation”, “Special
Research Fund” and “Special Research Council”):**

Omit the definitions.

Subsection 4 (2):

Omit “, of the Selection Committee or of the Special Research Council”
(twice occurring), substitute “or of the Selection Committee”.

Subsection 4 (6):

Omit the subsection.

Subsection 5 (3):

Omit all the words after “particular kind”, substitute the following:
“to be an additional levy attached to a specified Research Fund and a
specified Research Council with effect from a specified day not earlier than
the day of commencement of this subsection”.

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SCHEDULE 1—continued

Subsection 5 (4):

Omit all the words after “particular kinds”, substitute the following:

“to be a class of additional levies attached to a specified Research Fund and a specified Research Council with effect from a specified day not earlier than the day of commencement of this subsection”.

Subsection 10 (1):

Omit all the words from and including “in respect of” to and including “a particular kind or kinds;”, substitute the following:

“, in respect of goods of a relevant kind or relevant kinds in relation to the Council,”.

Subsection 14 (3):

Omit all the words after “until he or she has”, substitute the following:

“consulted each relevant industry organisation in relation to each relevant kind of goods in relation to the Council and has had regard to the views (if any) expressed by the organisation or organisations”.

Subsection 22 (1):

Omit the words from and including “in relation to” (first occurring) to and including “33 (2) (a);”, substitute the following:

“in relation to research and development in respect of goods of a particular kind or kinds, being the relevant kind or kinds in relation to the Council during that period,”.

Paragraph 22 (3) (b):

Omit the paragraph.

Subparagraph 24C (2) (a) (i):

Insert “and” after “Council;”.

Subparagraph 24C (2) (a) (ii):

Omit the subparagraph.

Subsection 27 (1) (definition of “eligible activities”):

Omit paragraph (a), substitute the following paragraph:

“(a) in the case of a Council—goods of a particular kind or kinds, being the relevant kind or kinds in relation to the Council during the program year; or”.

Subsection 27 (5):

Omit all the words after “the program year,”, substitute the following:

“by virtue of subsection 9 (1), (1C) or (2), as the case requires, other than paragraph (a) of that subsection, and section 39C”.

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SCHEDULE 1—continued

Subsection 30 (1A):

Omit the subsection.

Subsection 30 (4):

Omit “or (1A)”.

Subsection 30 (5):

Omit “or (1A)”.

Section 31:

Omit all the words from and including “arrange with:” to and including “each prescribed organisation;”, substitute the following:

“arrange with each relevant industry organisation in relation to each relevant kind of goods in relation to the Council”.

Part IV:

Repeal the Part.

Subsection 39A (2) (definition of “Fund credit”):

Omit “or 34 (ca) (i) or (ii)”.

Section 39C:

(a) Omit “, 8 (2) or 35 (2A) or (2B)”, substitute “or 8 (2)”.

(b) Omit “or 34 (ca)” (twice occurring).

Paragraph 39D (1) (a):

Omit “or 34 (ca) (i) or (ii)”.

Paragraph 39D (1) (b):

Omit “or 34 (ca) (iii)”.

Paragraph 39D (3) (a):

Omit “or 35 (2A), as the case requires”.

Paragraph 39D (3) (b):

Omit “or 35 (2B), as the case requires”.

Section 39F:

Repeal the section.

Subsection 39H (2):

Omit all the words after “of that account”, substitute the following:

“and into the new Fund, and the account of the new Fund that is kept under subsection 7A (2) or (3), as the case may be, in relation to those kinds of goods”.

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SCHEDULE 1—continued

Subsection 39H (3):

Omit the subsection.

Paragraph 39J (1) (a):

Omit “or 34 (cb)”, “or subsection 36 (2A)” and “or 35 (2A) or (2B)”.

Subsection 39J (2):

Omit “, 7A (2) (b), 34 (cb) and 35 (2A)(b)”, substitute “and 7A (2)(b)”.

Paragraph 39J (2) (a):

Omit “or subsection 36 (2A)”.

Paragraph 39J (2) (b):

Omit “or subsection 36 (2A), as the case requires” and “or 35 (2A) or (2B)”.

Subsection 39K (3):

(a) Omit “, 7A (2)(b), 34 (cb) and 35 (2A)(b)”, substitute “and 7A (2)(b)”.

(b) Omit “or subsection 36 (2A), as the case requires”.

Paragraph 39L (1) (a):

Omit “or 35 (2A) or (2B)”.

Paragraph 39L (2) (b):

Omit “or 35 (2B)”.

Subsection 39M (1):

Omit the subsection, substitute the following subsection:

“(1) This section applies where a regulation declaring a levy or levies to be, with effect from a specified day (in this section called the ‘**attachment day**’), an additional levy, or a class of additional levies, as the case may be, attached to a specified Research Council, takes effect on a particular day (in this section called the ‘**declaration day**’).”.

Subsection 39P (3):

Omit all the words from and including “as if:” to and including “were substituted;”, substitute the following:

“as if specified authorised representatives of specified Councils each of which has functions in relation to research and development in respect of goods of at least one kind included in the kinds referred to in paragraph (1)(b) were jointly substituted”.

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SCHEDULE 1—continued

Subsection 44 (2A):

Omit the subsection.

Subparagraph 46 (2) (a) (i):

Insert “and” after “Australia;”.

Subparagraph 46 (2) (a) (iii):

Omit the subparagraph.

Subsection 50 (3A):

Omit the subsection.

PART 2

AMENDMENTS OF OTHER ACTS

Cotton Levy Collection Act 1982

Subsection 9 (2):

Omit “or 34 (ca)”.

Dairy Produce Act 1986

Paragraph 65 (3) (b):

Omit “or 34 (ca)”.

Grain Legumes Levy Collection Act 1985

Subsection 9 (2):

Omit “or 34 (ca)”.

Grape Research Levy Collection Act 1986

Subsection 9 (2):

Omit “or 34 (ca)”.

Sugar Cane Levy Collection Act 1987

Subsection 9 (2):

Omit “or 34 (ca)”.

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SCHEDULE 1—continued

Triticale Levy Collection Act 1988

Subsection 10 (2):

Omit “or 34 (ca)”.

SCHEDULE 2

Section 157

AMENDMENTS OF OTHER ACTS

Barley Research Levy Collection Act 1980

Section 9:

Add at the end the following subsection:

“(4) Subsection (3) ceases to have effect if the levy imposed under the Levy Act is attached, under section 5 of the *Primary Industries and Energy Research and Development Act 1989*, to an R&D Corporation (within the meaning of that Act) or to an R&D Fund (within the meaning of that Act).”.

Cotton Levy Collection Act 1982

Section 9:

Add at the end the following subsection:

“(4) Subsections (2) and (3) cease to have effect if the levy referred to in subsection (2) is attached, under section 5 of the *Primary Industries and Energy Research and Development Act 1989*, to an R&D Corporation (within the meaning of that Act) or to an R&D Fund (within the meaning of that Act).”.

Dairying Industry Research and Promotion Levy Act 1972

Subsection 5 (1) (definition of “Council”):

Omit the definition.

Subsection 5 (1):

Insert the following definitions:

“‘R&D authority’ means:

- (a) where the levy is not attached to an R&D Corporation or R&D Fund under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the Dairy Research Council established under subsection 11 (2) of the *Rural Industries Research Act 1985*; or

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- (b) where the levy is attached to an R&D Corporation under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the R&D Corporation; or
- (c) where the levy is attached to an R&D Fund under section 5 of that Act—the R&D Council in respect of which the R&D Fund is established under that Act;

‘R&D Corporation’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Council’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Fund’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*.”.

Subsection 13 (2):

Omit “Council” (wherever occurring), substitute “R&D authority”.

Dairy Produce Act 1986

Subsection 3 (1):

Insert the following definitions:

“**‘R&D Corporation’** has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Fund’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘RIR&D Corporation’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*.”.

Section 65:

Add at the end the following subsection:

“(5) Subsections (3) and (4) cease operation if the research levy imposed by the first Levy Act is attached, under section 5 of the *Primary Industries and Energy Research and Development Act 1989*, to an R&D Corporation (within the meaning of that Act) or to an R&D Fund (within the meaning of that Act).”.

Paragraph 88 (1) (d):

Omit the paragraph, substitute the following paragraph:

“(d) in making payments:

- (i) where the research levy imposed by the first Levy Act is not attached under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—to the Dairy Research Fund established under the *Rural Industries Research Act 1985*; or

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- (ii) where the levy is attached under that section to an R & D Corporation—to that R & D Corporation; or
- (iii) where the levy is attached under that section to an R & D Fund—to the RIR & D Corporation for the purposes of the R & D Fund;”.

Dried Fruits Levy Act 1971

Subsection 4 (1) (definition of “the Council”):

Omit the definition.

Subsection 4 (1):

Insert the following definitions:

“‘R & D authority’ means:

- (a) where the levy is not attached to an R & D Corporation or R & D Fund under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the Dried Fruits Research Council established under subsection 11 (1) of the *Rural Industries Research Act 1985*; or
- (b) where the levy is attached to an R & D Corporation under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the R & D Corporation; or
- (c) where the levy is attached to an R & D Fund under section 5 of that Act—the R & D Council in respect of which the R & D Fund is established under that Act;

‘R & D Corporation’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R & D Council’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R & D Fund’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;”.

Subsection 6 (3):

Omit “Council”, substitute “R & D authority”.

Egg Industry Research (Hen Quota) Levy Collection Act 1987

Section 9:

Omit “The *Rural Industries Research Act 1985* has effect as if levy imposed by the *Egg Industry Research (Hen Quota) Levy Act 1987*”, substitute “Where the levy imposed by the *Egg Industry Research (Hen Quota) Levy Act 1987* is not attached under section 5 of the *Primary Industries and Energy Research and Development Act 1989*, the *Rural Industries Research Act 1985* has effect as if the levy”.

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SCHEDULE 2—continued

Grain Legumes Levy Collection Act 1985

Section 9:

Add at the end the following subsection:

“(4) Subsections (2) and (3) cease to have effect if the levy referred to in subsection (2) is attached, under section 5 of the *Primary Industries and Energy Research and Development Act 1989*, to an R&D Corporation (within the meaning of that Act) or to an R&D Fund (within the meaning of that Act).”.

Grape Research Levy Act 1986

Section 4:

Omit the section, substitute the following section:

Interpretation

“4. In this Act:

‘levy’ means levy imposed by this Act;

‘R&D authority’ means:

- (a) where the levy is not attached to an R&D Corporation or R&D Fund under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—an organisation in respect of which a declaration is in force under subsection 5 (3) of the *Rural Industries Research Act 1985* in relation to leviable goods; or
- (b) where the levy is attached to an R&D Corporation under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the R&D Corporation; or
- (c) where the levy is attached to an R&D Fund under section 5 of that Act—the R&D Council in respect of which the R&D Fund is established under that Act;

‘R&D Corporation’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Council’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Fund’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*.”.

Subsection 10 (2):

Omit all the words after “the Minister by”, substitute “an R&D authority.”.

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SCHEDULE 2—continued

Grape Research Levy Collection Act 1986

Section 9:

Add at the end the following subsection:

“(4) Subsections (2) and (3) cease to have effect if the levy referred to in subsection (2) is attached, under section 5 of the *Primary Industries and Energy Research and Development Act 1989*, to an R&D Corporation (within the meaning of that Act) or to an R&D Fund (within the meaning of that Act).”.

Honey Export Charge Act 1973

Section 4 (definition of “Council”):

Omit the definition.

Section 4:

Insert the following definitions:

“‘R&D authority’ means:

- (a) where the levy is not attached to an R&D Corporation or R&D Fund under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the Honey Research Council established under subsection 11 (2) of the *Rural Industries Research Act 1985*; or
- (b) where the levy is attached to an R&D Corporation under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the R&D Corporation; or
- (c) where the levy is attached to an R&D Fund under section 5 of that Act—the R&D Council in respect of which the R&D Fund is established under that Act;

‘R&D Corporation’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Council’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Fund’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*.”.

Subsection 5 (3):

Omit “Council”, substitute “R&D authority”.

Honey Levy Act (No. 1) 1962

Section 3A (definition of “Council”):

Omit the definition.

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SCHEDULE 2—continued

Section 3A:

Insert the following definitions:

“**R&D authority**’ means:

- (a) where the levy is not attached to an R&D Corporation or R&D Fund under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the Honey Research Council established under subsection 11 (2) of the *Rural Industries Research Act 1985*; or
- (b) where the levy is attached to an R&D Corporation under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the R&D Corporation; or
- (c) where the levy is attached to an R&D Fund under section 5 of that Act—the R&D Council in respect of which the R&D Fund is established under that Act;

‘**R&D Corporation**’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘**R&D Council**’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘**R&D Fund**’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*.”.

Subsection 5 (3):

Omit “Council”, substitute “R&D authority”.

Honey Levy Act (No. 2) 1962

Section 3A (definition of “Council”):

Omit the definition.

Section 3A:

Insert the following definitions:

“**R&D authority**’ means:

- (a) where the levy is not attached to an R&D Corporation or R&D Fund under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the Honey Research Council established under subsection 11 (2) of the *Rural Industries Research Act 1985*; or
- (b) where the levy is attached to an R&D Corporation under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the R&D Corporation; or
- (c) where the levy is attached to an R&D Fund under section 5 of that Act—the R&D Council in respect of which the R&D Fund is established under that Act;

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‘R&D Corporation’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Council’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Fund’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*.”.

Subsection 5 (3):

Omit “Council”, substitute “R & D authority”.

Laying Chicken Levy Collection Act 1988

Section 19:

Omit “The *Rural Industries Research Act 1985* has effect as if the levy imposed by the *Laying Chicken Levy Act 1988*”, substitute “Where the levy imposed by the *Laying Chicken Levy Act 1988* is not attached under section 5 of the *Primary Industries and Energy Research and Development Act 1989*, the *Rural Industries Research Act 1985* has effect as if the levy”.

Meat Chicken Levy Act 1969

Subsection 5 (1) (definition of “Council”):

Omit the definition.

Subsection 5 (1):

Insert the following definitions:

“ **‘R&D authority’** means:

- (a) where the levy is not attached to an R&D Corporation or R&D Fund under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the Chicken Meat Research Council established under subsection 11 (1) of the *Rural Industries Research Act 1985*; or
- (b) where the levy is attached to an R&D Corporation under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the R&D Corporation; or
- (c) where the levy is attached to an R&D Fund under section 5 of that Act—the R&D Council in respect of which the R&D Fund is established under that Act;

‘R&D Corporation’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Council’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Fund’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*.”.

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SCHEDULE 2—continued

Subsection 7 (2):

Omit “Council” (wherever occurring), substitute “R&D authority”.

Oilseeds Levy Collection Act 1977

Section 9:

Add at the end the following subsection:

“(3) Subsection (2) ceases to have effect if the levy imposed under the Levy Act is attached, under the *Primary Industries and Energy Research and Development Act 1989*, to an R&D Corporation (within the meaning of that Act) or to an R&D Fund (within the meaning of that Act).”.

Pig Slaughter Levy Act 1971

Section 4 (definition of “Research Council”):

Omit the definition.

Section 4:

Insert the following definitions:

“‘R&D authority’ means:

- (a) where the levy is not attached to an R&D Corporation or R&D Fund under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the Pig Research Council established under subsection 11 (1) of the *Rural Industries Research Act 1985*; or
- (b) where the levy is attached to an R&D Corporation under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—the R&D Corporation; or
- (c) where the levy is attached to an R&D Fund under section 5 of that Act—the R&D Council in respect of which the R&D Fund is established under that Act;

‘R&D Corporation’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Council’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘R&D Fund’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;”.

Subsection 6 (2):

- (a) Omit “Research Council”, substitute “R&D authority”.
- (b) Omit “Council” (last occurring), substitute “authority”.

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SCHEDULE 2—continued

Poultry Industry Assistance Act 1965

Section 3:

Insert the following definitions:

“‘**R&D Corporation**’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*;

‘**R&D Fund**’ has the same meaning as in the *Primary Industries and Energy Research and Development Act 1989*.”.

Subsection 6 (2):

Omit all the words after “payment of that amount”, substitute the following:

“to the Commonwealth:

- (a) where the levy is not attached to an R&D Corporation or R&D Fund under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—for the purposes of the Research Fund established under the *Rural Industries Research Act 1985* in respect of goods in respect of which levy is imposed; or
- (b) where the levy is attached to an R&D Corporation under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—for payment to that R&D Corporation; or
- (c) where the levy is attached to an R&D Fund under section 5 of that Act—for the purposes of that R&D Fund.”.

Subsection 6 (3):

Omit “that subsection”, substitute “paragraph (2) (a)”.

Section 6:

Add at the end the following subsections:

“(3) The Commonwealth must pay to an R&D Corporation any money received under subsection (2) for payment to the R&D Corporation.

“(4) The Commonwealth must pay into an R&D Fund any money received under subsection (2) for the purposes of the R&D Fund.”.

Sugar Cane Levy Collection Act 1987

Section 9:

Add at the end the following subsection:

“(4) Subsections (2) and (3) cease to have effect if levy imposed under the Levy Act is attached, under section 5 of the *Primary Industries and Energy Research and Development Act 1989*, to an R&D Corporation (within the meaning of that Act) or to an R&D Fund (within the meaning of that Act).”.

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SCHEDULE 2—continued

Triticale Levy Collection Act 1988

Section 10:

Add at the end the following subsection:

“(4) Subsections (2) and (3) cease to have effect if the levy referred to in subsection (2) is attached, under section 5 of the *Primary Industries and Energy Research and Development Act 1989*, to an R&D Corporation (within the meaning of that Act) or to an R&D Fund (within the meaning of that Act).”.

Wheat Industry Fund Levy Collection Act 1988

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

Insert “where the levy is not attached under section 5 of the *Primary Industries and Energy Research and Development Act 1989*—”, before “the Wheat Research Trust Fund”.

NOTE

1. No. 102, 1985, as amended. For previous amendments, see Nos. 19, 59 and 82, 1986; and Nos. 51 and 114, 1988.

[*Minister's second reading speech made in—
House of Representatives on 3 November 1989
Senate on 19 December 1989*]