

No. 65 of 1993

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SCHEDULE

FURTHER AMENDMENTS OF THE WOOL TAX (ADMINISTRATION) ACT 1964



No. 65 of 1993

An Act to repeal and amend legislation relating to wool and the wool industry, and for related purposes

[Assented to 12 November 1993]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Wool Legislation (Repeals and Consequential Provisions) Act 1993.

Commencement

2. This Act commences on the day on which the Australian Wool Research and Promotion Organisation Act 1993 commences.

PART 2—REPEALS

Repeal of Acts

3. Subject to Part 5, the Australian Wool Corporation Act 1991, the Australian Wool Industry Council Act 1991 and the Australian Wool Realisation Commission Act 1991 are repealed.

PART 3—AMENDMENTS OF THE PRIMARY INDUSTRIES AND ENERGY RESEARCH AND DEVELOPMENT ACT 1989

Principal Act

4. In this Part, "Principal Act" means the Primary Industries and Energy Research and Development Act 1989¹.

Definitions

- 5. Section 4 of the Principal Act is amended:
- (a) by inserting in the definition of "primary industry" in subsection (1) "(other than the wool industry)" after "endeavour";
- (b) by omitting from subsection (1) the definitions of "eligible levy payer", "Executive Director" and "nominated director" and substituting the following definitions:
 - "'eligible levy payer', in relation to an R & D Corporation, means a person (within the meaning of section 57) who is included in a list of levy payers prepared by the Corporation under section 57;
 - 'Executive Director', in relation to an R & D Corporation, means the Executive Director of the Corporation appointed under Division 9 of Part 2;
 - 'nominated director' means a director of an R & D Corporation, other than the Chairperson, a government director or the Executive Director of the Corporation;";
- (c) by omitting from subsection (1) the definitions of "Australian Wool Corporation" and "Wool Tax Act";
- (d) by omitting subsection (4).

Constitution

- **6.** Section 16 of the Principal Act is amended:
- (a) by omitting from subsection (1) "other than the R & D Corporation in respect of the wool industry";
- (b) by omitting subsection (1A).

Appointment of directors

7. Section 17 of the Principal Act is amended by omitting subsections (4) and (4A).

Payments to R & D Corporation—general

- 8. Section 30 of the Principal Act is amended by omitting from subsection (4) "other than the R & D Corporation in respect of the wool industry".
- 9. Section 56 of the Principal Act is repealed and the following section is substituted:

Application of Division

- "56. This Division applies to an R & D Corporation if:
- (a) a levy is attached to the Corporation; and
- (b) the regulations declare that this Division applies to the Corporation.".

List of levy payers

- 10. Section 57 of the Principal Act is amended:
- (a) by omitting from subsection (1) "other than the R & D Corporation in respect of the wool industry";
- (b) by omitting subsection (1A).

R & D Corporation to convene annual general meetings

- 11. Section 58 of the Principal Act is amended:
- (a) by omitting from subsection (1) "other than the R & D Corporation in respect of the wool industry";
- (b) by omitting subsection (1A).

Purpose of annual general meeting

- 12. Section 60 of the Principal Act is amended:
- (a) by omitting from paragraph (1)(d) "subject to subsection (2)";
- (b) by omitting subsections (2) and (3).

Regulations may provide for certain matters

13. Section 61 of the Principal Act is amended by omitting paragraph (ea).

Notification of motions passed

14. Section 64 of the Principal Act is amended by omitting subsection (2).

Heading to Division 9 of Part 2

- 15. The heading to Division 9 of Part 2 is amended by omitting "and Managing Director".
- 16. Section 75 of the Principal Act is repealed and the following section is substituted:

Executive Director

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

Employees

17. Section 87 of the Principal Act is amended by omitting subsections (4) and (5).

Repeals

18. Sections 30B, 89A, 89B, 89C and 147A of the Principal Act are repealed.

PART 4—AMENDMENTS OF THE WOOL TAX (ADMINISTRATION) ACT 1964

Principal Act

19. In this Part, "Principal Act" means the Wool Tax (Administration) Act 1964².

Officers to observe secrecy

- 20. Section 8 of the Principal Act is amended by omitting paragraph (4)(a) and substituting the following paragraph:
 - "(a) Wool International for the purposes of section 63 of the Wool International Act 1993;".

Repeal

- 21. Section 12A of the Principal Act is repealed.
- **22.** Section 14 of the Principal Act is repealed and the following section is substituted:

Registration of wool-dealers

- "14.(1) A wool-dealer who purchases shorn wool from a person other than a wool-broker without being registered under this section as a wool-dealer in respect of the State in which the shorn wool is purchased, in respect of each day on which the wool-dealer purchases such wool, is guilty of an offence punishable on conviction by a fine not exceeding \$50.
- "(2) An application for registration as a wool-dealer in respect of a State must:
 - (a) be in writing in accordance with a form approved by the Commissioner; and
 - (b) be made in the prescribed manner.

- "(3) On receipt of the application, the Commissioner must:
- (a) register the applicant as a wool-dealer in respect of the State by entering the name of the applicant in a register kept by the Commissioner for the purpose; and
- (b) give notice of the registration to the applicant.
- "(4) If the Commissioner becomes aware that a person registered as a wool-dealer has died, the Commissioner must remove the person's name from the register.
- "(5) If the Commissioner becomes aware that a company registered as a wool-dealer has been wound up, the Commissioner must remove the name of the company from the register.
- "(6) If a registered wool-dealer applies in writing to the Commissioner in the prescribed manner for cancellation of registration, the Commissioner must immediately cancel the registration of the applicant by removing the name of the applicant from the register and give notice of the cancellation to the applicant.".

Returns by wool-brokers

- 23. Section 28 of the Principal Act is amended by adding at the end the following subsection:
- "(2) A wool-broker who furnishes a return under subsection (1) in relation to wool sold on or after 1 July 1993 must, not later than the time at which the return is furnished, give the Commissioner, in accordance with the regulations, such particulars relating to the sale of the wool and the person on whose behalf the wool was sold as are prescribed."

Returns by wool-dealers

- **24.** Section 29 of the Principal Act is amended by adding at the end the following subsection:
- "(2) A wool-dealer who furnishes a return under subsection (1) in relation to wool purchased on or after 1 July 1993 must, not later than the time at which the return is furnished, give the Commissioner, in accordance with the regulations, such particulars relating to the purchase of the wool and the person from whom the wool was purchased as are prescribed."

Returns by manufacturers

25. Section 30 of the Principal Act is amended by adding at the end the following subsection:

- "(2) A manufacturer who furnishes a return under subsection (1) in relation to shorn wool purchased, or subjected to a process of manufacture, by the manufacturer on or after 1 July 1993 must, not later than the time at which the return is furnished, give the Commissioner, in accordance with the regulations, such particulars relating to:
 - (a) the purchase of the wool and the person from whom it was purchased; or
 - (b) the person who owned the wool when it was subjected to a process of manufacture;

as the case requires, as are prescribed.".

Returns by persons exporting wool in pursuance of arrangement

- **26.** Section 31 of the Principal Act is amended by adding at the end the following subsection:
- "(2) A person who furnishes a return under subsection (1) in relation to wool exported on or after 1 July 1993 must, not later than the time at which the return is furnished, give the Commissioner, in accordance with the regulations, such particulars relating to the export of the wool and to the person as are prescribed.".

Returns by other persons exporting wool

- 27. Section 32 of the Principal Act is amended by adding at the end the following subsection:
- "(2) A person who furnishes a return under subsection (1) in relation to wool exported on or after 1 July 1993 must, not later than the time at which the return is furnished, give the Commissioner, in accordance with the regulations, such particulars relating to the export of the wool and to the person as are prescribed.".

Penalty for unpaid tax

- 28.(1) Section 38 of the Principal Act is amended by omitting from subsection (1) "20%" and substituting "16%".
- (2) The amendment made by subsection (1) applies in relation to tax that becomes due and payable after the commencement of this Act.

Schedule of amendments

29. The Principal Act is further amended as set out in the Schedule.

Transitional provision: information relating to wool sold etc. before commencement of Part

30.(1) If, before the commencement of this Part, a wool-broker lodged a return under section 28 of the Principal Act in respect of wool sold on or after 1 July 1993, the wool-broker is required, within 6 months after the

commencement of this Part, to give the Commissioner of Taxation the information the wool-broker would have been required to give the Commissioner if the return had been lodged under section 28 of the Principal Act, as amended by this Act.

- (2) If, before the commencement of this Part, a wool-dealer lodged a return under section 29 of the Principal Act in respect of wool purchased on or after 1 July 1993, the wool-dealer is required, within 6 months after the commencement of this Part, to give the Commissioner of Taxation the information the wool-dealer would have been required to give the Commissioner if the return had been lodged under section 29 of the Principal Act, as amended by this Act.
- (3) If, before the commencement of this Part, a manufacturer lodged a return under section 30 of the Principal Act in respect of wool purchased, or subjected to a process of manufacture, on or after 1 July 1993, the manufacturer is required, within 6 months after the commencement of this Part, to give the Commissioner of Taxation the information the manufacturer would have been required to give the Commissioner if the return had been lodged under section 30 of the Principal Act, as amended by this Act.
- (4) If, before the commencement of this Part, a person lodged a return under section 31 or 32 of the Principal Act in respect of wool exported on or after 1 July 1993, the person is required, within 6 months after the commencement of this Part, to give the Commissioner of Taxation the information the person would have been required to give the Commissioner if the return had been lodged under section 31 or 32, as the case requires, of the Principal Act, as amended by this Act.
- (5) Section 61 of the Principal Act has effect in relation to a person who is required by this section to give information to the Commissioner of Taxation as if the requirement to give the information were a requirement of the Principal Act.

PART 5—TRANSITIONAL PROVISIONS

Definitions

31. In this Part:

"authorised person" means:

- (a) the Minister; or
- (b) a person appointed by the Minister as an authorised person for the purposes of this Part;

"replaced corporation" means:

(a) the Australian Wool Corporation established by the Australian Wool Corporation Act 1991; or

(b) the Wool Research and Development Corporation established under section 8 of the *Primary Industries and Energy Research and Development Act 1989*, as in force immediately before the commencement of this Act.

Final annual report of Australian Wool Corporation

- 32.(1) In spite of the repeal of the Australian Wool Corporation Act 1991 (in this section referred to as "the old Act"), the Australian Wool Corporation continues in existence for the purpose of giving the Minister a report on the operations of the Corporation during the period beginning on 1 July 1993 and ending on the repeal of the old Act, but for no other purpose.
- (2) To the extent necessary to enable the report to be prepared and given to the Minister, the old Act continues to have effect:
 - (a) as if it had not been repealed; and
 - (b) as if section 49 were amended by omitting from subsection (3) "from persons nominated by a Selection Committee under Division 2"; and
 - (c) as if Division 2 of Part 7 were omitted; and
 - (d) as if for subsection 91(1) the following subsection were substituted:
 - "(1) The Corporation must, as soon as practicable after the commencement of the Wool Legislation (Repeals and Consequential Provisions) Act 1993, give the Minister a written report of its operations during the period beginning on 1 July 1993 and ending on that commencement, together with financial statements for the period in a form approved by the Minister for Finance."; and
 - (e) as if the period beginning on 1 July 1993 and ending on the commencement of this Act were a financial year.
- (3) The Minister must cause a copy of the annual report and financial statements of the Australian Wool Corporation for the period referred to in paragraph (2)(e) to be given to the Chairperson of the Australian Wool Research and Promotion Organisation.
- (4) The Chairperson of the Australian Wool Research and Promotion Organisation must cause a copy of the report and statements given to him or her under subsection (3) to be laid before the first annual general meeting held under Part 5 of the Australian Wool Research and Promotion Organisation Act 1993.
- (5) Any expenses or liabilities incurred by the Australian Wool Corporation (including remuneration or allowances payable to members of the Corporation) in connection with the preparation of the report are to be paid or discharged by the Australian Wool Research and Promotion Organisation out of money transferred to the Organisation by subsection

37(1) of this Act or out of money paid to the Organisation under section 50 or subsection 52(1) or (3) of the Australian Wool Research and Promotion Organisation Act 1993.

Final annual report of Australian Wool Industry Council

- 33.(1) In this section, "Council" means the Australian Wool Industry Council established by section 5 of the Australian Wool Industry Council Act 1991, as in force immediately before the commencement of this Act.
- (2) In spite of the repeal of the Australian Wool Industry Council Act 1991 (in this section referred to as "the old Act"), the Council continues in existence for the purpose of giving the Minister a written report of its operations during the period beginning on 1 July 1993 and ending on the commencement of this Act, but for no other purpose.
- (3) To the extent necessary to enable the report to be prepared and given to the Minister, the old Act continues to have effect:
 - (a) as if it had not been repealed; and
 - (b) as if for subsection 37(1) the following subsection were substituted:
 - "(1) The Council must, as soon as practicable after the commencement of the Wool Legislation (Repeals and Consequential Provisions) Act 1993, give the Minister a written report of its operations during the period beginning on 1 July 1993 and ending on that commencement."

Final annual report under Australian Wool Realisation Commission Act

- 34.(1) In this section:
- "Commission" means the body corporate that existed under section 4 of the Commission Act immediately before the commencement of this Act;
- "Commission Act" means the Australian Wool Realisation Commission Act 1991.
- (2) In spite of its repeal by section 3, the Commission Act continues to have effect only for the purpose of enabling a report of the operations of the Commission during the period beginning on 1 July 1993 and ending on the commencement of this Act to be prepared and given to the Minister.
- (3) For the purposes only of subsection (2), the Commission Act has effect:
 - (a) as if section 39 were amended by omitting from subsection (3) "from persons nominated by a Selection Committee under Division 2"; and
 - (b) as if subsection 39(4), Division 2 of Part 5 and section 70 were omitted; and

- (c) as if for subsection 69(1) the following subsection were substituted:
 - "(1) The Commission must, as soon as practicable after the commencement of the Wool Legislation (Repeals and Consequential Provisions) Act 1993, give the Minister a written report of its operations during the period beginning on 1 July 1993 and ending on that commencement."; and
- (d) as if the period referred to in subsection (2) of this section were a financial year; and
- (e) as if the report prepared under subsection (2) of this section were an annual report; and
- (f) as if the persons who were members of the Commission immediately before the commencement of this Act still constituted the Australian Wool Realisation Commission.
- (4) Any expenses or liabilities incurred (including remuneration and allowances payable to members of the Commission) in connection with the preparation of the report are to be paid or discharged by Wool International as if they were expenses or liabilities incurred by Wool International in the performance of its functions.

Final annual report of Wool Research and Development Corporation

- 35.(1) In this section, "Corporation" means the Wool Research and Development Corporation established under section 8 of the *Primary Industries and Energy Research and Development Act 1989*, as in force immediately before the commencement of this Act.
- (2) The Corporation continues in existence for the purpose of giving the Minister a report on the operations of the Corporation during the period beginning on 1 July 1993 and ending on the commencement of this Act, but for no other purpose.
- (3) For the purpose only of subsection (2), the *Primary Industries and Energy Research and Development Act 1989* has effect:
 - (a) as if subsections 17(3) and (4) and Part 4 were omitted; and
 - (b) as if the period referred to in subsection (2) of this section were a financial year; and
 - (c) as if the report prepared under subsection (2) of this section were an annual report; and
 - (d) as if for section 29 the following section were substituted:
 - "29. The Chairperson of an R & D Corporation must, as soon as practicable after the Corporation's annual report has been submitted to the Minister, provide copies of the report:
 - (a) to each of the Corporation's representative organisations; and

- (b) to the Chairperson of the Australian Wool Research and Promotion Organisation.".
- (4) The Chairperson of the Australian Wool Research and Promotion Organisation must cause a copy of the annual report to be laid before the first annual general meeting held under Part 5 of the Australian Wool Research and Promotion Organisation Act 1993.
- (5) Any expenses or liabilities incurred (including remuneration and allowances payable to members of the Corporation) in connection with the preparation of the report are to be paid or discharged by the Australian Wool Research and Promotion Organisation out of money transferred to the Organisation by subsection 37(4) of this Act or out of money paid to the Organisation under section 49 or subsection 52(2) or (4) of the Australian Wool Research and Promotion Organisation Act 1993.

Staff of replaced corporations etc.

- 36.(1) A person who, immediately before the commencement of this Act, was employed by a replaced corporation becomes an employee of the Australian Wool Research and Promotion Organisation on the commencement of this Act as if he or she had been employed by the Organisation under subsection 45(1) of the Australian Wool Research and Promotion Organisation Act 1993 on the commencement of that Act.
- (2) A person who, by virtue of subsection (1), is taken to be an employee of the Australian Wool Research and Promotion Organisation:
 - (a) may not be employed by the Organisation on terms and conditions less favourable than those applying to the person as an employee of the replaced corporation immediately before the commencement of this Act; and
 - (b) is entitled to retain, as an employee of the Organisation, all benefits that, immediately before the commencement of this Act, had accrued to the person as an employee of the replaced corporation as if those benefits related to the person's employment by the Organisation.
- (3) A person who, immediately before the commencement of this Act, was employed by the Australian Wool Realisation Commission:
 - (a) continues as an employee of that body as it is continued in existence by the Wool International Act 1993; and
 - (b) may not be employed by Wool International on terms and conditions less favourable than those applying to the person immediately before the commencement of this Act; and

- (c) is entitled to retain all benefits that, immediately before the commencement of this Act, had accrued to the person as an employee under the Australian Wool Realisation Commission Act 1993 as if they had accrued to the person as an employee under the Wool International Act 1993.
- (4) If:
- (a) a person becomes an employee of the Australian Wool Research and Promotion Organisation under subsection (1); and
- (b) the person later becomes an employee of Wool International; and
- (c) the person has been continuously employed by the Australian Wool Research and Promotion Organisation from the commencement of this Act until he or she became an employee of Wool International;

the person:

- (d) may not be employed by Wool International on terms and conditions less favourable than those on which the person was employed by the replaced corporation immediately before the commencement of this Act; and
- (e) is entitled to retain, as an employee of Wool International, all benefits that, immediately before the commencement of this Act, had accrued to the person as an employee of the replaced corporation as if those benefits were benefits relating to the person's employment by Wool International.
- (5) If:
- (a) a person continues as an employee of Wool International by virtue of subsection (3); and
- (b) the person later becomes an employee of the Australian Wool Research and Promotion Organisation; and
- (c) the person has been continuously employed by Wool International from the commencement of this Act until he or she became an employee of the Australian Wool Research and Promotion Organisation;

the person:

- (d) may not be employed by the Organisation on terms and conditions less favourable than those on which the person was employed by the Australian Wool Realisation Commission immediately before the commencement of this Act; and
- (e) is entitled to retain, as an employee of the Organisation, all benefits that, immediately before the commencement of this Act, had accrued to the person as an employee of the Australian Wool Realisation Commission as if those benefits related to the person's employment by the Organisation.

Transfer of assets, liabilities etc.

- 37.(1) Subject to subsection (3), on the commencement of this Act, the assets, rights, obligations and liabilities of the Australian Wool Corporation become, by force of this section, assets, rights, obligations and liabilities of the Australian Wool Research and Promotion Organisation.
 - (2) The Minister may declare in writing:
 - (a) that specified assets of the Australian Wool Corporation are assets that were used by the Corporation principally in the exercise of the powers specified in paragraphs 7(2)(a) and (b) of the Australian Wool Corporation Act 1991, as in force immediately before the commencement of this Act; and
 - (b) that the specified assets are, on a specified date, transferred to Wool International.
- (3) On the date specified under paragraph (2)(b), the assets referred to in subsection (2) become assets of Wool International by force of this section.
- (4) On the commencement of this section, the assets, rights, obligations and liabilities of the Wool Research and Development Corporation become, by force of this section, assets, rights, obligations and liabilities of the Australian Wool Research and Promotion Organisation.
- (5) Section 145 of the *Primary Industries and Energy Research and Development Act 1989* does not have effect in relation to the Wool Research and Development Corporation.

Transfer of documents

- 38.(1) In this section, "relevant document" means a document, made before the commencement of this section:
 - (a) to which a replaced corporation is a party; or
 - (b) which was given to or in favour of a replaced corporation; or
 - (c) in which a reference is made to a replaced corporation; or
 - (d) under which any right or liability accrues or may accrue to a replaced corporation.
- (2) A relevant document continues in force by virtue of this section but, in its operation after the commencement of this Act, has effect as if a reference in the document to a replaced corporation were a reference to the Australian Wool Research and Promotion Organisation.

Certificates in relation to assets, liabilities etc.

39.(1) An authorised person may certify in writing:

- (a) that an asset, right, obligation or liability specified or described in the certificate became, by force of section 37, an asset, right, obligation or liability, as the case may be, of the Australian Wool Research and Promotion Organisation; or
- (b) that an asset specified or described in the certificate became, by force of section 37, an asset of Wool International; or
- (c) that a document is a relevant document within the meaning of section 38.
- (2) In all courts and for all purposes:
- (a) an asset specified or described in a certificate of an authorised person as an asset that became an asset of the Australian Wool Research and Promotion Organisation by force of section 37 is to be taken to be such an asset; and
- (b) an asset specified or described in such a certificate as an asset that became an asset of Wool International by force of section 37 is to be taken to be such an asset; and
- (c) a right, obligation or liability specified or described in such a certificate as a right, obligation or liability that became a right, obligation or liability of the Australian Wool Research and Promotion Organisation by force of section 37 is to be taken to be 2 such a right, obligation or liability; and
- (d) a document specified or described in such a certificate as a document that is a relevant document within the meaning of section 38 is to be taken to be such a document.
- (3) A document that purports to be a certificate under subsection (1) is to be taken to be such a certificate in the absence of evidence to the contrary.

Exemption from stamp duty

40. A document that an authorised person certifies to have come into existence because of, or for a purpose connected with or arising out of, the operation of this Act is not liable to stamp duty or other duty or tax under a law of the Commonwealth, of a State or of a Territory.

Pending proceedings

41. If, immediately before the commencement of this Act, proceedings to which a replaced corporation was a party were pending in any court or before any tribunal, the Australian Wool Research and Promotion Organisation is, by force of this section, substituted for the replaced corporation as a party to the proceedings.

Regulations for transitional matters

- 42. The Governor-General may make regulations making such transitional or consequential provisions, in relation to any matter not provided for by this Part, as are necessary because of:
 - (a) the repeal of the Australian Wool Corporation Act 1991; or
 - (b) the repeal of the Australian Wool Realisation Commission Act 1991; or
 - (c) the amendments of the *Primary Industries and Energy Research and Development Act 1989* made by this Act; or
 - (d) the operation of this Part.

SCHEDULE

Section 29

FURTHER AMENDMENTS OF THE WOOL TAX (ADMINISTRATION) ACT 1964

Subsection 4(1) (definition of "prescribed certificate"):

Omit "registered" (wherever occurring).

Subsection 4(7):

Omit "registered" (first occurring).

Paragraph 10(1)(b):

Omit "registered".

Paragraph 10(1)(c):

Omit "registered".

Paragraph 11(1)(b):

Omit "registered" (wherever occurring).

Paragraph 11(1)(c):

Omit "registered".

Subsection 12(1):

Omit "registered" (wherever occurring).

Paragraph 15(1)(b):

Omit "registered".

Paragraph 15(1)(c):

Omit "registered".

Subsection 22(1):

Omit "registered" (wherever occurring).

Subsection 22(2):

Omit "registered".

Subsection 22(3):

Omit "registered".

Subsection 22B(1):

Omit "registered".

SCHEDULE—continued

Subsection 22B(2):

Omit "registered".

Paragraph 27(1)(c):

Omit "registered".

Section 29:

Omit "A person who purchases any shorn wool at a time when he is a registered wool-dealer", substitute "A wool-dealer who purchases any shorn wool".

Subsection 89(1):

Omit "registered".

NOTE

- 1. No. 17, 1990 as amended. For previous amendments, see No. 134, 1990; Nos. 26, 31, 109, 125 and 163, 1991; and No. 59, 1992.
- No. 30, 1964, as amended. For previous amendments, see No. 93, 1966; No. 216, 1973; No. 19, 1979; No. 134, 1980; No. 61, 1981; No. 122, 1982; No. 39, 1983; No. 123, 1984; Nos. 47, 65 and 123, 1985; Nos. 41 and 48, 1986; Nos. 62 and 145, 1987; No. 97, 1988; Nos. 60 and 96, 1990; No. 216, 1991; and Nos. 58, 92 and 118, 1992.

NOTE ABOUT SECTION HEADING

1. On the commencement of this Act, the heading to section 22B of the Wool Tax (Administration) Act 1964 is altered by omitting "registered".

[Minister's second reading speech made in— House of Representatives on 30 September 1993 Senate on 18 October 1993]