



Primary Industries and Energy Legislation Amendment Act 1990

No. 134 of 1990

TABLE OF PROVISIONS

PART 1—PRELIMINARY

Section

1. Short title
2. Commencement

PART 2—AMENDMENT OF THE EXOTIC ANIMAL DISEASE CONTROL ACT 1989

3. Principal Act
4. Substitution of the Schedule

PART 3—AMENDMENTS OF THE EXPORT CONTROL ACT 1982

5. Principal Act
6. False trade descriptions
7. Repeal of section and substitution of new section:
 23. Certificates with respect to goods
8. Insertion of new sections:
 - 24A. Electronic transmission of information and documents
 - 24B. Evidence of transmission of information or document

PART 4—AMENDMENTS OF THE HORTICULTURAL RESEARCH AND DEVELOPMENT CORPORATION ACT 1987

9. Principal Act
10. Interpretation

TABLE OF PROVISIONS *continued*

Section	
11.	Repeal of section and substitution of new sections: 57. Presiding Member 57A. Minister may request the establishment of a Selection Committee
12.	Insertion of new section: 59A. Abolition
13.	Nominations
14.	Selection of persons by Selection Committee
15.	Minister may request further information
16.	Minister may reject nomination
17.	Establishment of Selection Committees
18.	Repeal of section and substitution of new section: 74. Termination of appointment
19.	Employees
20.	Consultants
21.	Repeal of section and substitution of new section: 79. Annual reports
PART 5—AMENDMENTS OF THE MURRAY–DARLING BASIN ACT 1983	
22.	Principal Act
23.	Approval of amending agreement
24.	Interpretation
25.	Schedule 3
PART 6—AMENDMENTS OF THE PLANT VARIETY RIGHTS ACT 1987	
26.	Principal Act
27.	Interpretation
28.	Plant variety rights not to be granted in relation to certain varieties
29.	Insertion of new section: 17A. Priority of certain breeders
30.	Lodging of applications
31.	Provisional protection
32.	Characteristics of plant varieties originated outside Australia
33.	Offences
PART 7—AMENDMENTS OF THE PRIMARY INDUSTRIES AND ENERGY RESEARCH AND DEVELOPMENT ACT 1989	
34.	Principal Act
35.	Definitions
36.	Levies attached to R&D Corporations or R&D Funds
37.	Government matching payments not to exceed levy and certain other payments
PART 8—AMENDMENT OF THE SNOWY MOUNTAINS HYDRO-ELECTRIC POWER ACT 1949	
38.	Principal Act
39.	Repeal of section and substitution of new section: 31. Contracts
PART 9—AMENDMENT OF THE WHEAT INDUSTRY FUND LEVY COLLECTION ACT 1989	
40.	Principal Act
41.	Payment of levy

TABLE OF PROVISIONS *continued*

Section

PART 10—AMENDMENTS OF THE WHEAT MARKETING ACT 1989

- 42. Principal Act
- 43. Repeal of section and substitution of new section:
 - 83. Management of the Fund
- 44. Interpretation
- 45. Determination of apportionment of wheat industry fund levy
- 46. Repeal
- 47. Regulations

PART 11—MINOR AMENDMENTS OF ACTS

- 48. Amendments of Acts

SCHEDULE 1

NEW SCHEDULE TO THE EXOTIC ANIMAL DISEASE
CONTROL ACT 1989

SCHEDULE 2

MINOR AMENDMENTS OF ACTS

SCHEDULE 3

NEW SCHEDULE 3 TO THE MURRAY-DARLING BASIN ACT 1983



Primary Industries and Energy Legislation Amendment Act 1990

No. 134 of 1990

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

[Assented to 28 December 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
Legislation Amendment Act 1990*.

Commencement

2. (1) Except for Part 7, this Act commences on the day on which
it receives the Royal Assent.

(2) Part 7 is to be taken to have commenced on 1 October 1990.

**PART 2—AMENDMENT OF THE EXOTIC ANIMAL DISEASE
CONTROL ACT 1989**

Principal Act

3. In this Part, “**Principal Act**” means the *Exotic Animal Disease Control Act 1989*¹.

Substitution of the Schedule

4. The Schedule to the Principal Act is repealed and the Schedule set out in Schedule 1 to this Act is substituted.

**PART 3—AMENDMENTS OF THE EXPORT CONTROL
ACT 1982**

Principal Act

5. In this Part, “**Principal Act**” means the *Export Control Act 1982*.

False trade descriptions

6. Section 15 of the Principal Act is amended by inserting in paragraph (2) (c) “, or stated in,” after “applied to”.

7. Section 23 of the Principal Act is repealed and the following section is substituted:

Certificates with respect to goods

“23. The regulations may provide for the issue by the Secretary of certificates as to matters in relation to which a country requires certification before goods from Australia may be imported into that country.”.

8. After section 24 of the Principal Act the following sections are inserted:

Electronic transmission of information and documents

“24A. (1) The regulations may prescribe specifications (in this section called ‘**the specifications**’) for the transmission of information and documents:

- (a) to the Secretary; and
- (b) from the Secretary to a person who has given notice of intention to export goods;

by means of a process that includes the use of data processing devices.

“(2) The specifications may include codes to be used in the transmission of information or documents and may specify what the components of such codes are to signify when so used.

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

“(3) A person may give information or a document to the Secretary by transmitting the information or document to the Secretary in accordance with the specifications.

“(4) The Secretary may give information or a document to a person by transmitting the information or document to the person in accordance with the specifications.

“(5) A document is transmitted in accordance with the specifications if the information required to be included in the document is transmitted in the form and manner required by the specifications.

“(6) Information or a document transmitted to a person (including the Secretary) in accordance with the specifications is to be taken to have been given to the person for the purposes of any provision of this Act or the regulations that requires the information or document to be given to the person.

“(7) In this section:
‘**information**’ includes a declaration as to the existence of a fact or belief or as to compliance by a person with a requirement of this Act or the regulations.

Evidence of transmission of information or document

“24B. (1) In this section:
‘**print-out**’ means a copy of information or a document produced by a data processing device to which the information or document was transmitted by means of another data processing device or other data processing devices.

“(2) In any proceedings in a court for an offence against this Act, a print-out is *prima facie* evidence:

- (a) that information or a document in the terms set out in the print-out was transmitted to the Secretary on the day, and at the time, specified in the print-out; and
- (b) that the information or document was transmitted by the person specified in the print-out as the person who transmitted the information or document.

“(3) A paper certified, in writing, by an officer of the Department to have been produced by a specified data processing device in an office of the Secretary is to be taken to be a print-out for the purposes of this section unless the contrary is proved.”.

**PART 4—AMENDMENTS OF THE HORTICULTURAL
RESEARCH AND DEVELOPMENT CORPORATION ACT 1987**

Principal Act

9. In this Part, “**Principal Act**” means the *Horticultural Research and Development Corporation Act 1987*.

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

Interpretation

10. Section 3 of the Principal Act is amended:

(a) by omitting paragraph (b) of the definition of “member” in subsection (1) and substituting the following paragraph:

“(b) in relation to a Selection Committee—the Presiding Member;”;

(b) by omitting paragraph (b) of the definition of “nominated member” in subsection (1) and substituting the following paragraph:

“(b) in relation to a Selection Committee—a member of the Selection Committee appointed on the nomination of an eligible industry body or bodies, or a member appointed under subsection 67 (3A);”;

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

“‘**Chairperson**’ means the Chairperson of the Corporation;

‘**Selection Committee**’ means a Selection Committee established under section 67;”;

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

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

“‘**Presiding Member**’ means a person appointed as the Presiding Member of Selection Committees under section 57;”.

11. Section 57 of the Principal Act is repealed and the following sections are substituted:

Presiding Member

“57. (1) the Minister must appoint a person as the Presiding Member of Selection Committees for the Corporation.

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

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

Minister may request the establishment of a Selection Committee

“57A. (1) For the purpose of:

(a) appointing the nominated members of the Corporation; or

(b) filling a vacancy caused by the resignation, or the termination of the appointment, of such a member;

the Minister must give written notice to the Presiding Member:

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

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

“(2) If the Minister believes on reasonable grounds that a vacancy of the kind mentioned in paragraph (1)(b) is about to occur, the Minister may give a notice before the vacancy occurs.”.

12. After section 59 of the Principal Act the following section is inserted in Division 1 of Part III:

Abolition

“59A. (1) Where:

- (a) the Minister has appointed to the Corporation a person nominated by a Selection Committee; and
- (b) the Selection Committee has not made any other nomination that has yet to be accepted or rejected by the Minister; and
- (c) there are no outstanding matters in a request by the Minister under section 57A or 64 that are yet to be dealt with by the Selection Committee;

the Presiding Member must abolish the Selection Committee.”.

Nominations

13. Section 61 of the Principal Act is amended:

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

“(1) Where the Minister makes a request under section 57A, the Selection Committee established in accordance with the request must, within the period specified in the request, nominate in writing to the Minister a person or persons, as the case requires.

“(1A) For the purpose of enabling it to make a nomination, the Selection Committee:

- (a) must invite nomination of persons for appointment by advertising in a newspaper that circulates throughout Australia; and
- (b) must invite nomination of persons for appointment from the eligible industry bodies; and
- (c) may invite nomination of persons for appointment in any other way it considers appropriate.

“(1B) The Selection Committee need not comply with paragraph (1A) (a) if:

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

- (a) it is less than 12 months since the last appointment of a nominated member of the Corporation; and
 - (b) the member's nomination was made following an advertisement under that paragraph; and
 - (c) the Selection Committee considers that compliance with the paragraph is unlikely to result in a significantly improved field of candidates for nomination to the Minister.”;
- (b) by adding at the end of subsection (2) after paragraph (2) (b):
“; and specifying how, in the Selection Committee's opinion, the nomination or nominations will best ensure that the members of the Corporation collectively possess an appropriate balance of expertise in accordance with section 62”;
- (c) by omitting from subsection (3) “The” and substituting “Subject to section 64, a”;
- (d) by omitting from subsection (4) “The Selection Committee” and “the Selection Committee” and substituting “A Selection Committee” and “a Selection Committee”, respectively.

Selection of persons by Selection Committee

14. Section 62 of the Principal Act is amended:

- (a) by omitting from subsection (1) “The Selection Committee” and substituting “A Selection Committee”;
- (b) by inserting after paragraph (1) (e) the following paragraphs:
 - “(ea) technology transfer;
 - (eb) conservation and management of natural resources;
 - (ec) environmental and ecological matters;”;
- (c) by omitting from subsection (2) “The Selection Committee” and substituting “A Selection Committee”;
- (d) by omitting from subsection (3) “the Selection Committee” and substituting “a Selection Committee”.

Minister may request further information

15. Section 63 of the Principal Act is amended:

- (a) by omitting “the Selection Committee” (first occurring) and substituting “a Selection Committee”;
- (b) by omitting “Chairperson of the Selection Committee” and substituting “Presiding Member”.

Minister may reject nomination

16. Section 64 of the Principal Act is amended:

- (a) by omitting “by the Selection Committee” and substituting “by a Selection Committee”;

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

- (b) by omitting “Chairperson of the Selection Committee” and substituting “Presiding Member”;
- (c) by inserting “, within a specified period,” after “request the nomination”;
- (d) by adding at the end the following subsection:
 - “(2) For the purposes of this Part, other than section 67:
 - (a) a notice under subsection (1) is taken to be a notice under section 57A; and
 - (b) the period specified in a notice under subsection (1) is taken to be a period specified in a notice under section 57A.”.

Establishment of Selection Committees

17. Section 67 of the Principal Act is amended:

- (a) by omitting subsections (1) and (2) and substituting the following subsections:

“(1) Where the Presiding Member receives a request under section 57A, the Presiding Member must establish a Selection Committee to nominate a person or persons for appointment to the Corporation.

“(1A) The Selection Committee so established comprises the following members:

- (a) the Presiding Member;
- (b) 4, 5 or 6 nominated members appointed by the Minister.

“(1B) For the purpose of establishing a Selection Committee, the Presiding Member must, as soon as practicable after receiving a request under section 57A, by written notice to each eligible industry body, ask the body to nominate to the Minister persons for appointment to the Selection Committee.

“(1C) Where there are, in a particular case, 2 or more eligible industry bodies, the Presiding Member’s notice must ask each of those bodies to act jointly with all of the other bodies in making the nomination.

“(2) Subject to this section, the Minister must appoint the persons nominated by the eligible industry body or bodies.”;

- (b) by omitting from subsection (3) “of the Selection Committee”;
- (c) by inserting after subsection (3) the following subsection:

“(3A) Where the Minister is satisfied that nominations for membership of a Selection Committee will not be made as provided under this section within a reasonable time, the Minister may appoint persons to be members of the Selection Committee as if they had been so nominated.”;

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

- (d) by omitting from subsection (4) “the Selection Committee” and substituting “a Selection Committee”;
- (e) by omitting subsection (5);
- (f) by omitting from subsection (6) “as a member of the” and substituting “as a nominated member of a”;
- (g) by adding at the end the following subsection:

“(7) The performance of the function, and the exercise of the powers, of a Selection Committee are not affected merely because of a vacancy in its membership.”.

18. Section 74 of the Principal Act is repealed and the following section is substituted:

Termination of appointment

“74. (1) The Minister may terminate the appointment of the Presiding Member or a nominated member of a Selection Committee:

- (a) for misbehaviour or physical or mental incapacity; or
- (b) if the Presiding Member or nominated member:
 - (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 Presiding Member or nominated member, without reasonable excuse, contravenes section 73.

“(2) The Minister may terminate the appointment of the Presiding Member if the Presiding Member is absent, except with the Minister’s leave, from 3 consecutive meetings of a Selection Committee.

“(3) The Minister may terminate the appointment of a nominated member of a Selection Committee if the member is absent, except with the Presiding Member’s leave, from 3 consecutive meetings of the Selection Committee.”.

Employees

19. Section 77 of the Principal Act is amended:

- (a) by omitting subsections (1) and (2) and substituting the following subsection:

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

- (b) by omitting subsection (4).

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

Consultants

20. Section 78 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) The Presiding Member may, on behalf of a Selection Committee, engage persons having suitable qualifications and experience as consultants to the Selection Committee to assist it in performing its function.”.

21. Section 79 of the Principal Act is repealed and the following section is substituted:

Annual reports

“79. (1) The Presiding Member must, as soon as practicable after 30 June in each year, prepare and give to the Minister a report on the operations, during the immediately preceding financial year, of Selection Committees (if any) established by the Presiding Member or any other Presiding Member.

“(2) Where the first appointment of a Presiding Member does not begin on 1 July, subsection (1) has effect in relation to the period beginning on the day the appointment begins and ending on the next 30 June as if:

- (a) if 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.

“(3) A report for a financial year may, subject to agreement between the Presiding Member and the Chairperson of the Corporation, be included, as a discrete part, in the annual report of the Corporation for that financial year.

“(4) If subsection (3) does not apply to a report under this section, 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 receives the report.”.

**PART 5—AMENDMENTS OF THE MURRAY-DARLING BASIN
ACT 1983**

Principal Act

22. In this Part, “Principal Act” means the *Murray-Darling Basin Act 1983*⁴.

Approval of amending agreement

23. The agreement, a copy of which is set out in Schedule 3, is approved.

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

Interpretation

24. Section 3 of the Principal Act is amended by omitting “agreement, a copy of which is set out in Schedule 2” from the definition of “Agreement” and substituting “agreements, copies of which are set out in Schedules 2 and 3”.

Schedule 3

25. The Principal Act is amended by adding at the end the Schedule set out in Schedule 3 to this Act.

**PART 6—AMENDMENTS OF THE PLANT VARIETY RIGHTS
ACT 1987**

Principal Act

26. In this Part, “Principal Act” means the *Plant Variety Rights Act 1987*.

Interpretation

27. Section 3 of the Principal Act is amended by inserting after subsection (3) the following subsection:

“(3A) For the purposes of this Act, a person who selects a plant variety from a plant population that the person has grown, being a plant variety that is distinguishable by one or more important morphological, physiological or other characteristics from all other plant varieties whose existence at the time is a matter of common knowledge, is taken to have originated that variety.”.

Plant variety rights not to be granted in relation to certain varieties

28. Section 13 of the Principal Act is amended:

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

“(1) Plant variety rights must not be granted in respect of a plant variety if the plants of that variety are plants of a genus or species declared by the regulations to be a genus or species to which this Act does not apply.”;

(b) by omitting from subsection (2) “applies” (wherever occurring) and substituting “does not apply”.

29. After section 17 of the Principal Act the following section is inserted:

Priority of certain breeders

“17A. (1) A person who:

(a) is the breeder of a new plant variety; and

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

- (b) in a member State of the Union (other than Australia) within the meaning of the Convention, makes an application (in this section called the ‘foreign application’) for all or any plant variety rights in respect of that variety;

has priority for the purposes of this Act in respect of that variety during the period of 12 months commencing on the day after the day on which that application is made.

“(2) If:

- (a) during that period of 12 months the person makes an application to the Secretary for protection under this Act in respect of that plant variety accompanied by a claim for priority in respect of the foreign application; and
- (b) during that period but within 3 months of making that application, the person lodges with the Secretary a copy of the documents that constituted the foreign application certified to be a true copy of those documents by the authority that received the foreign application;

the person has priority in respect of that plant variety during such additional period, commencing at the end of that period of 12 months, as is prescribed.

“(3) If, during that additional period, the person provides the Secretary with such particulars in relation to the plant variety as would be required if the person were making an application under section 16, the person is taken to have made an application under this Act for plant variety rights in respect of that variety.”.

Lodging of applications

30. Section 18 of the Principal Act is amended by omitting subparagraph (1) (a) (ii) and substituting the following subparagraphs:

- “(ii) the name of the variety complies with section 17; and
- (iii) no other person has priority for the purposes of this Act in respect of that variety;”.

Provisional protection

31. Section 22 of the Principal Act is amended by omitting paragraph (2) (b).

Characteristics of plant varieties originated outside Australia

32. Section 23 of the Principal Act is amended:

- (a) by adding at the end of paragraph (a) “or”;
- (b) by inserting after paragraph (a) the following paragraph:

“(aa) a test growing of the variety carried out at a place outside Australia has demonstrated that the variety has that characteristic and Australia is required, under an

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

agreement between Australia and the country in which the test growing was carried out, to accept that the variety has that characteristic; or”.

Offences

33. Section 52 of the Principal Act is amended by omitting from paragraph (2) (b) “section 21” and substituting “subsection 22 (1)”.

**PART 7—AMENDMENTS OF THE PRIMARY INDUSTRIES
AND ENERGY RESEARCH AND DEVELOPMENT ACT 1989**

Principal Act

34. In this Part, “Principal Act” means the *Primary Industries and Energy Research and Development Act 1989*.

Definitions

35. Section 4 of the Principal Act is amended by omitting from subsection (1) the definition of “research component” and substituting the following definition:

“ ‘research component’ means:

- (a) in relation to the levy imposed by the *Wheat Industry Fund Levy Act 1989*—the proportion of the levy referred to in subsection 5 (5); and
- (b) in relation to any other levy—so much of the levy as the regulations declare to be the research component of the levy under paragraph 5 (3) (a);”.

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

36. (1) Section 5 of the Principal Act is amended:

- (a) by omitting from subsection (3) “Where a levy” and substituting “Subject to subsection (4), where a levy”;
- (b) by adding at the end the following subsections:

“(4) Paragraph (3) (a) does not apply to the levy imposed by the *Wheat Industry Fund Levy Act 1989*.

“(5) If the levy imposed by the *Wheat Industry Fund Levy Act 1989* is declared by the regulations to be attached to an R&D Corporation or an R&D Fund, the research component of the levy, in relation to each season, is the proportion of the levy that represents the percentage of the value of leviable wheat on which levy is imposed during that season determined by the Grains Council under subsection 85 (3) of the *Wheat Marketing Act 1989*.

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

“(6) In subsection (5), the expressions ‘Grains Council’, ‘leviable wheat’ and ‘season’ have the same meaning as in Part 7 of the *Wheat Marketing Act 1989*.”.

(2) Regulations made before the commencement of this Part for the purposes of paragraph 5 (3) (a) of the Principal Act continue to have effect, in relation to a levy other than the levy imposed by the *Wheat Industry Fund Levy Act 1989*, as if they had been made under the Principal Act, as amended by this Act.

Government matching payments not to exceed levy and certain other payments

37. Section 31 of the Principal Act is amended by inserting in paragraph (1) (c) “research components of” after “in relation to”.

**PART 8—AMENDMENT OF THE SNOWY MOUNTAINS
HYDRO-ELECTRIC POWER ACT 1949**

Principal Act

38. In this Part, “Principal Act” means the *Snowy Mountains Hydro-electric Power Act 1949*.

39. Section 31 of the Principal Act is repealed and the following section is substituted:

Contracts

“31. (1) The Authority must not enter into any contract involving the payment or receipt of an amount exceeding \$500,000.

“(2) Subsection (1) does not apply if:

- (a) the Minister has approved of the Authority entering into the contract; or
- (b) the contract relates to the investment of money not immediately required for the purposes of the Authority:
 - (i) in securities of, or guaranteed by, the Commonwealth; or
 - (ii) on deposit with an approved bank; or
 - (iii) in any other manner approved by the Treasurer.

“(3) For the purposes of subsection (2):

‘approved bank’, in relation to the Authority, means a bank as defined in subsection 5 (1) of the *Banking Act 1959* or another bank declared by the Treasurer or a person authorised by the Treasurer to give approvals under this subsection to be an approved bank in relation to the Authority.”.

**PART 9—AMENDMENT OF THE WHEAT INDUSTRY FUND
LEVY COLLECTION ACT 1989**

Principal Act

40. In this Part, “Principal Act” means the *Wheat Industry Fund Levy Collection Act 1989*⁸.

Payment of levy

41. Section 5 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

“(1) Subject to subsections (2) and (3) and to the regulations, levy imposed on wheat because the wheat has been delivered by the grower to another person is due for payment at the end of 28 days, or such longer period as is prescribed, immediately following the end of the quarter in which the wheat was delivered.

“(1A) Subject to subsections (2) and (3) and to the regulations, levy imposed on wheat because the wheat has been processed by or for the grower is due for payment at the end of 28 days, or such longer period as is prescribed, immediately following the end of the quarter in which the processed wheat was delivered by the grower or was used by the grower for a commercial purpose.”.

**PART 10—AMENDMENTS OF THE WHEAT MARKETING ACT
1989**

Principal Act

42. In this Part, “Principal Act” means the *Wheat Marketing Act 1989*⁹.

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

Management of the Fund

“83. Subject to any provisions of the regulations referred to in subsection 94 (3), the Board must manage the Fund in each financial year according to the business plan for that year approved by the Grains Council.”.

(2) The annual business plan for the Wheat Industry Fund for the financial year that commenced on 1 July 1990 approved by the Grains Council for the purposes of regulation 6 of the Wheat Industry Fund Regulations made on 7 February 1990 has effect in relation to that financial year as if it were the business plan for that financial year approved for the purposes of section 83 of the Principal Act, as amended by this Act.

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

Interpretation

44. Section 84 of the Principal Act is amended by omitting the definition of “Research Fund”.

Determination of apportionment of wheat industry fund levy

45. Section 85 of the Principal Act is amended by omitting from subsection (3) “paid into the Research Fund” and substituting “the research component of the levy in relation to that season”.

Repeal

46. Section 87 of the Principal Act is repealed.

Regulations

47. (1) Section 94 of the Principal Act is amended by adding at the end the following subsections:

“(3) Without limiting subsection (1), the regulations may make provision regarding:

- (a) the preparation and approval of business plans for the purposes of section 83; and
- (b) the conditions subject to which money of the Wheat Industry Fund may be used by the Board; and
- (c) the replacement in the Fund of money used by the Board; and
- (d) the giving by the Treasurer of guarantees in relation to borrowings made by the Board for the purposes of activities involving the use of money of the Fund; and
- (e) the making of payments to wheat growers out of, or in relation to, money of the Fund; and
- (f) the issue to wheatgrowers of certificates of equity in the Fund; and
- (g) the rights of the holder of a certificate of equity, including rights relating to the transfer of the certificate; and
- (h) the manner in which accounting records relating to the Fund are to be kept by the Board.

“(4) Regulations relating to a matter referred to in subsection (3) may not be made except after consideration by the Minister of a report by the Grains Council made after consultation with the Board.”.

(2) Regulations made before the commencement of this Part for the purposes of subsection 83 (2) of the Principal Act have effect, after that

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

commencement, as if they had been made for the purposes of subsection 94 (3) of the Principal Act, as amended by this Act.

PART 11—MINOR AMENDMENTS OF ACTS

Amendments of Acts

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

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

SCHEDULE 1

Section 4

**NEW SCHEDULE TO THE EXOTIC ANIMAL DISEASE CONTROL
ACT 1989**

SCHEDULE

Sections 3 and 22

ACTS IMPOSING CERTAIN LEVIES

Column 1 Item No.	Column 2 Act	Column 3 Provision of Act
1.	<i>Dairy Produce Levy (No. 1) Act 1986</i>	Subsection 5(1)
2.	<i>Laying Chicken Levy Act 1988</i>	Paragraph 7(b)
3.	<i>Live-stock Slaughter Levy Act 1964</i>	Paragraphs 6(1)(c), 6A (1) (c), 6B (1) (c), 6C (1) (c), 6D (1) (c), 6E (1) (c) and 6F (1) (c)
4.	<i>Meat Chicken Levy Act 1969</i>	Paragraph 7(1)(b)
5.	<i>Pig Slaughter Levy Act 1971</i>	Paragraph 6(1)(c)

SCHEDULE 2

Section 48

MINOR AMENDMENTS OF ACTS

Horticultural Research and Development Corporation Act 1987

Paragraph 47 (1) (a):

Omit the paragraph, substitute the following paragraph:

“(a) in payment or discharge of the expenses and liabilities incurred by or on behalf of the Corporation or a Selection Committee;”.

Subsection 47 (2):

Omit the subsection, substitute the following subsection:

“(2) The 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, under this Act.”.

Heading to Part III:

Omit the heading, substitute the following heading:

“**PART III—SELECTION COMMITTEES**”.

Heading to Division 1 of Part III:

Omit the heading, substitute the following heading:

“***Division 1—Presiding Member and Selection Committees***”.

Section 58:

Omit “the Selection Committee”, substitute “a Selection Committee”.

Section 59:

Omit “The”, substitute “A”.

Section 60:

Repeal the section.

Heading to Division 3 of Part III:

Omit the heading, substitute the following heading:

“***Division 3—Establishment and meetings of Selection Committees***”.

Section 65:

Repeal the section.

SCHEDULE 2—continued

Section 66:

Repeal the section.

Section 68:

Repeal the section.

Section 69:

Omit “the Selection Committee”, substitute “a Selection Committee”.

Subsection 70 (1):

Omit the subsection, substitute the following subsection:

“(1) A member of a Selection Committee 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.”.

Subsection 70 (2):

Omit “the”, substitute “a”.

Paragraph 70 (3) (a):

Omit “the Selection Committee”, substitute “a Selection Committee”.

Subsection 70 (4):

Omit “the Selection Committee”, substitute “a Selection Committee”.

Subsection 70 (7):

Omit “the Selection Committee”, substitute “a Selection Committee”.

Subsection 71 (1):

Omit “Chairperson of the Selection Committee”, substitute “Presiding Member”.

Subsection 71 (2):

- (a) Omit “Chairperson” (wherever occurring), substitute “Presiding Member”.
- (b) Omit “the Selection Committee”, substitute “a Selection Committee”.

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

SCHEDULE 2—continued

Section 72:

Omit “the Selection Committee”, substitute “a Selection Committee”.

Paragraph 73 (1) (a):

Omit “the Selection Committee” (first occurring), substitute “a Selection Committee”.

Section 75:

Omit “the Selection Committee”, substitute “a Selection Committee”.

Subsection 76 (1):

Omit “the Selection Committee” (first occurring), substitute “a Selection Committee”.

Subsections 76 (2) and (3):

Omit the subsections, substitute the following subsections:

“(2) The Presiding Member may at any time convene a meeting of a Selection Committee.

“(3) The Presiding Member must preside at all meetings of a Selection Committee at which he or she is present.”.

Subsection 76 (4):

Omit “Chairperson of the Selection Committees is not present at a meeting of the”, substitute “Presiding Member is not present at a meeting of a”.

Subsection 76 (5):

(a) Omit “the Selection Committee”, substitute “a Selection Committee”.

(b) Omit paragraph (a), substitute the following paragraph:

“(a) a majority of the members constitutes a quorum;”.

Subsection 76 (6):

Omit “The”, substitute “A”.

Subsection 76 (7):

Omit “The”, substitute “A”.

Nuclear Non-Proliferation (Safeguards) Act 1987

Section 15:

After “nuclear material or” (first occurring) insert “an”.

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

SCHEDULE 2—continued

Section 49:

Omit “in” (last occurring), substitute “any”.

Rural Industries Research Act 1985

Paragraph 41(b):

Omit “Research Councils”, substitute “Councils”.

Paragraph 41(c):

Omit “Research Councils”, substitute “Councils”.

Rural Industries Research Amendment Act 1988

Section 42:

Omit “41(b) and (c)”.

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

SCHEDULE 3

Section 25

**NEW SCHEDULE 3 TO THE MURRAY-DARLING BASIN ACT
1983**

SCHEDULE 3

Section 3

AN AGREEMENT made this 4th day of October One thousand nine hundred and ninety

BETWEEN

THE COMMONWEALTH OF AUSTRALIA (“the Commonwealth”) of the first part,
THE STATE OF NEW SOUTH WALES of the second part,
THE STATE OF VICTORIA of the third part, and
THE STATE OF SOUTH AUSTRALIA of the fourth part.

WHEREAS the Commonwealth, New South Wales, Victorian and South Australian Governments wish to amend the Agreement made between the parties on 1 October 1982, as amended by the Murray-Darling Basin Agreement made on 30 October 1987 (which Agreement as so amended is herein called “the principal agreement”), in order to enable the Ministerial Council established thereunder to make decisions otherwise than at duly convened meetings.

NOW IT IS HEREBY AGREED by and between the parties to this Agreement as follows:

1. Unless the contrary intention appears, expressions used in this Agreement have the same meanings as in the principal agreement.
2. (1) This Agreement, other than this clause, is subject to approval by the Parliaments of the Commonwealth and of the States of New South Wales, Victoria and South Australia and comes into effect when so approved.
(2) The Commonwealth, New South Wales, Victorian and South Australian Governments will submit this Agreement for approval to their respective Parliaments as soon as practicable after the Agreement is made.
(3) A further approval of the Parliaments is not required if another State becomes a party to the Agreement in accordance with Clause 117A of the principal agreement.
3. The following clause shall be inserted before clause 7F of the principal agreement—

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

SCHEDULE 3—continued

- “7EA. (1) A decision of the Ministerial Council may be made other than at a meeting of the Ministerial Council if made in accordance with this clause.
- (2) If—
- (a) the text of a proposed resolution is sent or given in writing by facsimile or other transmission by an officer of the Commission authorised by the Ministerial Council to a Minister nominated under clause 7G or if that Minister is unavailable a Minister for the same Contracting Government authorised for the purpose by the Minister so nominated; and
- (b) such Minister approves the proposed resolution and notifies that officer in writing sent or given by facsimile or other transmission,
- the proposed resolution is approved, by the Minister.
- (3) When a Minister from each Contracting Government has approved a resolution in accordance with sub-clause (2) the resolution shall be deemed to have become a decision of the Ministerial Council at the date and time the last of those Ministers has approved the resolution.
- (4) Any decision of the Ministerial Council made in accordance with this clause, must be recorded by an officer of the Commission authorised by the Ministerial Council and a copy of the decision sent to each member of the Ministerial Council within 21 days after the decision is made.
- (5) The record made pursuant to sub-clause (4) shall be confirmed at the next meeting of the Ministerial Council.”

IN WITNESS WHEREOF this Agreement has been respectively signed for and on behalf of the parties hereto on the day and year first above-written.

SIGNED by the Honourable **ROBERT JAMES LEE HAWKE**,
Prime Minister of the Commonwealth of Australia,
in the presence of—**ROBERT DAVID HANNA**

SIGNED by the Honourable **NICHOLAS FRANK GREINER**,
Premier of the State of New South Wales,
in the presence of—**RICHARD GEORGE HUMPHRY**

*Primary Industries and Energy Legislation Amendment
No. 134, 1990*

SCHEDULE 3—continued

SIGNED by the Honourable JOAN ELIZABETH KIRNER,
Premier of the State of Victoria,
in the presence of—**DAVID ROBERT ESSINGTON LEWIS**

SIGNED by the Honourable DONALD JACK HOPGOOD,
Acting Premier of the State of South Australia,
in the presence of—**ANN LAMBERT**

NOTES

1. No. 130, 1989.
2. No. 47, 1982, as amended. For previous amendments, see No. 72, 1984; No. 65, 1985; No. 141, 1987; and Nos. 99 and 111, 1988.
3. No. 166, 1987, as amended. For previous amendments, see Nos. 51 and 99, 1988; and No. 46, 1989.
4. No. 86, 1983, as amended. For previous amendments, see No. 154, 1987.
5. No. 2, 1987, as amended. For previous amendments, see No. 111, 1988.
6. No. 17, 1990.
7. No. 25, 1949, as amended. For previous amendments, see No. 47, 1951; No. 35, 1952; No. 69, 1955; No. 45, 1956; No. 31, 1958; No. 93, 1966; No. 216, 1973; No. 29, 1975; No. 36, 1978; No. 156, 1979; No. 65, 1985; No. 76, 1986; and No. 21, 1989.
8. No. 35, 1989, as amended. For previous amendments, see No. 17, 1990.
9. No. 58, 1989, as amended. For previous amendments, see No. 16, 1990.

[*Minister's second reading speech made in—
House of Representatives on 18 October 1990
Senate on 13 November 1990*]