



Primary Industries and Energy Legislation Amendment Act (No. 2) 1992

No. 59 of 1992

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Primary Industries and Energy Legislation Amendment Act (No. 2) 1992

No. 59 of 1992

**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 22 June 1992]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Primary Industries and Energy
5 Legislation Amendment Act (No. 2) 1992*.

Commencement

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

**PART 2—AMENDMENT OF THE AUSTRALIAN MEAT AND
LIVE-STOCK CORPORATION ACT 1977**

Principal Act

3. In this Part, “**Principal Act**” means the *Australian Meat and Live-stock Corporation Act 1977*¹.

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Evidence of analyst

4. Section 47J of the Principal Act is amended by omitting subsections (2) and (3) and substituting the following subsections:

“(2) An analyst appointed under subsection (1) may sign a certificate stating that the person who signed the certificate was appointed as an analyst under subsection (1) and also stating, in relation to a substance, any of the following:

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- (a) when, where and from whom the analyst received the substance;
- (b) what, if any, labels or other means of identifying the substance accompanied it when it was received;
- (c) in what container or containers the substance was received;
- (d) a description, and the weight, of the substance received;
- (e) if the substance, or any portion of it, was examined or analysed:
 - (i) the name of the method of examination or analysis; and
 - (ii) the results of the examination or analysis;
- (f) how the substance was dealt with after handling by the analyst, including details of:
 - (i) the quantity retained; or
 - (ii) the name of the person, if any, to whom any retained quantity was given; or
 - (iii) measures taken to secure any retained quantity.

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“(3) For the purposes of this Act, but subject to subsection (4), a certificate purporting to have been signed under subsection (2) is admissible as *prima facie* evidence of the matters stated in it.”.

**PART 3—AMENDMENTS OF THE AUSTRALIAN WOOL
CORPORATION ACT 1991**

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Principal Act

5. In this Part, “**Principal Act**” means the *Australian Wool Corporation Act 1991*².

Payments to Commonwealth in relation to exotic animal disease control

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6. Section 26 of the Principal Act is amended:

- (a) by omitting from subsection (1) “on 1 July in” and “such amount as is prescribed to the Commonwealth” and substituting

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“in respect of” and “to the Commonwealth such amount as is prescribed for that financial year” respectively;

(b) by omitting from subsection (2) “the purposes of subsection (1)” and “last recommended by those members to the Minister” and substituting “a particular year” and “recommended” respectively;

(c) by adding at the end the following subsection:

“(3) The amount payable under subsection (1) may be paid by quarterly instalments.”.

7. Section 27 of the Principal Act is repealed and the following section is substituted:

Hedging through currency contracts etc.

“27.(1) In this section:

‘**currency contract**’ means:

- (a) a forward exchange rate contract; or
- (b) a contract with respect to currency futures;

‘**futures contract**’ means:

- (a) a deferred delivery contract; or
- (b) a contract with respect to financial futures; or
- (c) a contract with respect to commodity futures.

“(2) This section applies to the following contracts:

- (a) currency contracts;
- (b) interest rate contracts;
- (c) futures contracts;

(d) contracts relating to:

- (i) dealings known as currency swaps; or
- (ii) dealings known as interest rate swaps; or
- (iii) dealings known as commodity swaps;

(e) contracts relating to 2 or more of the dealings referred to in paragraph (d);

(f) options (including futures options);

(g) contracts of a kind approved by the Minister in writing.

“(3) Subject to subsection (6), the Corporation may enter into and deal with contracts to which this section applies for hedging purposes in relation to:

- (a) a borrowing or raising, or a proposed borrowing or raising, of money by the Corporation; or
- (b) an investment of money by the Corporation; or
- (c) a purchase or sale of wool; or
- (d) the making by the Corporation of a payment outside Australia

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in relation to the promotion of the use of wool and wool products; or

(e) a transaction in foreign currency.

“(4) The Minister may, by written determination, set guidelines for the exercise by the Corporation of its powers under subsection (3) and must give the Corporation a copy of each determination made. 5

“(5) Without limiting subsection (4), the guidelines may provide that:

(a) the Corporation is not to enter into or deal with contracts of a particular kind; or 10

(b) the Corporation is to enter into or deal with contracts of a particular kind only if the contract relates to specified matters.

“(6) The Corporation must not enter into or deal with a contract to which this section applies contrary to any guidelines in force under subsection (4). 15

“(7) A contract is taken to be entered into or dealt with for hedging purposes only if the contract is entered into or dealt with for the purpose of:

(a) managing the risk of variations in:

(i) the costs of a borrowing or raising, or a proposed borrowing or raising, of money by the Corporation; or 20

(ii) the revenue obtainable by the Corporation from the investment of money by the Corporation; or

(iii) the amount payable to the Corporation for any wool sold by it; or 25

(iv) the amount payable by the Corporation for any wool bought by it; or

(v) the amount of any payment referred to in paragraph (3)(d); or

(vi) a payment to or by the Corporation in relation to a transaction in foreign currency; or 30

(b) maintaining the value of investments made by the Corporation.”.

Interpretation

8. Section 38 of the Principal Act is amended: 35

(a) by omitting “have been” and substituting “are”;

(b) by omitting “for the purposes of the general meeting to be held in that financial year” and substituting “on the day of the meeting”.

Register of wool-tax payers

9. Section 40 of the Principal Act is amended:

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

5 “(1) The Corporation must establish and maintain a register for the purpose of ascertaining whether a person is entitled to debate and vote at the annual general meeting, and any special general meeting, held in a particular financial year.

10 “(1A) The Corporation must cause to be entered on the register the particulars of any person who:

(a) applies to have his or her particulars entered on the register; and

15 (b) was liable to pay wool tax imposed during the financial year immediately preceding the financial year in which the application is made; and

(c) has paid that wool tax.

 “(1B) If a person’s particulars are on the register, their registration is renewed if:

20 (a) the person applies for the registration to be renewed; and

(b) the person was liable to pay wool tax imposed during the financial year immediately preceding the financial year in which the application is made; and

(c) the person has paid that wool tax.

25 “(1C) A person whose particulars are on the register may, at any time, apply in writing to have those particulars removed from the register.

30 “(1D) Unless a person has applied under subsection (1C) to have his or her particulars removed from the register, those particulars are to remain on the register for a period of 3 years beginning:

(a) on 1 July in the financial year in which the particulars were entered on the register under subsection (1A); or

35 (b) if the registration of the particulars was renewed under subsection (1B)—on 1 July in the financial year in which the registration was renewed or last renewed (as the case may be).

 “(1E) A person’s particulars are to be removed from the register if:

40 (a) the person has applied under subsection (1C) to have them removed; or

(b) they are not required to remain on the register under subsection (1D).

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“(2) The register is to be used also to ascertain whether a person is an eligible levy payer for the purposes of the annual general meeting of the Wool Research and Development Corporation held in a particular year.”;

- (b) by inserting in paragraph (3)(b) “on a registration under subsection (1A) or the renewal of a registration under subsection (1B)” after “register”; 5
- (c) by omitting from subsection (4) “A” and substituting “The”.

Purpose of annual general meeting

10. Section 43 of the Principal Act is amended by inserting after paragraph (1)(b) the following paragraph: 10

“(ba) any motion relating to a matter within the Corporation’s responsibilities;”.

Membership of Corporation

11. Section 49 of the Principal Act is amended by omitting subsection (6) and substituting the following subsection: 15

“(6) The following persons may not be appointed as members of the Corporation:

- (a) a Member of Parliament;
- (b) an individual who is a member of a prescribed organisation (being an organisation representing a sector of the wool industry); 20
- (c) an individual who is a member of the executive of a prescribed organisation (being an organisation representing a sector of the wool industry).” 25

Interpretation

12. Section 77 of the Principal Act is amended:

- (a) by omitting “by the Association” from paragraph (a) of the definition of “examinable document”;
- (b) by omitting “the Association” from the definitions of “registered laboratory”, “registered sampling site” and “registered showfloor” and substituting “the registration authority prescribed for the purposes of this definition”; 30
- (c) by adding at the end the following definition: 35
“; ‘**registration authority**’ has the meaning given by section 77A”.

13. After section 77 of the Principal Act the following section is inserted:

Registration authorities

“77A. Each of the following is a registration authority:

- (a) the Association;
- (b) any person or body prescribed for the purposes of this section.”.

5 **PART 4—AMENDMENTS OF THE AUSTRALIAN WOOL
REALISATION COMMISSION ACT 1991**

Principal Act

14. In this Part, “Principal Act” means the *Australian Wool Realisation Commission Act 1991*³.

10 **Assessment and revision of debt repayment program**

15. Section 11 of the Principal Act is amended by omitting “the accumulated debt is repaid over the shortest period possible” and substituting “the program is at all times managed prudently”.

Performance of functions etc. subject to guidelines

15 16. Section 18 of the Principal Act is amended by omitting from subsection (3) all words after “specify” and substituting “the maximum amount of the accumulated debt that may remain unpaid at the end of each financial year included in the period over which the debt is to be repaid”.

20 **Dealings with Stockpile Fund**

17. Section 20 of the Principal Act is amended by inserting after subparagraph (2)(a)(ii) the following subparagraph:

“(iia) in the payment of amounts payable under section 24C; or”.

25 18. After Division 2 of Part 3 of the Principal Act the following Division is inserted:

“Division 2A—Surplus money in Stockpile Fund

Interpretation

“24A. In this Division:

30 ‘shorn wool tax’ means tax imposed on shorn wool (other than carpet wool) by a Wool Tax Act.

Determination by Minister

35 “24B.(1) The object of this section is to give power to the Minister to determine whether surplus money from the Stockpile Fund should be distributed for the benefit of persons liable to pay shorn wool tax or retained in the Fund.

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“(2) Before 1 June in every financial year, the Commission must advise the Minister in writing whether the Commission is of the view that on 30 June there will be money standing to the credit of the Stockpile Fund that, apart from this Division, would not reasonably be required for:

- (a) the prudent management of the debt repayment program; and
- (b) the operation of the Stockpile Fund in accordance with Part 3.

“(3) If the Commission is of the view that there will be money so standing to the credit of the Stockpile Fund, the Commission must specify in the advice the amount of the money.

“(4) If, in a financial year, the Commission advises the Minister as provided in subsection (3), the Minister must, on or before 30 June:

- (a) make one, or both, of the following determinations:
 - (i) a determination that persons who are, or have been, liable under section 11 of the Administration Act to pay shorn wool tax imposed in the financial year should be entitled to receive a payment from the Commission;
 - (ii) a determination that persons who will become liable under section 11 of the Administration Act to pay shorn wool tax imposed during the following financial year should be entitled to a rebate of that tax; or

(b) decide not to make any determination under paragraph (a).

“(5) If the Minister makes the determination referred to in subparagraph (4)(a)(i), the Minister must specify in the determination the rate applicable for determining the amount to be paid to each person, being a rate expressed as a particular percentage of the shorn wool tax paid by the person in respect of the financial year.

“(6) If the Minister makes the determination referred to in subparagraph (4)(a)(ii), the Minister must specify in the determination the rate (expressed as a particular percentage of the sale value of the shorn wool on which shorn wool tax is payable) applicable for determining the amount of rebate to which each person is entitled.

“(7) If this Division comes into force on or after 1 June 1992:

- (a) the Commission must, as soon as practicable after the Division is in force, advise the Minister in writing whether the Commission is of the view that on 30 June 1992 there was, or there will be, (as the case may be) money standing to the credit of the Stockpile Fund that, apart from this Division, would not reasonably be required for:
 - (i) the prudent management of the debt repayment program; and
 - (ii) the operation of the Stockpile Fund in accordance with Part 3; and

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(b) if the Commission advises the Minister as provided in paragraph (a), the Minister must, as soon as possible, make one or both of the following determinations:

5 (i) a determination that persons who are, or have been, liable under section 11 of the Administration Act to pay shorn wool tax imposed in the financial year ending on 30 June 1992 should be entitled to receive a payment from the Commission;

10 (ii) a determination that persons who will become liable under section 11 of the Administration Act to pay shorn wool tax imposed during the financial year commencing on 1 July 1992 should be entitled to a rebate of that tax;

or decide not to make a determination under this paragraph; and

15 (c) if the Minister makes the determination referred to in subparagraph (b)(i), the determination is to be taken for the purposes of this Act to be a determination referred to in subparagraph (4)(a)(i) made on 30 June 1992; and

20 (d) if the Minister makes the determination referred to in subparagraph (b)(ii), the determination is to be taken:

(i) for the purposes of this Act; and

(ii) for the purposes of section 12A of the Administration Act;

25 to be a determination referred to in subparagraph (4)(a)(ii) made on 30 June 1992.

“(8) Before deciding whether to make a determination under this section, the Minister must consult with the Wool Council, the Minister for Finance and the Treasurer.

30 “(9) A determination under this section must be published in the *Gazette*.

“(10) If the Minister decides not to make a determination, the Minister must give notice of the decision in the *Gazette* stating the reasons in support of the decision.

Cash payments to persons who paid shorn wool tax

35 “24C.(1) If:

(a) the Minister makes in a financial year a determination referred to in subparagraph 24B(4)(a)(i); and

40 (b) a person proves to the satisfaction of the Commission that the person was liable under section 11 of the Administration Act to pay, and has paid, shorn wool tax imposed during the financial year;

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the Commission must pay to the person an amount equal to such percentage of the shorn wool tax so proved to have been paid by the person as is applicable under the determination.

“(2) Payments under subsection (1) are to be made within the period, and in the manner, provided for by the regulations. 5

“(3) For the purposes of subsection (1), if:

(a) a person is liable to pay shorn wool tax under section 11 of the Administration Act; and

(b) another person pays the tax under section 12 of that Act; the tax is taken to have been paid by the first-mentioned person. 10

Copy of registers under Administration Act to be given to Commission

“24D.(1) The Commissioner of Taxation must, as soon as practicable after the commencement of this section, give to the Commission a copy of the registers kept, at that commencement, under sections 13, 14, 15 and 16 of the Administration Act. 15

“(2) The Commissioner of Taxation must, as soon as practicable after an alteration is made to one of those registers, give to the Commission a copy of the alteration.

Information relating to wool tax to be given to Commission

“24E. The Commissioner of Taxation must, as soon as practicable after each financial year, give to the Commission, from returns lodged with the Commissioner under the Administration Act, such information as the Commission requires in relation to: 20

(a) shorn wool (other than carpet wool) on which tax was imposed in that year; and 25

(b) tax payable under subsection 5(1) of a Wool Tax Act.”.

Payments to Commission

19. Section 25 of the Principal Act is amended:

(a) by omitting from subsection (1) “Where” and substituting “Subject to subsection (1A), when”; 30

(b) by inserting after subsection (1) the following subsection:

“(1A) If, as a result of a determination referred to in subparagraph 24B(4)(a)(ii) made by the Minister, persons liable to pay wool tax imposed on shorn wool (other than carpet wool) in the financial year were entitled to a rebate of that tax, the amount payable to the Commission under subsection (1) in respect of any particular shorn wool is reduced by an amount equal to such percentage of the sale value of that shorn wool as is applicable under the determination.”; 35

(c) by inserting in subsection (3) “, (1A)” after “(1)”. 40

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Commission may charge for services

20. Section 26 of the Principal Act is amended by omitting “(g)” and substituting “(h)”.

5 21. Section 29 of the Principal Act is repealed and the following section is substituted:

Hedging through currency contracts etc.

“29.(1) In this section:

‘currency contract’ means:

- 10 (a) a forward exchange rate contract; or
- (b) a contract with respect to currency futures;

‘futures contract’ means:

- (a) a deferred delivery contract; or
- (b) a contract with respect to financial futures; or
- (c) a contract with respect to commodity futures.

15 “(2) This section applies to the following contracts:

- (a) currency contracts;
- (b) interest rate contracts;
- (c) futures contracts;
- (d) contracts relating to:
 - 20 (i) dealings known as currency swaps; or
 - (ii) dealings known as interest rate swaps; or
 - (iii) dealings known as commodity swaps;
- (e) contracts relating to 2 or more of the dealings referred to in paragraph (d);
- 25 (f) options (including futures options);
- (g) contracts of a kind approved by the Minister in writing.

“(3) Subject to subsection (6), the Commission may enter into and deal with contracts to which this section applies for hedging purposes in relation to:

- 30 (a) a borrowing or raising, or a proposed borrowing or raising, of money by the Commission; or
- (b) an investment of money by the Commission; or
- (c) a sale of wool from the wool stockpile; or
- (d) a transaction in foreign currency.

35 “(4) The Minister may, by written determination, set guidelines for the exercise by the Commission of its powers under subsection (3) and must give the Commission a copy of each determination made.

“(5) Without limiting subsection (4), the guidelines may provide that:

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- (a) the Commission is not to enter into or deal with contracts of a particular kind; or
- (b) the Commission is to enter into or deal with contracts of a particular kind only if the contract relates to specified matters.

“(6) The Commission must not enter into or deal with a contract to which this section applies contrary to any guidelines in force under subsection (4). 5

“(7) A contract is taken to be entered into or dealt with for hedging purposes only if the contract is entered into or dealt with for the purpose of: 10

- (a) managing the risk of variations in:
 - (i) the costs of a borrowing or raising, or a proposed borrowing or raising, of money by the Commission; or
 - (ii) the revenue obtainable by the Commission from the investment of money by the Commission; or 15
 - (iii) the amount payable to the Commission for any wool sold from the wool stockpile; or
 - (iv) a payment to or by the Commission in relation to a transaction in foreign currency; or
- (b) maintaining the value of investments made by the Commission.”. 20

Membership of Commission

22. Section 39 of the Principal Act is amended by omitting subsection (6) and substituting the following subsection:

“(6) The following persons may not be appointed as members of the Commission: 25

- (a) a Member of Parliament;
- (b) an individual who is a member of a prescribed organisation (being an organisation representing a sector of the wool industry); 30
- (c) an individual who is a member of the executive of a prescribed organisation (being an organisation representing a sector of the wool industry).”.

Transitional—annual report

23. Section 81 of the Principal Act is amended by inserting in paragraph (a) “and” after “report”. 35

**PART 5—AMENDMENTS OF THE PRIMARY INDUSTRIES
AND ENERGY RESEARCH AND DEVELOPMENT ACT 1989**

Principal Act

24. In this Part, “Principal Act” means the *Primary Industries and Energy Research and Development Act 1989*⁴.

Definitions

25. Section 4 of the Principal Act is amended by omitting from paragraph (a) of the definition of “eligible levy payer” in subsection (1) “a register” and substituting “the register”.

10 List of levy payers etc.

26. Section 57 of the Principal Act is amended by omitting from subsection (1A) “for the purposes of general meetings to be held under Part 6 of that Act in a financial year” and “in respect of that financial year”.

15 Regulations may provide for certain matters

27. Section 61 of the Principal Act is amended:

- (a) by inserting in paragraph (a) “R & D” before “Corporation” (first occurring);
- 20 (b) by inserting in paragraph (e) “if the Corporation is a corporation to which a levy is attached—” before “the method”;
- (c) by inserting after paragraph (e) the following paragraph:
 - 25 “(ea) the method of determining the number of votes that an eligible levy payer of the R & D Corporation in respect of the wool industry may cast when voting at an annual general meeting of that Corporation;”.

**PART 6—AMENDMENT OF THE PRIMARY INDUSTRIES
LEVIES AND CHARGES COLLECTION ACT 1991**

Principal Act

28. In this Part, “Principal Act” means the *Primary Industries Levies and Charges Collection Act 1991*⁵.

Interpretation

29. Section 4 of the Principal Act is amended by inserting in subsection (1) the following definitions:

“leviable amount”, in relation to a levy year, means:

- 35 (a) \$50; or
- (b) if, before the commencement of the levy year, another amount is prescribed in relation to that year, that prescribed amount;

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‘leviable weight’, in relation to a levy year, means:

- (a) 15 tonnes; or
- (b) if, before the commencement of the levy year, another weight is prescribed in relation to that year, that prescribed weight;”.

**PART 7—AMENDMENT OF THE SNOWY MOUNTAINS
HYDRO-ELECTRIC POWER ACT 1949** 5

Principal Act

30. In this Part, “Principal Act” means the *Snowy Mountains Hydro-electric Power Act 1949*⁶.

31. Section 31 of the Principal Act is repealed and the following section is substituted: 10

Contracts

“31. The Authority may not, without the approval of the Minister, enter into a contract involving the payment or receipt of an amount exceeding \$2,000,000.”. 15

NOTES

1. No. 67, 1977, as amended. For previous amendments see No. 36, 1978; No. 76, 1979; No. 167, 1980; Nos. 61 and 150, 1981; Nos. 46 and 48, 1982; No. 57, 1984; No. 13, 1985; No. 77, 1986; No. 155, 1987; Nos. 51, 99 and 111, 1988; No. 88, 1989; Nos. 113 and 139, 1990; and Nos. 26 and 39, 1991.
2. No. 108, 1991, as amended. For previous amendment, see No. 125, 1991.
3. No. 107, 1991, as amended. For previous amendment, see No. 125, 1991.
4. No. 17, 1990, as amended. For previous amendments, see No. 134, 1990; and Nos. 26, 31, 109, 125 and 163, 1991.
5. No. 26, 1991.
6. 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. 86, 1983; No. 65, 1985; No. 76, 1986; No. 21, 1989; and No. 134, 1990.

[*Minister's second reading speech made in—
House of Representatives on 6 May 1992
Senate on 27 May 1992*]