

1996

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

PRIMARY INDUSTRIES AND ENERGY LEGISLATION
AMENDMENT BILL (No 1) 1996

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Primary Industries and Energy,
the Hon John Anderson MP)

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PRIMARY INDUSTRIES AND ENERGY LEGISLATION AMENDMENT BILL
(NO. 1) 1996

GENERAL OUTLINE

1. To introduce amendments to the *Offshore Minerals Act 1994*; the *Laying Chicken Levy Act 1988*; the *Poultry Industry Assistance Act 1965*; the *Wool International Act 1993*; and the *Australian Wool Research and Promotion Act 1993*. The bill will also repeal 3 acts and make consequential amendments to the *Primary Industries Levies and Charges Collection Act 1991* and the *Rural Industries Research Act 1985* because of the repeal of these acts.

2. Offshore minerals licences under the *Offshore Minerals Act 1994* may be granted in offshore areas under Commonwealth jurisdiction outside State coastal waters. The boundary between

Commonwealth and State jurisdictions is the boundary of State coastal waters 3 nautical miles seaward of the territorial sea baseline proclaimed by the Commonwealth. Section 15 provides that if there is a change to the baseline any licence granted within a State or Commonwealth jurisdiction remains within that jurisdiction for the life of that licence or any successor licence. The section was intended to cover and applies only to shifts in the baseline caused by alterations to the coastline resulting from natural erosion or accretion processes such as storm, wave or tide action.

3. The clause expands the section to cover the situation where the location of the baseline is reassessed because new survey data has been obtained or existing data has been reconsidered. There are areas off the Australian coastline, for example off northern Western Australia, that are poorly surveyed and determination of the location of the baseline relies on 19th century data. In a recent case reconsideration of hydrographic data has led to the relocation of the baseline resulting in possible invalidation of portions of several licences in the area.

4. Section 15 is amended in order to maintain the integrity of licences issued by both the Commonwealth and the States and to ensure that the section applies to all changes to

the location of the baseline. The amendment is retrospective to the date of coming into force of the *Offshore Minerals Act 1994* to ensure that existing licences affected by any changes to the baseline remain wholly valid.

5. This Amendment to the *Laying Chicken Levy Act 1988* is required following a change in the representative organisation of the egg industry and a subsequent request from the industry for acknowledgment of the recently formed Australian Egg Industry Association (ASIA) as the representative industry organisation on matters requiring industry consultation in place of the former industry body - the Australian Council of Egg Producers (ACEP). The AEIA now needs to be acknowledged in the *Laying Chicken Levy Act 1988* to provide it with a legal basis to make recommendations on behalf of industry on levy related matters.

6. The Act imposes a levy in respect of laying chickens hatched and provides regulations for the purposes of levy rates, with the amount of levy as recommended by the now defunct ACEP. Funds raised under this levy currently reside in the Poultry Industry Trust Fund (PITF) established by the *Poultry Industry Assistance Act 1965*. This Act needs to be amended to facilitate the transfer of funds from the PITF to the Egg Industry Development Fund administered by the Rural Industries Research and Development Corporation for research and development on the egg industry. The *Poultry Industry Assistance Act 1965* along with the *Egg Industry Research (Hen Quota) Levy Act 1987* and *Poultry Industry Levy Act 1965* will be repealed once the transfer of the funds has been made.

7. The AEIA has also requested an increase in the research and development component of the levy from 1 July 1996, subject to legislative amendment to the *Laying Chicken Levy Act 1988* acknowledging the AEIA as the representative body for these purposes. The egg industry has not increased its contribution to research and development for a number of years and the proposed increase will have the effect of maintaining the real value of its research and development activities. It would be appropriate that any amendment to the Act facilitate future changes in industry representative organisation status in a manner similar to the *Primary Industries and Energy Research and Development Act 1989 (PIERD Act)* eliminating the need for legislative amendment for any future changes in industry representative organisation.

8. The amendments to the *Wool International Act 1993* will remove the provision for eligible wool tax payers to make voluntary (additional) contributions of wool tax up to a further 5.5 per cent of the sale value of shorn wool, other than carpet wool.

9. There is no need for voluntary contributions to be made to repay debt in view of the anticipated surplus arising from stockpile sales once the Government guaranteed debt has been retired.

10. These amendments will also ensure that larger well-off producers will not be able to increase their equity in a privatised Wool International, or their share of the distribution of grower funds derived from wool stockpile sales at the expense of other eligible wool tax payers. The amendments are to have effect from 20 June 1995 when the decision to cease voluntary contributions was announced.

11. In addition, the amendments to the *Wool International Act 1993* make provision for the amount payable to Wool International in respect of the debt component of wool tax, currently fixed at 4.5 per cent, to be set by regulation.

12. Following a review of the scope to lower the 4.5 per cent tax component for debt earlier this year, the Government has decided to remove it entirely. The regulations to be provided for by this amendment will therefore set the tax to zero.

13. A consequential amendment to section 51 of the *Australian Wool Research and Promotion Organisation Act 1993* is also needed. Under this section, wool tax payers are required to take into account the percentage of wool tax payable to Wool International when making recommendations on the proportion of the wool tax collected under the Wool Tax Acts payable to the Australian Wool Research and Promotion Organisation for research and development, and promotion.

14. Wool International is to be given the power to undertake, through a subsidiary such as Wool International Holdings, wool marketing activities, including forward trading and the use of futures and currency contracts for hedging purposes. The amendments would facilitate Wool International undertaking a limited program of forward trading to assist in the development of a broader range of risk management options for the industry.

15. This program would be subject to strict conditions contained in the approval required from the Minister for Primary Industries and Energy to ensure, amongst other things, the trading activities are kept separate from those of Wool International proper, whose main concern will remain the management of the stockpile.

16. Provision has been made for Parliamentary scrutiny with either House of Parliament being able to disallow an approval tabled by the Minister. The provision is also subject to a sunset clause of 1 July 1997.

17. The proposal could be funded from revenue received from the management of non-wool assets as provided for under section 51 of the *Wool International Act 1993*.

18. Amendment to the Australian Wool Research and Promotion Organisation Act 1993 will provide for wool industry contributions to the Australian Animal Health Council. The payments to the Council will be made by regulations on the recommendation of the Wool Council of Australia.

FINANCIAL IMPACT STATEMENT

19. The amendments to the *Offshore Minerals Act 1994*; the *Laying Chicken Levy Act 1988*; the *Poultry Industry Assistance Act 1965*; the *Wool International Act 1993*; and the *Australian Wool Research and Promotion Organisation Act 1993* have no financial impact on the Commonwealth Budget.

20. The amendments to the *Wool Research and Promotion Organisation Act 1993* will not impose any additional costs on the Commonwealth. Payments to the Australian Animal Health Council will be drawn from reserves held by the Australian Wool Research and Promotion Organisation.

NOTES ON CLAUSES

Clause 1 - Short title

21. This clause provides for the Act to be called the Primary Industries and Energy Legislation Amendment Act (No. 1) 1996.

Clause 2 - Commencement

22. This clause provides for the Act to come into effect on the day it receives Royal Assent. It also provides that schedule 1 which deals with amendments to the *Offshore Minerals Act 1994* is taken to have commenced on 25 February 1994.

23. The clause further provides that the amendments to the *Primary Industries Levies and Charges Collection Act 1991* in Schedule 3, the amendments to the *Rural Industries Research Act 1985* in schedule 4 and the repeal of the *Egg Industry Research (Hen Quota) Levy Act 1987*, the *Poultry Industry Assistance Act 1965* and the *Poultry Industry Levy Act 1965* in schedule 8 are taken to have commenced on the day in which a notice is published in the Gazette under subsection 6(6) of the *Poultry Industry Assistance Act 1965*.

Clause 3 - Schedules

24. This clause provides that the Acts referred to in the Schedules are amended as set out in the Schedules and the other items in the Schedules have effect according to their terms.

SCHEDULE 1

OFFSHORE MINERALS ACT 1994

Item 1: Paragraphs 15(1)(a),(b) and (c)

25. The above paragraphs which apply to offshore mineral exploration licences issued in waters under Commonwealth jurisdiction are repealed. They are substituted by paragraphs which expand the section to apply it to changes in the location of the baseline resulting from acquisition of new data or reconsideration of existing data.

Item 2: Paragraphs 15(3)(a), (b) and (c)

26. The above paragraphs which apply to offshore mineral exploration licences issued in waters under State jurisdiction are repealed. They are substituted by paragraphs which expand the section to apply it to changes in the location of the baseline resulting from acquisition of new data or reconsideration of existing data.

SCHEDULE 2

POULTRY INDUSTRY ASSISTANCE ACT 1965

Item 1: Section 6

27. Subsection (5) is added to allow the Minister to approve the amount standing to the credit of the Poultry Industry Trust Fund to be paid to the Egg Industry Development Fund established under section 107 of the Primary Industries and Energy Research and Development Act 1989.

28. Subsection (6) is added to reflect that when the amount standing to the credit of the Fund is paid to the Egg Industry Development Fund, the Minister must direct that notice of the payment be published in the Gazette.

SCHEDULE 3

PRIMARY INDUSTRIES LEVIES AND CHARGES COLLECTION ACT 1991

Item 1: Schedule 2

29. This Amendment deletes any reference to the Poultry Industry Levy Act 1965.

SCHEDULE 4

RURAL INDUSTRIES RESEARCH ACT 1986

Item 1: Schedule 1 (Part 1)

30. This Amendment deletes any reference to the following:—

Levy imposed by <i>Poultry Industry Levy Act 1965</i>	So much of levy referred to in Column 1 as is received by virtue of paragraph 6(1)(b) of the <i>Poultry Industry Levy Act 1965</i>	<i>Egg Industry Research Trust Fund</i>	<i>Egg Industry Research Trust Council</i>
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SCHEDULE 5

LAYING CHICKEN LEVY ACT 1988

Item 1: Subsection 9(2)

31. Subsection 9(2) deletes reference to the *Australian Council of Egg Producers*, a defunct body, and substitutes the recently formed *Australian Egg Industry Association Incorporated*. It also allows for another body to be declared by the Minister to represent the Australian egg industry.

Item 2: After subsection (9)2

32. The insertion after subsection 9(2) allows the Minister, by a notice published in the Gazette, to declare a body representing the Australian egg industry.

SCHEDULE 6

WOOL INTERNATIONAL ACT 1983

PART 1- AMENDMENTS

Item 1: Section 9

33. This item enables Wool International to hold shares in a subsidiary, subject to the Minister for Primary Industries and Energy's approval, which undertakes wool marketing activities, including forward trading and the use of futures and currency contracts for hedging purposes. It also provides for the Minister to place any conditions considered appropriate on the approval.

34. This item also provides for either House of Parliament to disallow the program within three sitting days of approval being tabled and for it to be subject to a sunset clause. The sunset is to take effect if no approval has been given prior to 1 July 1997.

Item 2: Subsection 43(2)

35. The Commonwealth pays a percentage of the tax collected under the Wool Tax Acts each financial year to Wool International. This percentage is currently fixed in the legislation and is equal to 4.5 per cent of the sale value of shorn wool, other than carpet wool. This item will enable the percentage of the wool tax payable to Wool International to be set by regulation.

36. Under this amendment, if the Government agrees to vary the rate, it cannot be set above 4.5 per cent and any lower rate can include zero.

Item 3: Section 45

37. This item will repeal section 45 which provides for voluntary contributions of up to 5.5 per cent of the value of shorn wool, other than carpet wool, being made over and above the compulsory wool tax payable under the Wool Tax Acts.

Item 4: Section 46

38. This item omits references to section 45 in order to be consistent with Item 3.

Item 5: Section 49

39. This item reflects the amendment under Item 6.

Item 6: After Section 49

40. This item enables Wool International to use revenue derived from non-wool assets (section 51 income), such as rental from warehouses, as seed capital for commercial activities such as a Wool International Holdings program of wool trading activities.

Item 7: Section 52

41. This item omits references to section 45 in order to be consistent with Item 3.

Item 8: Paragraph 64(2)

42. This item omits references to voluntary contributions in order to be consistent with Item 3.

Item 9: Subsection 69(2)

43. This item omits reference to section 45 in order to be consistent with Item 3.

PART 2 - TRANSITIONAL PROVISIONS

Item 10: Interpretation

44. This item provides definitions of 'Wool International' and 'Principal Act' to be used in this Part.

Item 11: Repayment of Addition Contributions

45. This item provides for the return of any voluntary contributions made to Wool International, in accordance with section 45 of the *Wool International Act 1993*, after the Government's announcement on 20 June 1995 that the provision to make such contributions was to cease.

Item 12: Amendments of Register

46. This item provides that if Wool International's wool tax register records the receipt of an additional contribution made after 20 June 1995, then it must also record the return of the contribution to the wool tax payer by Wool International.

Item 13: Application

47. This item provides for any administrative costs incurred by the Commonwealth in respect of additional contributions made after 20 June 1995 to be paid by Wool International.

Item 14: Compensation for Acquisition of Property

48. This item provides for the right of compensation to any wool tax payer in the event that the operation of the legislation results in an acquisition of property otherwise than on just terms. This item ensures that section 51(31) of the Constitution, which provides for the acquisition of property on just terms, is not contravened.

SCHEDULE 7

**AMENDMENT OF THE AUSTRALIAN WOOL RESEARCH AND PROMOTION
ORGANISATION ACT 1993**

Item 1: Subsection 51(5)

49. This item is consequential to the amendments to the *Wool International Act 1993* to set the amount payable to Wool International in respect of the debt component of the wool tax by regulation. As amended, the *Australian Wool Research and Promotion Organisation Act 1993* will require that wool tax payers, when making recommendations on the percentage of the wool tax collected under the Wool Tax Acts payable to the Australian Wool Research and Promotion Organisation for research and development and promotion, take into account the percentage of wool tax payable to Wool International as set by regulation.

Item 2: Section 79

50. This item repeals the provision to make payments to the Exotic Animal Disease Preparedness Trust Account which is being wound up pursuant to the Exotic Animal Disease Control Act 1989. It substitutes a provision for payments to the Australian Animal Health Council.

51. The amendment, under subsection 79(5), provides that regulations prescribing annual payments must take into consideration recommendations from the Wool Council of Australia, and regulations may not prescribe an amount greater than the recommended amount.

SCHEDULE 8

REPEAL OF ACTS

52. This schedule repeals the whole of the *Egg Industry Research (Hen Quota) Levy Act 1987*; the *Poultry Industry Assistance Act 1965*; and the *Poultry Industry Levy Act 1965*.