

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

**AUSTRALIAN CENTRE FOR INTERNATIONAL AGRICULTURAL
RESEARCH BILL 1981**

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1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 27 October 1981

(Minister for Foreign Affairs)

A BILL

FOR

An Act to encourage research for the purpose of identifying, or finding solutions to, agricultural problems of developing countries

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

- 5 **1.** This Act may be cited as the *Australian Centre for International Agricultural Research Act 1981*.

Commencement

- 2.** This Act shall come into operation on a date to be fixed by Proclamation.

Interpretation

- 10 **3.** In this Act, unless the contrary intention appears—

- “agricultural research” means scientific, technical, economic or socio-economic research in connection with agriculture, and includes the publication of reports, periodicals, books and papers in connection with any such research;
- “agriculture” includes such uses of land as are prescribed for the purposes of this definition; 5
- “annual report” means the report referred to in section 39;
- “appoint” includes re-appoint;
- “appointed member of the Board” means a member of the Board appointed under paragraph 8 (1) (d); 10
- “appointed member of the Council” means a member of the Council appointed under sub-section 19 (2);
- “Board” means the Board of Management of the Centre;
- “Centre” means the Australian Centre for International Agricultural Research; 15
- “Chairman” means the Chairman of the Board;
- “Council” means the Policy Advisory Council;
- “Director” means the Director of the Centre;
- “Fund” means the Fund established by section 33;
- “institution” includes— 20
- (a) an organization, group or body, whether incorporated or unincorporated; and
 - (b) a Department of State, or an authority, of the Commonwealth or of a State or Territory;
- “President” means the President of the Council. 25

PART II—THE AUSTRALIAN CENTRE FOR INTERNATIONAL AGRICULTURAL RESEARCH

Establishment of Centre

- 4. (1)** There is hereby established a Centre by the name of the Australian Centre for International Agricultural Research. 30
- (2)** The Centre—
- (a) is a body corporate with perpetual succession;
 - (b) shall have a seal;
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued in its corporate name. 35
- (3)** The seal of the Centre shall be kept in such custody as the Board directs and shall not be used except as authorized by the Board.
- (4)** All courts, judges and persons acting judicially shall take judicial notice of the imprint of the seal of the Centre appearing on a document and shall presume that the document was duly sealed. 40

Functions

5 **5. (1)** The functions of the Centre are—

(a) to formulate programs and policies with respect to agricultural research for either or both of the following purposes:

5 (i) identifying agricultural problems of developing countries;

(ii) finding solutions to agricultural problems of developing countries;

10 (b) to commission agricultural research by persons or institutions in Australia (whether the research is to be conducted in Australia or overseas) in accordance with such programs and policies; and

(c) to communicate to persons and institutions the results of such agricultural research.

15 **(2)** In performing its functions with respect to agricultural research, the Centre shall have regard to the need for persons or institutions in developing countries to share in that research.

(3) Nothing in this section authorizes, or permits, the Centre to carry out research on its own behalf.

Powers of Centre

20 **6. (1)** Subject to this Act, the Centre has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

25 **(2)** Without limiting the generality of sub-section (1), the powers of the Centre include power to accept gifts, devises, bequests or assignments made to the Centre whether on trust or otherwise, and whether unconditionally or subject to a condition and, if a gift, devise, bequest or assignment is accepted by the Centre on trust or subject to a condition, to act as trustee or to comply with the condition, as the case may be.

30 **(3)** Notwithstanding anything contained in this Act, any money or other property held by the Centre upon trust or accepted by the Centre subject to a condition shall not be dealt with except in accordance with the obligations of the Centre as trustee of the trust or as the person who has accepted the money or other property subject to the condition, as the case may be.

PART III—THE BOARD OF MANAGEMENT OF THE CENTRE

Establishment and functions of Board

35 **7. (1)** There is hereby established a Board by the name of the Board of Management of the Australian Centre for International Agricultural Research.

(2) The Board is, subject to and in accordance with any direction by the Minister under section 16, responsible for the conduct and control of the affairs of the Centre.

Constitution of Board

8. (1) The Board shall consist of—

- (a) the President of the Council;
- (b) the Director;
- (c) the person for the time being occupying, or performing the duties of, the office in the Australian Public Service known as Director, Australian Development Assistance Bureau; and 5
- (d) 3 other members appointed by the Governor-General from among the members of the Council.

(2) An appointed member of the Board— 10

- (a) shall be appointed to be a part-time member; and
- (b) holds office for such period, not exceeding 3 years, as is specified in the instrument of his appointment, unless he sooner ceases to be a member of the Council.

(3) The performance of the functions, or the exercise of the powers, of the Board is not affected by reason only of there being a vacancy or vacancies in the membership of the Board. 15

(4) The appointment of a person under paragraph (1) (d) is not invalidated, and shall not be called into question, by reason of a defect or irregularity in, or in connection with, his appointment. 20

Chairman of Board

9. (1) The Governor-General shall appoint one of the members of the Board to be the Chairman of the Board.

(2) A person appointed under sub-section (1) holds office for such period, not exceeding 3 years, as is specified in the instrument of his appointment, unless he sooner ceases to be a member of the Board. 25

(3) The appointment of a person as the Chairman of the Board is not invalidated, and shall not be called in question, by reason of a defect or irregularity in, or in connection with, his appointment.

(4) The performance of the functions, or the exercise of the powers, of the Board is not affected by reason only of there being a vacancy in the office of Chairman. 30

(5) The Chairman of the Board may resign his office as Chairman by writing signed by him and delivered to the Governor-General.

Acting members 35

10. (1) The Minister may appoint a person to act as an appointed member of the Board—

- (a) during a vacancy in the office of such an appointed member, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when such an appointed member is unable (whether on account of illness or otherwise) to attend meetings of the Board,

5 but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) The Minister may—

10 (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as an appointed member; and

(b) terminate such an appointment at any time.

15 (4) Where a person is acting as an appointed member of the Board in accordance with paragraph (1) (b) and the office of that appointed member becomes vacant while that person is so acting, then, subject to sub-section (2), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

20 (5) The appointment of a person to act as an appointed member of the Board ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Minister.

25 (6) While a person is acting as an appointed member of the Board, he has and may exercise all the powers, and shall perform all the functions, of that member under this Act and, if that member is the Chairman, of the Chairman.

30 (7) The validity of anything done by a person purporting to act under sub-section (1) shall not be called into question on the ground that the occasion for his appointment had not arisen, that there was a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

Termination of appointment

11. (1) The Governor-General may terminate the appointment of an appointed member of the Board by reason of misbehaviour or physical or mental incapacity.

35 (2) If an appointed member of the Board—

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

40 (b) is absent, except on leave granted by the Board, from 3 consecutive meetings of the Board otherwise than on business of the Board undertaken with the approval of the Board; or

(c) fails to comply with his obligations under section 13,

the Governor-General shall terminate the appointment of that member.

(3) For the purposes of sub-section (2), an appointed member of the Board shall not be deemed to be present at a meeting of the Board by reason only of the presence at that meeting of a person appointed under section 10 to act as that appointed member.

Resignation

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12. An appointed member of the Board may resign his office by writing signed by him and delivered to the Governor-General.

Disclosure of interests

13. (1) A member of the Board who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

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(2) A disclosure under sub-section (1) shall be recorded in the minutes of the meeting of the Board and the member shall not—

- (a) be present during any deliberation of the Board with respect to that matter; or
- (b) take part in any decision of the Board with respect to that matter.

15

(3) In this section, “member of the Board” includes a person who, by virtue of an appointment under section 10, is acting as an appointed member of the Board.

20

Meetings of Board

14. (1) Subject to this section, meetings of the Board shall be held at such times and places as the Board determines.

(2) The Chairman of the Board may at any time convene a meeting of the Board.

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(3) At a meeting of the Board, 3 members constitute a quorum.

(4) The Chairman shall preside at all meetings of the Board at which he is present.

(5) If the Chairman is not present at a meeting of the Board, the members present shall elect one of their number to preside at that meeting.

30

(6) A question arising at a meeting of the Board shall be decided by a majority of the votes of the members of the Board present and voting.

(7) The member of the Board presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a casting vote.

(8) Subject to this section, the Board may regulate the conduct of proceedings at its meetings as it thinks fit, and shall keep minutes of those proceedings.

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(9) In this section, “member of the Board” includes—

- (a) a person who, by virtue of an appointment under section 10, is acting as an appointed member of the Board; and
- (b) a person who, by virtue of an appointment under sub-section 29 (1), is acting as Director.

Delegation by Board

15 (1) Subject to this section, the Board may, by resolution, either generally or as otherwise provided by the resolution, delegate all or any of its powers under this Act (except this power of delegation) to a member of the Board or to a member of the staff of the Centre.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Board.

(3) A delegate is, in the exercise of a power so delegated, subject to the directions of the Board.

15 (4) A delegation of a power under this section—

- (a) may be revoked by resolution of the Board (whether or not constituted by the persons constituting the Board at the time the power was delegated);
- (b) does not prevent the exercise of the power by the Board; and
- (c) continues in force notwithstanding a change in the membership of the Board.

(5) Section 34A of the *Acts Interpretation Act* 1901 applies in relation to a delegation under this section as if the Board were a person.

25 (6) A certificate signed by the Chairman of the Board stating any matter with respect to the delegation of a power under this section is *prima facie* evidence of that matter.

(7) A document purporting to be a certificate mentioned in sub-section (6) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

Directions by Minister

30 (1) The Minister may give directions in writing to the Board with respect to the exercise of its powers or the performance of its functions, including directions with respect to the commissioning of particular research.

35 (2) In giving a direction under sub-section (1), the Minister shall have regard to any relevant advice that he may have received from the Council under section 18.

(3) The annual report of the Centre shall set out all directions given by the Minister under this section.

PART IV—THE POLICY ADVISORY COUNCIL

Establishment of Council

17. There is hereby established a Council by the name of the Policy Advisory Council.

Function of Council

18. (1) The function of the Council is to provide advice to the Minister regarding—

- (a) agricultural problems of developing countries; and
- (b) programs and policies with respect to agricultural research for either or both of the following purposes:
 - (i) identifying agricultural problems of developing countries;
 - (ii) finding solutions to agricultural problems of developing countries.

(2) The Council shall provide advice under sub-section (1) on such occasions as it thinks fit and on request by the Minister.

(3) The Minister shall arrange for a copy of any advice provided by the Council to be furnished to the Board.

Constitution of Council

19. (1) The Council shall consist of—

- (a) a President;
- (b) the Director;
- (c) the person for the time being occupying, or performing the duties of, the office in the Australian Public Service known as Director, Australian Development Assistance Bureau; and
- (d) not fewer than 12 nor more than 16 other members.

(2) The members referred to in paragraphs (1) (a) and (d) shall be appointed by the Minister.

(3) In appointing persons under sub-section (2)—

- (a) the Minister shall have regard to—
 - (i) the knowledge of the persons concerning agricultural problems of developing countries; or
 - (ii) the experience of the persons in organizing or conducting agricultural research; and
- (b) the Minister shall ensure that a substantial minority of the members of the Council are residents of countries other than Australia.

(4) An appointed member of the Council—

- (a) shall be appointed to be a part-time member; and
- (b) holds office for such term, not exceeding 3 years, as is specified in the instrument of his appointment.

(5) The performance of the functions of the Council is not affected by reason only of the existence of any or all of the following circumstances:

- (a) a vacancy in the office of President;
- (b) a vacancy in the office of Director;
- 5 (c) the number of members referred to in paragraph (1) (d) having fallen below 12 for a period of not more than 3 months.

(6) The appointment of a person under sub-section (2) is not invalidated, and shall not be called in question, by reason of a defect or irregularity in, or in connection with, his appointment.

10 **President to keep Council informed**

20. The President shall ensure that the Council is kept adequately informed with respect to the affairs of the Centre.

Termination of appointment

15 21. (1) The Minister may terminate the appointment of an appointed member of the Council by reason of misbehaviour or physical or mental incapacity.

(2) If an appointed member of the Council—

- 20 (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (b) is absent, except on leave granted by the Council, from 3 consecutive meetings of the Council otherwise than on business of the Council undertaken with the approval of the Council,

the Minister shall terminate the appointment of that member.

25 **Resignation**

22. An appointed member of the Council may resign his office by writing signed by him and delivered to the Minister.

Meetings of Council

30 23. (1) The President—

- (a) shall convene such meetings of the Council as he considers necessary for the conduct of its business; and
- (b) shall, on receipt of a written request signed by no fewer than 8 members of the Council, convene a meeting of the Council.

(2) The Minister may at any time convene a meeting of the Council.

35 (3) The President shall preside at all meetings of the Council at which he is present.

(4) If the President is not present at a meeting of the Council, the members present shall elect one of their number to preside at that meeting.

(5) At a meeting of the Council, 9 members constitute a quorum.

(6) Subject to sub-section (7), all questions arising at a meeting of the Council shall be decided by a majority of the votes of the members present and voting, including the member presiding.

(7) In the event of an equality of votes on a motion proposed at a meeting of the Council, the motion shall be taken not to be passed. 5

(8) Subject to this section, the Council may regulate the conduct of proceedings at its meetings as it thinks fit and shall keep minutes of those proceedings.

(9) In this section, "member" includes a person who, by virtue of an appointment under sub-section 29 (1), is acting as Director. 10

PART V—THE DIRECTOR OF THE CENTRE

Office of Director

24. (1) There shall be a Director of the Centre, who shall be appointed by the Governor-General.

(2) The Director is the chief executive officer of the Centre and shall, subject to and in accordance with the general directions of the Board, manage the affairs, and control the staff, of the Centre. 15

Terms and conditions of appointment, &c.

25. (1) The Director holds office for such period, not exceeding 7 years, as is specified in the instrument of his appointment. 20

(2) A person who has attained the age of 65 years shall not be appointed as the Director and a person shall not be appointed as the Director for a period that extends beyond the day on which he will attain the age of 65 years.

Leave of absence

26. The Minister may grant leave of absence to the Director on such terms and conditions as to remuneration or otherwise as the Minister determines. 25

Termination of appointment

27. (1) The Governor-General may terminate the appointment of the Director by reason of misbehaviour or physical or mental incapacity.

(2) If the Director— 30

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(b) is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any 12 months; or 35

(c) engages in paid employment outside the duties of his office without the approval of the Minister,

the Governor-General shall terminate the appointment of the Director.

Resignation

28. The Director may resign his office by writing signed by him and delivered to the Governor-General.

Acting Director

5 29. (1) The Minister may appoint a person to act as Director—

(a) during a vacancy in that office, whether or not an appointment has previously been made to that office; or

10 (b) during any period, or during all periods, when the Director is absent from duty or from Australia or is, for any other reason, unable to perform the functions of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

15 (2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) The Minister may—

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as Director; and

(b) terminate such an appointment at any time.

20 (4) Where a person is acting as Director in accordance with paragraph (1) (b) and the office of Director becomes vacant while that person is so acting, then, subject to sub-section (2), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

25 (5) The appointment of a person to act as Director ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Minister.

(6) While a person is acting as Director, he has and may exercise all the powers, and shall perform all the functions, of the Director under this Act.

30 (7) The appointment of a person under sub-section (1) is not invalidated, and shall not be called in question, by reason of a defect or irregularity in or in connection with his appointment.

35 (8) The validity of anything done by a person purporting to act under sub-section (1) shall not be called in question on the ground that the occasion for his appointment had not arisen, that there was a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

PART VI—STAFF AND CONSULTANTS

Staff

30. (1) The staff of the Centre shall be persons appointed or employed under the *Public Service Act 1922*.

(2) The Director has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act 1922*, in so far as those powers relate to the branch of the Australian Public Service comprising the staff referred to in sub-section (1), as if that branch were a separate Department of the Australian Public Service. 5

(3) For the purposes of sub-sections 25 (5) and (6) of the *Public Service Act 1922*, the Director shall be deemed to be a Permanent Head. 10

Arrangements relating to staff

31. (1) The Board may arrange with the Permanent Head of a Department of the Australian Public Service or with a body (other than a company or an association) established for a public purpose by or under a law of the Commonwealth for the services of officers or employees of the Department or body to be made available to the Centre. 15

(2) The Board may enter into an arrangement with the appropriate authority of a State or Territory for the services of officers or employees of the Public Service of the State or Territory, or of a body established for a public purpose by or under a law of the State or Territory, to be made available to the Centre. 20

Engagement of consultants, &c.

32. (1) The Director may, on behalf of the Centre, with the approval of the Public Service Board, engage persons having suitable qualifications and experience as consultants to the Centre. 25

(2) The terms and conditions of the engagement of a person under sub-section (1) are such as are determined by the Board, subject to the approval of the Public Service Board.

PART VII—FINANCE 30

Establishment of Fund

33. (1) There is hereby established the Australian Centre for International Agricultural Research Trust Fund.

(2) The Fund is a Trust Account for the purposes of section 62A of the *Audit Act 1901*. 35

Payments into Fund

34. There shall be paid into the Fund—

- (a) all moneys appropriated from time to time by the Parliament for the purposes of the Fund; and
- 5 (b) all other moneys received by the Centre, other than trust moneys.

(2) In this section, “trust moneys” means moneys accepted by the Centre on trust or subject to a condition.

Payments from Fund

35. Amounts standing to the credit of the Fund may be paid out—

- 10 (a) in payment or discharge of the costs, expenses and other obligations incurred by the Centre in the performance of its functions or the exercise of its powers under this Act; and
- (b) in payment of any remuneration and allowances payable to any person under this Act.

15 **Estimates**

36. (1) The Centre shall prepare estimates, in such form as the Minister directs, of the expenditure of the Centre out of moneys standing to the credit of the Fund for each financial year and, if the Minister so directs, for any other period specified by the Minister, and shall submit those estimates to the
20 Minister not later than such date as the Minister directs.

(2) Moneys shall not be expended from the Fund otherwise than in accordance with estimates of expenditure approved by the Minister.

Limit on contracts

25 37. The Centre shall not enter into any contract without the approval of the Minister.

Exemption from taxation

38. The Centre is not subject to taxation under a law of the Commonwealth or of a State or Territory.

PART VIII—MISCELLANEOUS

30 **Annual report**

39. (1) The Board shall, as soon as practicable after each 30 June, prepare and submit to the Minister a report of the operations of the Centre during the year that ended on that date, together with financial statements in respect of that year in such form as the Minister for Finance approves.

35 (2) Before submitting financial statements to the Minister under sub-section (1), the Board shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether, in his opinion, the statements are based on proper accounts and records;
- (b) whether the statements are in general agreement with the accounts and records;
- (c) whether, in his opinion, the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Centre during the year have been in accordance with this Act; and 5
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(3) The Minister shall cause copies of the report and financial statements together with a copy of the report of the Auditor-General to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister. 10

Remuneration

40. (1) This section applies to the following persons: 15
- (a) appointed members of the Council who are not appointed members of the Board;
 - (b) appointed members of the Board;
 - (c) the Director.

(2) A person to whom this section applies shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, the person shall be paid such remuneration as is prescribed. 20

(3) A person to whom this section applies shall be paid such allowances as are prescribed. 25

(4) This section has effect subject to the *Remuneration Tribunals Act* 1973.

Delegation by Minister

41. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person any of his powers under this Act, other than this power of delegation. 30

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of a power by the Minister. 35

Regulations

42. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for carrying out or giving effect to this Act. 40

Cessation of operation of Act

43. (1) This Act, unless sooner repealed, shall cease to be in force at the expiration of 12 years after the date of commencement of this Act.

5 (2) For the purposes of section 8 of the *Acts Interpretation Act* 1901, when this Act ceases to be in force by virtue of sub-section (1), it shall thereupon be deemed to have been repealed by an Act other than this Act.

Review

10 44. (1) The Minister shall, at the expiration of the tenth year after the date of commencement of this Act, arrange for a review of the operations of the Centre with a view to determining the desirability or otherwise of the continued existence of the Centre after the expiration of the period of 12 years referred to in section 43 and for the making of a report to the Minister following on that review.

15 (2) The Minister shall cause the report referred to in sub-section (1) to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by him.





