

1987

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

AUSTRALIAN HORTICULTURAL CORPORATION (TRANSITIONAL  
PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 1987

EXPLANATORY MEMORANDUM

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



## OUTLINE

### AUSTRALIAN HORTICULTURAL CORPORATION (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 1987

The Australian Horticultural Corporation Bill 1987 provides for the repeal of the principal and amending Australian Apple and Pear Corporation Acts. This Bill deals with provisions for such things as transfer of assets and liabilities from the Australian Apple and Pear Corporation, when abolished, to the Australian Horticultural Corporation. The Bill also deals with consequential amendments to those Apple and Pear Acts which continue in existence under the new arrangements.

The Bill provides for the assets, liabilities and commitments of the Australian Apple and Pear Corporation to be transferred to the Australian Horticultural Corporation. This includes provision for the staff of the abolished Corporation to be transferred to the new Corporation under the terms and conditions prevailing immediately prior to its abolition. It also provides for the new Corporation to prepare the report and financial statements covering the period of operation of the Australian Apple and Pear Corporation from the period covered by its last report to the time of its abolition.

The Bill provides for amendment to the current Apple and Pear Levy and Export Charge Acts in order to limit their application to the day immediately prior to the day the Horticultural Levy and Export Charge Acts come into effect. This prevents the situation arising of product being subject to double levies or charges. It also provides for amendment to the Apple and Pear Export Underwriting Act 1981 by substituting the name of the abolished Corporation with that of the new Corporation in the relevant provisions.

Finally, the Bill repeals the Apple and Pear Stabilization Acts and Apple and Pear Stabilization Amendment Acts, the operation of which has been completed.

#### FINANCIAL IMPACT STATEMENT

The measures proposed by this Bill involve no additional cost to the Government.

AUSTRALIAN HORTICULTURAL CORPORATION  
(TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS)  
BILL 1987

NOTES ON CLAUSES

No. of  
Clause

Explanation

PART I - PRELIMINARY

1            Short Title

2            Commencement

Provides for the commencement of the legislation. Provides for the Bill to come into effect on the day when the Australian Horticultural Corporation comes into full operation.

PART II - PROVISIONS CONSEQUENTIAL ON ABOLITION OF AUSTRALIAN  
APPLE AND PEAR CORPORATION

3            Interpretation

4            Transfer of assets and liabilities

Provides for all assets and liabilities of the Australian Apple and Pear Corporation (the abolished Corporation) to become assets and liabilities of the Australian Horticultural Corporation (the new Corporation) on the day the Bill comes into effect.

5            Transferred instruments

Provides for transferred instruments to remain in force when the Bill comes into effect and for all references in such instruments to the abolished Corporation to be considered references to the new Corporation.

6            Certificates in relation to assets, liabilities and instruments

Provides for certification to be made in writing by an authorised person (member or employee of the new Corporation) of assets or liabilities transferred to, or describing an instrument that has been transferred to, the new Corporation.

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| 7  | <p><u>Exemption of certain instruments from taxation</u></p> <p>Instruments described in certificates and related to the transfer of assets and liabilities from the abolished Corporation to the new Corporation are to be exempt from Commonwealth, State or Territory stamp duty or taxes.</p>  |
| 8  | <p><u>Pending proceedings</u></p> <p>Provides that any court or tribunal proceedings involving the abolished Corporation, and which were pending immediately before the Bill comes into effect, become the responsibility of the new Corporation.</p>  |
| 9  | <p><u>Final report of operations of abolished Corporation</u></p> <p>Provides for the new Corporation to prepare and submit to the Minister a final report covering the activities of the abolished Corporation for the period from the end of the last report period to the date of its abolition. The report is to include specific reference to any directions given by the Minister concerning the abolished Corporation's functions or the exercise of its powers as well as its principal objectives and the strategies pursued to achieve these objectives during the period. The report, together with financial statements audited by the Auditor-General for the last period, is to be given to the Minister who is required to table the reports and statements in both Houses of Parliament within 15 sitting days of receipt.</p> |
| 10 | <p><u>Officers and employees of abolished Corporation</u></p> <p>Provides for staff of the abolished Corporation to be employed by the new Corporation. The terms and conditions under which the staff were employed prior to the transfer are deemed to be the terms and conditions of employment of the new Corporation.</p>   |
| 11 | <p><u>Payment of amounts of levy and charge to new Corporation</u></p> <p>Provides for the new Corporation to be paid, from Consolidated Revenue, all monies collected by way of levies, export charges and penalties and not paid to the abolished Corporation at the time the Bill comes into effect.</p>  |

No. of  
Clause

Explanation

PART III - AMENDMENTS OF THE APPLE AND PEAR EXPORT UNDERWRITING ACT 1981

12            Principal Act

13            Interpretation

Amends the definition of "Corporation" in Section 3 of the Apple and Pear Export Underwriting Act 1981 to refer to the Australian Horticultural Corporation.

14            Directions by Minister with respect to overseas price of fruit

Provides for an amendment of section 14 of the Underwriting Act such that the reference to regulations under the Australian Apple and Pear Corporation Act 1973 is replaced by a reference to regulations or orders under Australian Horticultural Corporation Act 1987.

PART IV - AMENDMENT OF THE APPLE AND PEAR EXPORT CHARGE ACT 1976

15            Principal Act

16            Imposition of Charge

Provides for an amendment to section 6 of the Apple and Pear Export Charge Act 1976 in order to limit the period of operation of the Act to the day immediately prior to the day the Horticultural Export Charge Act 1987 comes into effect.

PART V - AMENDMENT OF THE APPLE AND PEAR LEVY ACT 1976

17            Principal Act

18            Imposition of Levy

Provides for an amendment to section 5 of the Apple and Pear Levy Act 1976 in order to limit the period of operation of the Act to the day immediately prior to the day the Horticultural Levy Act 1987 comes into effect.

No. of  
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Explanation

PART VI - REPEALS

19

Repeals

Provides for the repeal of all Acts associated with apple and pear stabilization.

