



Primary Industry Councils Act 1991

No. 206 of 1991

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SCHEDULE

ESTABLISHMENT OF INDUSTRY COUNCILS



Primary Industry Councils Act 1991

No. 206 of 1991

**An Act to provide for the establishment of industry
councils for primary industries, and
for related purposes**

[Assented to 24 December 1991]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Primary Industry Councils Act 1991*.

Commencement

2. This Act commences on the day on which it receives the Royal Assent.

Object of Act

3. The object of this Act is to provide for the establishment of industry councils for primary industries in order to facilitate the development by the Commonwealth Government of sound, consistent and comprehensive policies concerning primary industries, through the active and co-ordinated involvement of those industries and related industries in the process of policy formulation.

Interpretation: general

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

“**chairperson**”, in relation to a council, means the chairperson of the council;

“**council**” means an industry council established by this Act;

“**deputy chairperson**”, in relation to a council, means the deputy chairperson of the council;

“**member**” means a member of a council and includes the chairperson and deputy chairperson;

“**Parliament**” means:

- (a) in relation to the Australian Capital Territory—the Legislative Assembly for the Australian Capital Territory; and
- (b) in relation to the Northern Territory—the Legislative Assembly of the Northern Territory;

“**prescribed**” includes prescribed by an order;

“**regulations**” includes orders;

“**report**” means a report, or part of a report, of a council;

“**State**” includes the Australian Capital Territory and the Northern Territory.

Relevant primary industry

5. The expression “**the relevant primary industry**”, when used in relation to a council, means the industry in relation to which the council is established.

PART 2—ESTABLISHMENT, FUNCTIONS AND POWERS OF INDUSTRY COUNCILS

Establishment of industry councils

6. Industry councils are established in relation to primary industries as provided by the Schedule.

Functions

7. The functions of a council are as follows:

- (a) to keep under review, and report to the Minister on, the strategic direction of the relevant primary industry;
- (b) to inquire into, and report to the Minister on, matters affecting

the relevant primary industry which the council thinks require investigation or action;

- (c) to inquire into, and report to the Minister on, matters affecting the relevant primary industry referred to the council by the Minister;
- (d) to convene industry review conferences;
- (e) to consult and co-operate with such persons, organisations and bodies as the council thinks fit in relation to matters affecting the relevant primary industry;
- (f) such other functions as are conferred on the council by this Act or the regulations or by another Act.

Powers

8. A council has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

Reports on strategic direction

9. (1) A council may give the Minister a written report on the strategic direction of the relevant primary industry whenever it thinks it necessary or desirable to do so.

(2) A council must give such a report to the Minister when requested to do so by the Minister in writing.

Industry review conferences

10. (1) A council may convene industry review conferences.

(2) If the regulations so require, a council must convene such conferences.

(3) Where the regulations require a council to convene industry review conferences, such conferences are to be convened at least as often as required by the regulations.

(4) An industry review conference is a conference of:

- (a) such participants in the relevant primary industry as the council thinks fit; and
- (b) representatives of such related industries (if any) as the council thinks fit.

(5) The purpose of an industry review conference is to consider the strategic direction of the relevant primary industry or other matters relating to that industry or related industries.

(6) At an industry review conference the chairperson of the relevant council has the same standing as if he or she were a participant in the relevant primary industry.

(7) The relevant council may give directions regarding the manner in which an industry review conference is to be conducted, including directions in relation to:

- (a) the person who is to preside at the conference; and
- (b) the agenda of the conference.

Conferences of chairpersons of industry statutory bodies

11. (1) A council may convene conferences of the chairpersons of bodies established by other Acts and having functions that relate to the relevant primary industry.

(2) If the regulations so require, a council must convene such conferences.

(3) Where the regulations require a council to convene conferences under this section, the conferences are to be convened at least as often as required by the regulations.

(4) At a conference under this section:

- (a) the chairperson of the relevant council has the same standing as if he or she were a chairperson of a body referred to in subsection (1); and
- (b) the chairperson of the relevant council is to preside.

(5) The relevant council may give directions regarding the manner in which a conference under this section is to be conducted, including directions in relation to the agenda of the conference.

Publication of reports etc.

12. (1) The Minister may cause a report of a council to be made public in any way the Minister thinks fit.

(2) A council, a member of a council or a deputy of a member must not make public a report that has not been made public by the Minister.

Disagreement as to contents of a report

13. Where a member of a council disagrees with a finding or recommendation to be included in a report of the council, the report must:

- (a) identify the member; and
- (b) include a summary of the member's views in relation to the finding or recommendation.

PART 3—CONSTITUTION AND MEETINGS OF COUNCILS

Constitution of councils

14. (1) A council consists of:

- (a) a chairperson; and

(b) such other members as are provided for by the Schedule.

(2) The performance of the functions, and the exercise of the powers, of a council are not affected merely because there is a vacancy in the membership of the council.

Appointment of members of councils

15. (1) Appointments of members of a council are made by the Minister.

(2) The appointment of a person as a member is not ineffective because of a defect or irregularity in connection with the person's nomination or appointment.

(3) If the Minister is not satisfied that a person nominated for appointment as a member should be appointed, the Minister may reject the nomination and request the nomination of another person.

Deputy chairperson

16. (1) The Minister must appoint a member of a council as the deputy chairperson.

(2) The Minister may, before appointing the deputy chairperson of a council, consult with the chairperson.

(3) The Minister may at any time terminate the appointment of the deputy chairperson of a council.

(4) A person appointed as deputy chairperson ceases to hold the office if the person ceases to be a member.

(5) During any period when:

(a) the office of chairperson is vacant; or

(b) the chairperson is absent from Australia or is, for any reason, unable to perform the duties of the office;

the deputy chairperson may act as chairperson.

(6) The deputy chairperson has, when acting as chairperson, all the powers, duties, rights and entitlements of the chairperson.

(7) Anything done by or in relation to a person purporting to act as chairperson under subsection (5) is not ineffective because:

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

(b) the appointment of the person as deputy chairperson had ceased to have effect; or

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

Deputies of members

17. (1) The Minister may appoint a deputy of a member.

(2) In the case of a member appointed on the nomination of an organisation or body, a deputy may only be appointed at the request of that organisation or body.

(3) In the case of a member who holds office because he or she holds a particular office or appointment in an organisation or body, a deputy may only be appointed at the request of that organisation or body.

(4) Subject to section 33, a person appointed as the deputy of a member continues as that member's deputy until the appointment of the member expires or otherwise ceases to have effect.

(5) During any period when the member is unable, for any reason, to attend meetings of the council, the deputy may attend meetings of the council in place of the member.

(6) In relation to attendance at a meeting of a council under subsection (5):

- (a) the deputy has the powers, duties, rights and entitlements of a member of the council, including the right to be paid travel allowance; and
- (b) sections 13 and 32 apply to the deputy as if he or she were a member of the council.

(7) Subsection 29 (3) applies to the deputy of a member as if he or she were a member.

(8) Section 33 (except paragraph (1) (e)) applies to the deputy of a member as if:

- (a) the deputy were an appointed member of a council; and
- (b) in the case of a deputy appointed at the request of an organisation or body, the deputy had been appointed on the nomination of that organisation or body.

(9) Anything done by or in relation to a person attending a meeting in place of a member under subsection (5) is not ineffective because:

- (a) there was a defect or irregularity in connection with the appointment of the person as the deputy of the member; or
- (b) the appointment of the person as the deputy of the member had ceased to have effect; or
- (c) the occasion for the person to attend the meeting had not arisen or had ceased.

Meetings

18. (1) Subject to subsection (2), a council may hold such meetings as it thinks fit.

(2) The chairperson:

- (a) may convene a meeting of a council at any time; and
- (b) must convene a meeting of a council on receipt of a written request signed by the number of members fixed by the Schedule.

(3) If the regulations prescribe the frequency with which meetings of a council are to be convened, the chairperson must convene a meeting of the council at least as often as the regulations require.

(4) The chairperson of a council is to preside at all meetings of the council at which he or she is present.

(5) If neither the chairperson nor the deputy chairperson is present at a meeting of a council, the members present are to appoint one of their number to preside.

(6) At a meeting of a council:

- (a) a question is to be decided by a majority of votes of the members present and voting; and
- (b) the member presiding has a deliberative vote and, if the votes are equal, also has a casting vote.

(7) The quorum for a meeting of a council is such as is fixed by the Schedule.

(8) A council must keep minutes of its meetings.

(9) A council may invite a person to attend a meeting for the purpose of advising it or informing it on any matter.

PART 4—COMMITTEES AND WORKING PARTIES

Establishment of committees and working parties

19. (1) A council may establish such committees and working parties as the council thinks fit to assist it in the performance of its functions and the exercise of its powers.

(2) Where a council establishes a working party, it must specify a day by which the working party must complete its work.

(3) A council may vary the day by which a working party must complete its work.

Constitution of committees and working parties

20. (1) Where a council establishes an executive committee, the committee must be constituted wholly by members of the council.

(2) Any other committee may be constituted wholly by members of the council or partly by members of the council and partly by other persons.

- (3)** A working party may be constituted:
- (a) wholly by members of the council; or
 - (b) partly by members of the council and partly by other persons; or
 - (c) wholly by persons who are not members of the council.

Chairpersons of committees

21. The council must appoint one of the members of a committee to be the chairperson of the committee.

Meetings of committees

- 22. (1)** A council may determine:
- (a) the procedure to be followed by a committee, including the procedure for:
 - (i) the convening of meetings of the committee; and
 - (ii) the selection of the member of the committee who will preside at a meeting of the committee in the absence of the chairperson of the committee; and
 - (iii) the procedure to be followed at meetings of the committee; and
 - (b) the quorum for meetings of the committee; and
 - (c) the circumstances in which, and the conditions subject to which, persons other than members of the committee may attend meetings of the committee.

(2) Except in relation to matters determined by the council that established the committee, a committee may determine the procedure to be followed at or in relation to its meetings.

Reports of committees

23. Where a member of a committee disagrees with a finding or recommendation to be included in a report of the committee, the report must:

- (a) identify the member; and
- (b) include a summary of the views of the member in relation to the finding or recommendation.

Disclosure of interests by members of committees

24. In relation to committees and members of committees, section 32 applies as if:

- (a) a reference in that section to a council were a reference to a committee; and
- (b) a reference in that section to a member were a reference to a member of the committee (whether or not the member of the committee is also a member of the council); and
- (c) a reference in that section to the relevant primary industry were

a reference to the industry that is the relevant primary industry in relation to the council by which the committee was established.

Application of Part to working parties

25. Except for sections 19 and 20, this Part applies to a working party and its members as if the working party were a committee.

Allowances of members of committees and working parties

26. Subsections 29 (2) and (3) apply to a person who is a member of a committee or working party as if the person were a member of a council.

PART 5—TERMS AND CONDITIONS APPLYING TO ALL MEMBERS OF COUNCILS

Term of office

27. (1) Subject to section 33, an appointed member of a council holds office for such period, not exceeding 3 years, as is specified in the member's instrument of appointment, and is eligible for re-appointment.

(2) A person appointed as a government member of a council holds office at the pleasure of the Minister.

Terms and conditions of office

28. (1) A member 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.

(2) Each member holds office on a part-time basis.

Remuneration and allowances

29. (1) The chairperson of a council is to be paid such remuneration as is determined by the Remuneration Tribunal.

(2) A member of a council is to be paid such travel allowance as is prescribed.

(3) Where:

- (a) a person who is a member of a council is a member of, or a candidate for election to, the Parliament of a State; and
- (b) under the law of the State, the person would not be eligible to remain, or to be elected, as a member of that Parliament if the person were entitled to remuneration or allowances under this Act;

the person is not to be paid remuneration or allowances under this Act, but is to be reimbursed the expenses that the person reasonably incurs in performing duties under this Act.

- (4) If a person appointed as chairperson of a council:
- (a) is a member of the Parliament of a State, but subsection (3) does not apply in relation to the person; or
 - (b) is in the service or employment of a State, or an authority of a State, on a full-time basis; or
 - (c) holds or performs the duties of an office or position established by or under a law of a State on a full-time basis;

it is a condition of the person's holding office as chairperson that the person pay to the State, within one month of receiving an amount of remuneration under this Act, an amount equal to the amount of remuneration.

(5) An amount payable under subsection (4) to a State by a person is a debt due to the State, and the State may recover the amount by action against the person in a court of competent jurisdiction.

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

Leave of absence

30. (1) The Minister may grant leave of absence to the chairperson of a council on such terms and conditions as the Minister thinks appropriate.

(2) The chairperson of a council may grant leave of absence to a member of the council on such terms and conditions as the chairperson thinks appropriate.

Resignation

31. (1) A person may resign any office or appointment under this Act (other than an appointment under Part 4) by giving written notice of resignation to the Minister.

(2) A person may resign an appointment under Part 4 by giving written notice of resignation to the chairperson of the council by which the appointment was made.

Disclosure of interests

32. (1) This section applies where, in relation to a matter being considered or about to be considered by a council, a member has a direct or indirect pecuniary interest in the matter.

(2) If the interest could conflict with the proper performance of the member's duties in relation to the consideration of the matter, the member must, as soon as practicable after the relevant facts come to

the member's knowledge, disclose the nature of the interest at a meeting of the council.

- (3) The disclosure is to be recorded in the minutes of the meeting.
- (4) Unless the council otherwise determines, the member must not:
 - (a) be present during any deliberation of the council in relation to the matter; or
 - (b) take part in any decision of the council in relation to the matter.
- (5) For the purpose of a determination being made under subsection (4), the member must not:
 - (a) be present during any deliberation of the council for the purpose of making the determination; or
 - (b) take part in the making of the determination.
- (6) This section does not apply to a pecuniary interest a member of a council has only because the member is a participant in the relevant primary industry and which the member has in common with other participants in that industry.

Termination of appointment

33. (1) The Minister may terminate the appointment of an appointed member of a council:

- (a) for misbehaviour or physical or mental incapacity; or
- (b) if the 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 member, without reasonable excuse, contravenes section 32; or
- (d) in the case of the chairperson of a council—if the chairperson is absent without the leave of the Minister from 3 consecutive meetings; or
- (e) in the case of a member of a council other than the chairperson—if the member is absent, without the leave of the chairperson, from 3 consecutive meetings.

(2) Where a member was appointed on the nomination of an organisation or body, the Minister must terminate the member's appointment if the organisation or body so requests in writing.

PART 6—MISCELLANEOUS

Staff

34. (1) A council may arrange with the Secretary to the Department for the services of officers or employees of the Department to be made available to the council.

(2) A person performing services for a council under an arrangement under subsection (1) is subject to the direction of the council.

(3) A council has no power:

(a) to employ persons; or

(b) except under subsection (1), to obtain the services of persons as staff of the council.

Consultants

35. (1) A council may 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.

Delegation by council

36. (1) A council may delegate all or any of its powers under this Act to:

(a) a committee; or

(b) a member of the council; or

(c) a person performing services for the council under an arrangement under subsection 34 (1).

(2) The delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the council.

(3) A delegation under subsection (1):

(a) may be revoked by resolution of the council; and

(b) continues in force notwithstanding a change in the membership of the council.

(4) A certificate signed by the chairperson of a council stating any matter in relation to a delegation under subsection (1) by the council is *prima facie* evidence of the matter.

(5) A document purporting to be a certificate under subsection (4), unless the contrary is established, is to be taken to be such a certificate.

Annual report

37. (1) A council must, as soon as practicable after the end of each financial year, give to the Minister a written report of its operations during that year.

(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 its receipt by the Minister.

(3) If a council is not established at the beginning of a financial year, this section has effect in relation to the period commencing on the establishment of the council and ending on the next 30 June as if:

- (a) in a case where the period is less than 6 months—the period were included in the next financial year; or
- (b) in any other case—the period were a financial year.

Orders

38. (1) Subject to subsection (2), the regulations may make provision empowering the Minister to make orders, not inconsistent with this Act, with respect to any matter in relation to which provision may be made by the regulations.

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

(3) Sections 48, 49, 49A and 50 of the *Acts Interpretation Act 1901* apply in relation to orders as if references to regulations were references to orders and references to an Act were references to regulations.

(4) An order is not to be taken to be a statutory rule within the meaning of the *Statutory Rules Publication Act 1903*, but subsections 5 (3) to (3C) (inclusive) of that Act apply in relation to an order in the same way as they apply in relation to a statutory rule.

(5) For the purposes of the application of subsection 5 (3B) of the *Statutory Rules Publication Act 1903* in accordance with subsection (4), the reference in the first-mentioned subsection to the Minister specified in that subsection is to be read as a reference to a Minister administering this Act.

Regulations

39. 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.

SCHEDULE

Section 6

ESTABLISHMENT OF INDUSTRY COUNCILS

PART 1

THE GRAINS INDUSTRY COUNCIL

Definition

1. In this Part of the Schedule, “**Council**” means the council established by paragraph 2.

Establishment of a council for the grains industry

2. A council is established in relation to the grains industry.

Name of the Council

3. The Council is to be known as the Grains Industry Council.

Constitution of the Council

4. In addition to the Chairperson, the Council has the following members:

- (a) the President of the Grains Council of Australia;
- (b) 3 members appointed on the nomination of the Grains Council of Australia;
- (c) the Chairman of the Australian Barley Marketing Federation;
- (d) the President of the National Agricultural Commodities Marketing Association;
- (e) the Chairman of the Conference of Chairmen of the Australian Bulk Grain Handling Authorities;
- (f) the President of the Stockfeed Manufacturers’ Association of Australia;
- (g) the President of the Flour Millers’ Council of Australia;
- (h) the President of the Australian Oilseeds Federation;
- (i) the Chairman of The Grocery Manufacturers of Australia Limited;
- (j) a member appointed to represent producers of malt;
- (k) a member appointed on the nomination of the Australian Council of Trade Unions;
- (l) a member appointed on the nomination of the Australian Agricultural Council;
- (m) the Chairperson of the Australian Wheat Board;
- (n) the Chairperson of the Grains Research and Development Corporation;
- (o) a member appointed as the government member.

Number of members who may requisition a meeting

5. A request under paragraph (b) of subsection 18(2) must be signed by at least 9 members of the Council.

SCHEDULE—continued

Quorum

6. The quorum at a meeting of the Council consists of 11 members, of whom at least 2 must be members referred to in paragraph 4 (a) or (b) of this Part of the Schedule.

*[Minister's second reading speech made in—
Senate on 13 November 1991
House of Representatives on 28 November 1991]*