

1991

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

AUSTRALIAN HORTICULTURAL CORPORATION
AMENDMENT BILL 1990

EXPLANATORY MEMORANDUM

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

THIS MEMORANDUM TAKES ACCOUNT OF AMENDMENTS MADE BY
THE HOUSE OF REPRESENTATIVES TO THE BILL AS INTRODUCED

AUSTRALIAN HORTICULTURAL CORPORATION AMENDMENT BILL 1990

OUTLINE

1. The purpose of the Bill is to provide a mechanism, through the establishment of Product Boards, for setting up an Australian Dried Fruits Board within the Australian Horticultural Corporation. The Bill amends the Australian Horticultural Corporation Act 1987, the Dried Sultana Production Underwriting Act 1982, the Horticultural Levy Act 1987, the Horticultural Levy Collection Act 1987, the Horticultural Export Charge Act 1987 and the Horticultural Export Charge Collection Act 1987.
2. Product Boards are to have functions and powers that largely mirror those of the Corporation: to promote both in Australia and overseas those Australian horticultural products covered by a Board and to increase competitiveness by improving the quality, handling, storing, processing and marketing of Board products.
3. The Australian dried fruits industry is currently assisted by the Commonwealth, in the area of marketing, only for exports. Participation in the Australian Horticultural Corporation is not intended to change this. Provision has therefore been made for the functions of Boards to be tailored to cover particular products in particular ways.
4. The Australian Dried Fruits Board, as for Boards generally, is to consist of 6 members comprising a Chairperson and 5 other members who will be nominated by the eligible industry body for appointment by the Corporation. Each of these nominees will be required to bring to the Board, skills and expertise in a particular area and, in the case of the Dried Fruits Board, these will concentrate on dried fruit reflecting the product-specific nature of the Board.
5. Accountability provisions require Boards to prepare strategic plans in conjunction with identified performance indicators, to contribute information for inclusion in the Corporation's annual report, to prepare financial statements for each financial year also for inclusion in the annual report and to hold an annual general meeting at which registered levy payers and export charge payers will be eligible to vote.
6. Boards are to receive funds derived from levy and export charge imposed on relevant products covered by them. Such funds will be net of a share of administrative costs due the Corporation. To effect this, amendments will be made to the relevant levy and export charge Acts and associated collection Acts.

7. As a result of the establishment of the Australian Dried Fruits Board and the repeal of the Australian Dried Fruits Corporation Act, an amendment is necessary to the authorities clause of the Dried Sultana Production Underwriting Act 1982.

FINANCIAL IMPACT STATEMENT

8. The Commonwealth currently collects then disburses, industry export charge imposed on dried vine fruits to fund the operations of the Australian Dried Fruits Corporation. The Commonwealth recovers the costs of these charge collections from the dried vine fruits industry.

9. This involvement by the Commonwealth is set to continue with the establishment of the Australian Dried Fruits Board since that body will be funded in the same way, through industry export charges and levies. Costs associated with the establishment of other Boards will be met in the same way from levies on products covered by those Boards. There are therefore no implications in this Bill for additional costs to the public sector.

NOTES ON INDIVIDUAL CLAUSES

PART 1 - PRELIMINARY

Clause 1 - Short Title

10. Provides for the Bill to be cited as the Australian Horticultural Corporation Amendment Act 1990.

Clause 2 - Commencement

11. This Bill, except for Parts 3 and 4, comes into effect on the day it receives Royal Assent. Parts 3 and 4 will commence on 1 July 1991 or earlier than that date by Proclamation.

PART 2 - AMENDMENTS OF THE AUSTRALIAN HORTICULTURAL CORPORATION ACT 1987

Clause 3 - Principal Act

12. Formal.

Clause 4 - Title

13. Provides for the title of the Principal Act to be changed to fully reflect the provision for the establishment of Product Boards.

Clause 5 - Interpretation

14. Provides for references to "product group committees" to be removed and definitions associated with Product Boards to be added.

Clause 6 - Functions

15. Amends section 8 of the Principal Act to provide that only Boards can undertake functions for Board products unless other arrangements are made with the Corporation. This prevents the situation arising of both a Board and the Corporation's activities clashing in relation to the same product at the same time.

Clause 7 - Consultations with industry representatives etc

16. Amends section 11 of the Principal Act to provide a mechanism for the Corporation to consult with Boards. References to product group committees are deleted.

Clause 8 - Corporate Plan

17. Section 27 of the Principal Act is amended to provide for reference to Board industries in the Corporation's plans.

Clause 9 - Annual Report

18. Amends section 30 of the Principal Act to provide for Board operations to be covered in the Corporation's annual report. It also provides for the audited financial statements of Boards to be included and for the Corporation to provide each Board and their eligible industry bodies with a copy of the annual report.

Clause 10 - Accountability to horticultural industries

19. Requires the Chairperson of the Corporation to prepare a report on the activities of the Corporation for the presentation at a Board's annual general meeting.

Clause 11 - Insertion of section

Other payments to the Corporation

20. A new section 47AA is to be inserted to provide for payment to the Corporation of contributions to administrative overheads by Product Boards. These payments are to be made from Consolidated Revenue.

Clause 12 - Expenditure of money of the Corporation

21. Provides for the Corporation to expend money on the expenditure and liability incurred by a Board on behalf of the Corporation.

Clause 13 - Audit

22. Amends section 56 of the Principal Act so that it might accord with current criminal law policy under subsection 4B(3) of the Crimes Act 1914.

Clause 14 - Repeal of Division 8 of Part II

23. Repeals Division 8 of Part II of the Principal Act which relates to the establishment and operation of product group committees.

Clause 15 - General Committees

24. Amends section 73 of the Principal Act to remove reference to "product group committees".

Clause 16 - Delegation by Corporation

25. Amends section 74 of the Principal Act to provide for the Corporation to delegate its powers to a Board.

Clause 17 - Repeal of Part IV and substitution of new Part

26. Repeals Part IV of the Principal Act and inserts a new Part IV.

NEW PART IV--PRODUCT BOARDS

New Division 1--Establishment, functions and powers of Product Boards

New Section 100 - Establishment of Product Boards

27. Provides for Product Boards to be established by regulations and for the regulations to set out the name of that Board and the products it is to cover.

New Section 101 - Board is body corporate etc

28. Provides that Boards are bodies corporate and provides, among other things, that Boards will be legally responsible for their actions and that they may sue or be sued in their own names.

New Section 102 - Functions

29. Describes the functions of Boards with respect to a Board's products. They include development of export potential and promotion of Australian Board products as well as improving the efficiency of Australian Board products in cooperation with a Board's eligible industry bodies and government authorities. The regulations may exclude any of the functions described for a particular Board in order to better match a Board's functions to a specific product. Regulations so made do not prevent a Board fulfilling contractual arrangements incurred before the commencement of such regulations.

New Section 103 - Powers

30. Provides a Board with powers necessary to perform its functions. These include powers to undertake negotiations, to gather and disseminate information, to undertake work on a fee for service basis, to appoint agents and attorneys and to participate in joint venture arrangements.

New Section 104 - Powers to be exercised in accordance with Corporation guidelines

31. Provides for Boards to have regard to any general guidelines issued by the Corporation.

New Section 105 - Minister may give directions in exceptional circumstances

32. Provides that the Minister will have powers of direction over a Board in the same way as he or she has powers of direction over the Corporation. Such powers only apply in exceptional circumstances. If invoked, the details of the directions are to be gazetted and contained in the Corporation's annual report. Gazetting and reporting is not required if the directions could prejudice the Board's commercial operations or if the Minister determines them to be contrary to the public interest.

New Section 106 - Corporation may require chairperson to attend a Corporation meeting

33. Provides for the Corporation to request the Board Chairperson attend a Corporation meeting to discuss Board activities and obliges the Chairperson to do so if so requested. This provides the Corporation with a formal mechanism of liaison if the Board Chairperson is not also a member of the Corporation.

New Section 107 - Consultations with industry representatives etc.

34. Provides for a Board to consult with representatives of its eligible industry bodies. Provision is also made for a Board, if it so decides, to meet the costs reasonably incurred in connection with such consultations.

New Division 2--Constitution of Boards

New Section 108 - Constitution of Boards

35. Specifies that the Board's membership is to consist of six persons comprising a Chairperson and 5 nominated members. The fields of expertise of each of the nominated members is outlined. Provision is made for 3 members to have product-specific expertise in keeping with the product-specific nature of the Boards.

New Section 109 - Appointment of members

36. Provides for the appointment and conditions of appointment of Board members by the Corporation. It provides for members, other than the Chairperson, to be appointed from nominations made by the eligible industry bodies. Such members are referred to as nominated members. Before appointing the Chairperson, the Corporation is required to consult with the eligible industry bodies of that Board.

New Section 110 - Acting Chairperson

37. Provides for the appointment by the Corporation of an Acting Chairperson from members of a Board. It provides for the terms and conditions of appointment and for the powers to be exercised and functions to be performed by the Acting Chairperson. It specifies that anything done by a person purporting to be a Chairperson is not invalid on grounds of administrative error with regard to the appointment of the person to so act.

New Section 111 - Term of office

38. Specifies that all members are appointed for terms of up to 3 years by the Corporation and are eligible for reappointment. Another person may be appointed in a member's place for the balance of the term of appointment if there is a vacancy. Members are not to be appointed for more than 3 consecutive terms.

New Section 112 - Application of certain provisions to members of Boards

39. Provides for the application to members of Boards, provisions applying to members of the Corporation concerning payment of remuneration and allowances, leave of absence, resignation, disclosure of interests, termination of appointment, and terms and conditions of appointment not provided for by the Act. Payment to members of remuneration is to be at a level determined by the Remuneration Tribunal and of such allowances as are prescribed. Conditions relating to members who are also members of, or a candidate for election to, a State Parliament are to also apply to members of Boards. The Corporation may grant leave of absence to the Chairperson of a Board who may, in turn, grant leave of absence to other members of the Board. Terms and conditions of leave of absence are to be determined by the Corporation or the Board Chairperson as appropriate.

40. The section also provides that Board members may resign by writing to the Corporation. A Board member in an actual or potential conflict situation, through having a direct or indirect pecuniary interest in a matter being or about to be considered by a Board, must disclose the nature of such interests. The Corporation has discretion to terminate the appointment of a Board, a Board Chairperson or a nominated member under specified circumstances and must terminate such appointment in certain other specified circumstances. The Corporation is to determine terms and conditions not provided for by this Act under which Board members may hold office.

New Section 113 - Nominations for appointment

41. Provides for the Corporation to notify eligible industry bodies of a vacancy on a Board and to request a nomination be made by the bodies within a period of 3 months. The industry bodies are required to provide one nomination for each appointment as requested by the Corporation. Each nomination is to be accompanied by a statement detailing the nominee's qualifications and experience and any other information that may assist the Corporation when considering the appointment.

New Section 114 - Corporation may request further information

42. Provides for the Corporation to request, in writing, further information from the industry bodies relating to a nomination.

New Section 115 - Corporation may reject nomination

43. Provides that the Corporation may, by notice in writing, reject a nomination and request a further nomination from the eligible industry bodies.

New Section 115A - Meetings

44. Provides for the holding of Board meetings, the working arrangements to apply at such meetings, and establishes a quorum of 4 members. Questions are to be decided by a majority of votes with the person presiding having both a deliberative vote and, if required, a casting vote. It requires the Board to keep minutes and enables it to invite persons to attend meetings for the purpose of providing it with advice.

New Division 3--Corporate plan and annual operational plans for Boards

New Section 115B - Corporate plan for a Board

45. Requires a Board to prepare a corporate plan with a five year horizon, to be reviewed and extended annually and to be subject to the Corporation's approval. The corporate plan is to set out a Board's objectives, to provide an assessment of the industry outlook in relation to a Board's products, to identify performance indicators and to outline strategies to be pursued. It also requires a Board to consult with the Corporation and eligible industry bodies before preparing or revising the corporate plan.

New Section 115C - Annual operational plans of a Board

46. Requires a Board to prepare an annual operational plan for the coming financial year. It is to be subject to the Corporation's approval and is to set out a Board's strategies for that year, an estimate of expected annual income and the proposed programs and resources required. The clause also provides for the Corporation to be able to request a revision of the plan and for a Board to revise its operational plan at any time.

New Section 115D - Board to comply with corporate plan and annual operational plans

47. A Board is to ensure consistency between the performance of its functions, the corporate plan and the applicable annual operation plan.

New Division 4--Accountability

New Section 115E - Performance indicators

48. Provides that a Board is to identify performance indicators, where practicable, against which the effectiveness and success of the Board's strategies may be judged. A Board must develop such indicators in consultation with its industry bodies.

New Section 115F - Information to be supplied to the Corporation

49. Provides that a Board prepare and pass to the Corporation by 31 August each year, a report of the Board's operations during the previous financial year and the extent to which these operations have helped to achieve the Board's stated objectives. The Board is also required to pass to the Corporation by 31 October each year suitably audited financial statements. The report of operations and statements are for inclusion in the Corporation's Annual Report.

New Section 115G - Board to convene annual general meeting

50. Provides that each Board must conduct an annual general meeting at a time and place to be decided by the Board and that not more than 15 months is to elapse between meetings.

New Section 115H - Register of levy and export charge payers

51. Provides that a Board must prepare a register of levy and export payers who were liable to pay levy and export charge in the preceding financial year and the first 3 months of the current year from those who seek to be included on the register in accordance with the regulations. Entries are to be removed from the register in accordance with the regulations and the register must not be used for any purposes other than those in this new Division.

New Section 115J - Notice of the convening of an annual general meeting

52. Provides that where a Board is to hold an annual general meeting, it must, not later than 70 days prior to the meeting, publish a notice in a national newspaper setting out the day, time and place of the meeting. In addition, a Board must give such notice to the Corporation and the Board's industry bodies and may make public this information in any other manner determined by the Board.

New Section 115K - Purpose of annual general meeting

53. Provides that the purpose of an annual general meeting is to provide an opportunity for registered levy or export charge payers to consider reports by the Board and Corporation Chairpersons; to consider the Board's audited financial statements produced since its establishment or the last annual general meeting, as the case requires; to debate and vote on any motion moved to endorse a change in levy or export charge recommended by the Board to the Minister; to debate and vote upon any motion of no confidence in the Board's Chairperson or in the Board.

New Section 115L - Motions of no confidence

54. Provides that where a motion of no confidence in a Board or its Chairperson is moved at an annual general meeting of the Board, the person presiding at the meeting must cease presiding and choose an employee of the Board to preside until the motion has been voted on. Where a motion of no confidence in the Board's Chairperson is passed, the Corporation is required to terminate the Chairperson's appointment within one month after the meeting and to appoint another person as Chairperson within two months. Where a motion of no confidence in the Board is passed, the Corporation is required to declare the office of each nominated member vacant immediately after the meeting. The Corporation must then terminate the appointment of each member within one month of the meeting, appoint another person as Chairperson within two months and, as soon as practicable after the meeting and under new section 109, appoint nominated members to the vacant positions.

New Section 115M - Special general meeting

55. Provides that a Board may hold a special general meeting at a time and place determined by the Board. The purpose of a special general meeting is to enable registered levy payers to debate and vote on a motion that the Board recommend to the Minister a change in levy or export charge rates, to meet special circumstances. Where a special general meeting is to be held, the Board must, not later than 14 days prior to the meeting, publish a notice in a newspaper that circulates throughout Australia and give copies of the notice to the Board's eligible industry bodies.

New Section 115N - Conduct of annual general meetings and special general meetings

56. Provides that general meetings may be attended by members of the Board, registered levy payers, members of the executive of eligible industry bodies, persons invited by the Board, employees and consultants of the Board as determined appropriate by the Board Chairperson and the Chairperson (or nominee) of the Corporation. The Board's Chairperson is to preside at the meeting if present and the Board must keep a record of the meeting's proceedings. Registered levy payers are entitled to vote on any matter to be determined at a meeting.

New Section 115P - Regulations may provide for certain matters

57. This section provides that, in relation to an annual general meeting or a special general meeting, the regulations may make provision for: the method of notifying a Board of the terms of any motions proposed be moved by a registered levy payer at a general meeting; notifying registered levy payers of the time and place of the meeting, terms of motions proposed and other matters of relevance; the appointment of proxies for registered levy payers and their participation in the meeting; the methods by which motions are to be taken as passed; the method of allocating voting entitlements to registered levy payers; the procedures to ensure voting entitlements exercised at a general meeting remain confidential and the method for a Board to invite levy payers to register and administration of the register.

New Division 5--Finance

New Section 115Q - Payment of amounts of levy and charge to Board

58. Provides for a Board to be paid, from Consolidated Revenue, the sum of monies, less the Board's share of the administration costs for the Corporation, collected or received by the Commonwealth from levies and export charges and from penalties associated with the levies and export charges imposed on Board products.

59. The section provides that such payments are to be made at prescribed periods. The amount to be paid from Consolidated Revenue to the Corporation for administrative costs is to be set in regulations.

New Section 115R - Expenditure of money of a Board

60. Provides for a Board to expend money in the performance of its functions, including expenditure and liability incurred by the Corporation on behalf of the Board, expenses reasonably incurred by industry bodies in the selection process and fee-for-service activities undertaken by the Corporation for a Board. Where the Minister gives a Board guidelines on payments to industry bodies, a Board may only make payments in accordance with those guidelines.

New Section 115S - Application of certain provisions to Boards

61. Provides for the application to Boards of provisions applying to the Corporation concerning levy collection agreements, accounts and records, bank accounts, investment of money, borrowings, hedging, giving of security and liability to taxation.

62. Under this section a Board is required to keep accounts and records in accordance with commercial practice. A Board may keep separate accounts in relation to various Board products in accordance with regulations and a Board may open and maintain accounts with banks but must maintain one open account at all times and must pay all monies into a bank account. A Board has authority to invest money in certain specified ways and to borrow or raise money, subject to the written approval of the Minister. A Board may hedge its borrowing or raisings of money or proposed borrowing or raisings by way of currency or interest rate futures contracts and the Corporation may give to a Board written guidelines with respect to hedging with which it must comply. A Board may give security over all or part of its assets for the repayment by the Board of money it borrows or hedges. A Board is subject to Commonwealth taxation (other than income tax). It is not subject to State or Territory taxation unless provided for in regulations, but is required to pay State or Territory stamp duty as applicable on the relevant transactions, instruments or documents.

New Section 115T - Audit

63. Specifies the duties, obligations and powers of the Corporation auditor in relation to Board financial documents. These include inspection and audit of the Board's financial dealings and assets at least once during the financial year for reporting to the Minister. The auditor is entitled to have access to all documents and information related to these areas of the Board's operations. It provides for information required by

the auditor to be given by any person as considered necessary and specifies fines applicable on conviction if such requirement is contravened.

New Division 6--General Manager

New Section 115U - General Manager

64. Provides that each Board is to have a General Manager who is to manage the affairs of the Board in accordance with its policies and directions. Action taken by the General Manager on behalf of the Board shall be deemed to have been done by the Board.

New Section 115W - Appointment

65. Provides for the General Manager to be appointed by the Board. A person who is a member of the Board cannot be appointed as the General Manager.

New Section 115Y - Application of certain provisions to General Managers of Boards

66. Provides for such matters as the General Manager to hold office during the Board's pleasure, the terms and conditions of employment of the General Manager to be determined by the Board with the Corporation's written approval, the position of General Manager is not an office for the purposes of the Remuneration Tribunals Act, the General Manager may not engage in other paid employment, leave of absence and conditions of such absence of the General Manager may be granted by the Chairperson with the Corporation's written approval, resignation of the General Manager to be made in writing to the Chairperson and the General Manager must disclose any direct or indirect pecuniary interests in writing to the Chairperson.

67. The section also provides that the Corporation may appoint an Acting General Manager during any or all periods when the General Manager is absent from duty or from Australia or when the position is vacant. The General Manager or the Acting General Manager is excluded from any deliberations concerning the position of General Manager. The Corporation may not approve terms and conditions of employment of a General Manager that are more favourable than those of the Managing Director of the Corporation without the approval of the Minister.

New Division 7--Employees and Consultants

New Section 1152 - Employees

68. A Board may employ staff as necessary under terms and conditions of employment determined by the Board. Such terms and conditions may not be more favourable than those applying to the General Manager.

New Section 1152A - Consultants

69. Provides for a Board to engage consultants and to determine terms and conditions of such engagement.

New Division 8--Miscellaneous

New Section 1152B - General committees

70. Provides for a Board to establish committees to assist it in carrying out its functions. It provides for a Board to determine the size and quorum of such committees. It also specifies that arrangements for remuneration and allowances and disclosure of interests by members of such committees are to be the same as for members of the Board.

New Section 1152C - Delegation by Board

71. Provides for a Board to delegate its powers to the Corporation, Board committees, Board members or Board employees.

New Section 1152D - Delegation by General Manager

72. Provides for the General Manager to delegate his or her powers to a Board employee.

Clause 18 - Object of Part

73. Amends section 116 of the Principal Act dealing with export controls to include reference to Product Boards.

Clause 19 - Control of export of horticultural products by Corporation

74. Amends section 117 of the Principal Act to include the control of the export of Board products by the Corporation.

Clause 20 - Insertion of new section

Control of export of Board horticultural products by
Board

75. A new section 117A is inserted to provide that regulations may be made empowering a Board to determine conditions of export

of Board products. The section empowers a Board to issue and revoke licences under certain conditions as a means of controlling exports. They also provide for fees to be charged to meet costs incurred in carrying out export control.

Clause 21 - Export of horticultural products without required licence etc.

76. Amends section 118 of the Principal Act to provide for the penalties applying to exporting without a licence to also apply to these arrangements as exercised by Boards. Amendment is also made so that the section might accord with current criminal law policy under subsection 4B(3) of the Crimes Act 1914.

Clause 22 - Certificates for exported horticultural products

77. Section 119 of the Principal Act is amended to provide for a Board, subject to the regulations, to issue a certificate concerning export of horticultural products.

PART 3 - AUSTRALIAN DRIED FRUITS BOARD

Division 1--Preliminary

Clause 23 - Interpretation

78. Provides for definitions associated with the establishment of the Australian Dried Fruits Board.

Division 2--Repeal

Clause 24 - Repeal

79. Provides for the repeal of the Australian Dried Fruits Corporation Act 1978 and the Dried Fruits Export Charges Act 1924.

Division 3--Australian Dried Fruits Board

Clause 25 - Dried Fruits Corporation to become a Board

80. Provides for the entity known as the Australian Dried Fruits Corporation to be renamed the Australian Dried Fruits Board. This removes the need to provide for separate and special transitional arrangements for staff, assets, liabilities etc of the Australian Dried Fruits Corporation. The clause also provides for the Australian Dried Fruits Board so named to be considered as though it were established under section 100. The products it is to cover are named as dried fruit comprising currants, raisins and sultanas. The Chairperson and members of the Australian Dried Fruits Corporation cease to hold office on the day of commencement of the Australian Dried Fruits Board. The Governor General may make regulations to provide for

references to the Australian Dried Fruits Corporation in any other Act or in regulations under any Act, to be read as references to the Australian Dried Fruits Board.

Clause 26 - Final report of Dried Fruits Corporation

81. Provides for the Australian Dried Fruits Board to prepare a report on the Australian Dried Fruits Corporation's operations covering the period since the last report of that Corporation up to the date of commencement of the Board. The report is to include a statement of the Corporation's objectives for the period and the strategies undertaken to achieve these. The report is to be accompanied by suitably audited financial statements. Both the report and the statements are to be given to the Minister who is required to table them in each House of the Parliament within 15 sitting days of receipt.

Clause 27 - Employees of Dried Fruits Corporation

82. This clause makes it clear that employees of the Australian Dried Fruits Corporation are to continue as employees of the Board on the same terms and conditions.

**PART 4 - AMENDMENT OF THE DRIED SULTANA PRODUCTION
UNDERWRITING ACT 1982**

Clause 28 - Principal Act

83. Formal.

Clause 29 - Directions by the Minister with respect to export prices

84. Provides for the authority under the Australian Dried Fruits Corporation Act 1978 included in this Act to be vested under any other Act.

**PART 5 - AMENDMENT OF THE HORTICULTURAL EXPORT
CHARGE ACT 1987**

Clause 30 - Principal Act

85. Formal.

Clause 30A - Rates of charge

86. Section 7 of the Principal Act is amended to provide that the total rate of charge payable includes the charge imposed under the new section 8A.

Clause 31 - Insertion of new section

Rates of charge destined for a Product Board

87. A new section 8A is inserted providing for an export charge to be imposed on horticultural products covered by a Product Board.

Clause 31A - Flexibility in relation to rates of charge

88. Section 11 of the Principal Act is amended so that it also applies to section 8A.

Clause 31B - Regulations

89. Section 14 of the Principal Act is amended to provide that before making regulations for the purposes of section 8A, the Governor-General shall take into consideration any recommendation made to the Minister by the Product Board.

**PART 6 - AMENDMENT OF THE HORTICULTURAL EXPORT
CHARGE COLLECTION ACT 1987**

Clause 32 - Principal Act

90. Formal

Clause 33 - Refund of export charge

91. Provides for export charge identified for refunding, which has been collected by the Commonwealth and subsequently paid to a Product Board, to be repaid by that Product Board.

**PART 7 - AMENDMENT OF THE HORTICULTURAL
LEVY ACT 1987**

Clause 34 - Principal Act

92. Formal.

Clause 34A - Rates of levy

93. Section 7 of the Principal Act is amended to provide that the total rate of levy payable includes the levy imposed under the new section 8A.

Clause 35 - Insertion of new section

Rates of levy destined for a Product Board

94. A new section 8A is inserted providing for a levy to be imposed on horticultural products covered by a Product Board.

Clause 35A - Flexibility in relation to rates of levy

95. Section 11 of the Principal Act is amended so that it also applies to section 8A.

Clause 35B - Regulations

96. Section 14 of the Principal Act is amended to provide that before making regulations for the purposes of section 8A, the Governor-General shall take into consideration any recommendation made to the Minister by the Product Board.

**PART 8 - AMENDMENT OF THE HORTICULTURAL LEVY
COLLECTION ACT 1987**

Clause 36 - Principal Act

97. Formal.

Clause 37 - Refund of levy

98. Provides for levy identified for refunding which has been collected by the Commonwealth and subsequently paid to a Product Board, to be repaid by that Product Board.



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