

1987

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

HORTICULTURAL EXPORT CHARGE BILL 1987

HORTICULTURAL EXPORT CHARGE COLLECTION BILL 1987

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister  
representing the Minister for  
Primary Industries and Energy)

This memorandum takes account of amendments made by the House  
of Representatives to the Bill as introduced.



## OUTLINE

### HORTICULTURAL EXPORT CHARGE BILL 1987

### HORTICULTURAL EXPORT CHARGE COLLECTION BILL 1987

The Horticultural Export Charge Bill and the Horticultural Export Charge Collection Bill provide for the imposition and collection of a charge on exports of horticultural products. Funds raised are to assist the operation of the Australian Horticultural Corporation and the Horticultural Research and Development Corporation and are to be paid into separate accounts to be administered by the Corporations.

Initially, the legislation will apply to apples and pears, which are currently subject to export charges under specific apple and pear legislation that will be repealed. There is a wide range of fresh and processed horticultural products including various kinds of fruits, vegetables, nuts, nursery products and cut flowers, and these Horticultural Export Charge Bills will provide for the imposition and collection of a charge on any horticultural product exported from Australia when that product is prescribed at some future date.

The Export Charge Bill provides for a charge to be payable by the owner of the products at the time of export. However, for better securing the payment of the charge, the Export Charge Collection Bill provides that, when agents are responsible for exporting a product subject to charge, they will be liable to pay the Commonwealth the amount of charge; agents may, for example, be acting on behalf of overseas owners.

The Collection Bill makes no provision for the passing back of the export charge directly to the grower (in the way that the horticultural levy legislation provides). Due to the nature of the marketing chain for many horticultural product exports, including the numbers of owners through whom a product may have been traded before being exported, it would be neither practicable nor desirable for there to be such a provision.

### FINANCIAL IMPACT STATEMENT

Funds from apple and pear export charges currently amount to around \$300,000 per year and will continue under the new charge legislation. Funding from charges on other products will be added as various industries of the horticultural sector decide to join the activities of one or both Corporations.

Thus, funding from export charges should increase over the next decade. In the more immediate future, the Commonwealth will help speed up the establishment period of the two Corporations by:

- firstly, its commitment of \$5.85 million over five years to assist the Australian Horticultural Corporation; beyond that period, all of that Corporation's costs will be met by contributions from industry, with levies expected to be the main element; and

(ii)

- . secondly, its commitment of \$1.25 million over five years to the Horticultural Research and Development Corporation.

The Commonwealth will match expenditure of the industry moneys - based on levies, export charges and eligible voluntary contributions, identified for the Research and Development Corporation - dollar for dollar, up to a limit of 0.5% of the average annual gross value of production of groups of products, the groupings to be specified by regulation. The extent of the Commonwealth contribution to research will thus depend on the number of industries which agree to participate and the rates at which they are prepared to fund Corporation research activities.

HORTICULTURAL EXPORT CHARGE BILL 1987

NOTES ON CLAUSES

No of  
Clause

Explanation

- |   |   |
|---|---|
| 1 | <u>Short title</u>  |
| 2 | <u>Commencement</u>   |
| 3 | <u>Principal object</u><br><br>The principal object is to provide funds for the operations of the Australian Horticultural Corporation and the Horticultural Research and Development Corporation.  |
| 4 | <u>Collection Act to be read with this Act</u>  |
| 5 | <u>Act binds Crown</u>  |
| 6 | <u>Imposition of charge</u><br><br>Provides for an export charge to be imposed on prescribed horticultural products exported after the commencement of the legislation.   |
| 7 | <u>Rates of charge</u><br><br>Provides for the rate of charge to be the sum of the amounts fixed by regulations under Clauses 8, 9 and 10 and also provides for maximum rates of charge.<br><br>The regulations may fix a rate of charge in relation to a class of chargeable horticultural products; examples of a class are (a) fruit, (b) oranges (which could include a number of varieties), (c) oranges for processing, (d) dried fruit and (e) processed nuts. |
| 8 | <u>Rates of charge destined for the Australian Horticultural Corporation</u><br><br>Provides for rate of charge destined for the Australian Horticultural Corporation to be fixed by regulations.   |
| 9 | <u>Rates of charge destined for the Horticultural Research and Development Corporation</u><br><br>Provides for rate of charge destined for the Horticultural Research and Development Corporation to be fixed by regulations.   |

No of  
ClauseExplanation

- 10                    Rates of charge destined for other purposes  
 Provides for a rate of charge destined for other purposes to be fixed by regulations  
 -        there are no other purposes envisaged at present.
- 11                    Flexibility in relation to rates of charge  
 This clause provides for flexibility in rates of charge in that different rates may be imposed, for the purposes of Clauses 8, 9 or 10, for different classes of products or for a particular class of product; and that it is not necessary for rates to be struck for all three clauses for any one product.
- 12                    By whom charge payable  
 Provides that the charge is payable by the owner.
- 13                    Exemptions from charge  
 Provides that regulations may exempt certain classes of persons or products from the charge.
- 14                    Regulations  
 Provides for the making of regulations by the Governor-General to help give effect to the Act. Before making regulations concerning a proposed export charge destined for the Australian Horticultural Corporation or the Horticultural Research and Development Corporation, the Governor-General shall consider any relevant recommendations with respect to that charge made to the Minister by either the Australian Horticultural Corporation or the Horticultural Research and Development Corporation. In passing those recommendations to the Minister, the Corporations are to provide the written views of the eligible industry bodies. In addition, provision is made for industry consultation in the fixing of charges destined for other purposes, and, before making regulations concerning such charges, the Governor-General shall consider any relevant recommendations with respect to the proposed charges made to the Minister by the eligible industry body.

HORTICULTURAL EXPORT CHARGE COLLECTION BILL 1987NOTES ON CLAUSES

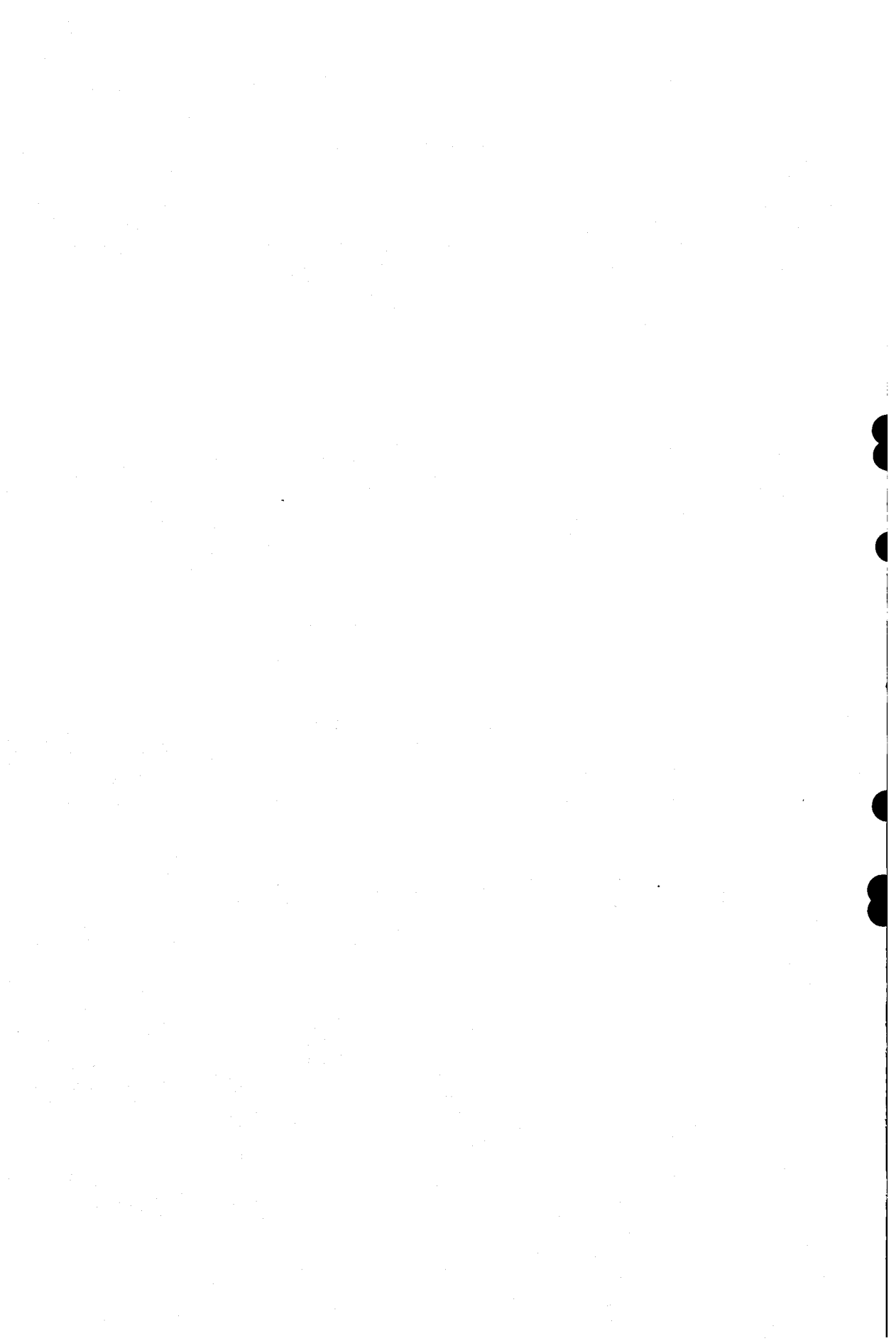
<u>No of Clause</u>	<u>Explanation</u>
1	<u>Short title</u>
2	<u>Commencement</u>
3	<u>Object</u> Provides for efficient and effective collection of charges imposed by the Horticultural Export Charge Act 1987.
4	<u>Interpretation</u>
5	<u>Act binds Crown</u>
6	<u>When charge due for payment</u>
7	<u>Liability of exporting agents</u> Provides that, for better securing the payment of charge, an exporting agent is liable to pay the charge on behalf of the owner of the product. Where an exporting agent deducts such amounts, the owner is discharged from liability to pay the charge to the extent of the amount deducted and paid to the Commonwealth.
8	<u>Penalty for non-payment</u> Sets the penalty for late payment of charge.
9	<u>Remission of amounts</u> Provides that the Minister or an authorised person may remit a penalty. An authorised person may not remit an amount greater than \$500.
10	<u>Recovery of charge and other amounts</u> Provides for the recovery of charges and penalties as debts due to the Commonwealth.
11	<u>Refund of charge</u> Provides, in cases of overpayment of charges or penalties, for refunds by the Commonwealth or the Corporations.

<u>No of Clause</u>	<u>Explanation</u>
12	<p data-bbox="404 281 1034 338"><u>Powers of authorised person in relation to premises</u></p> <p data-bbox="404 363 1018 439">Details powers of and constraints on an authorised person in relation to entering premises to inspect documents and goods.</p>
13	<p data-bbox="404 458 778 487"><u>Warrant to enter premises</u></p> <p data-bbox="404 512 1097 586">Enables the provision of a warrant to an authorised person to enter premises in certain circumstances.</p>
14	<p data-bbox="404 611 618 639"><u>Identity cards</u></p> <p data-bbox="404 664 1126 715">Provides for issue of identity cards to, and use by, authorised persons.</p>
15	<p data-bbox="404 740 836 769"><u>Power to require returns etc.</u></p> <p data-bbox="404 793 1113 889">Provides that an authorised person may write to an exporter, exporting agent or other person requiring, within a certain period, information or returns needed to give effect to the Act.</p> <p data-bbox="404 913 1144 1144">Increasingly, business data are being stored in a form that is only machine-readable and, therefore, not in a form that is immediately intelligible. Section 25A of the Acts Interpretation Act provides that, if records are kept in this way, then any request for information from them under an Act requires the information to be supplied in writing that is capable of being understood.</p> <p data-bbox="404 1169 1144 1525">The time needed for converting the records into a form which can be understood readily will depend on the particular circumstances, including the volume of information required, where the records are stored and availability of machines to read and print the records. Clause 15 takes account of this by providing for the authorised person to nominate in the notice a reasonable time within which the information is to be provided. This provision would enable an authorised person, when visiting the premises where records are kept, to request in writing that understandable information be provided very quickly if that is appropriate in all the circumstances.</p>
16	<p data-bbox="404 1544 942 1572"><u>Offences in relation to returns etc.</u></p> <p data-bbox="404 1597 1113 1643">Details offences for failing to submit a return or information required under the Act.</p>



No of  
ClauseExplanation

- 17            Conduct of directors, servants and agents
- Provides that, subject to certain conditions, (i) conduct of directors, servants or agents of a body corporate can be taken as that of the body corporate and (ii) conduct of agents acting for a person other than a body corporate can be taken as that of the other person.
- 18            Appointment of authorised persons
- Provides that the Secretary to the Department administering this legislation may appoint a person to be an authorised person for the purposes of a specified provision of this legislation.
- 19            Review of decisions
- Provides that application may be made to the Administrative Appeals Tribunal for review of a decision to refuse to remit a penalty.
- 20            Delegation by Secretary
- Provides that the Secretary of the Department administering this legislation may delegate any or all of his or her powers under this legislation, other than this power of delegation, to an officer of the Department.
- 21            Regulations
- Makes provision for the Governor-General to make regulations under the Act: providing for the manner of payment of charge and other monies payable; requiring persons to keep accounts and other records in relation to chargeable horticultural products; requiring persons to furnish returns or information; and setting maximum penalties for offences against the regulations.
- 22            Orders
- Provides the Minister with the power to make orders consistent with this Act.

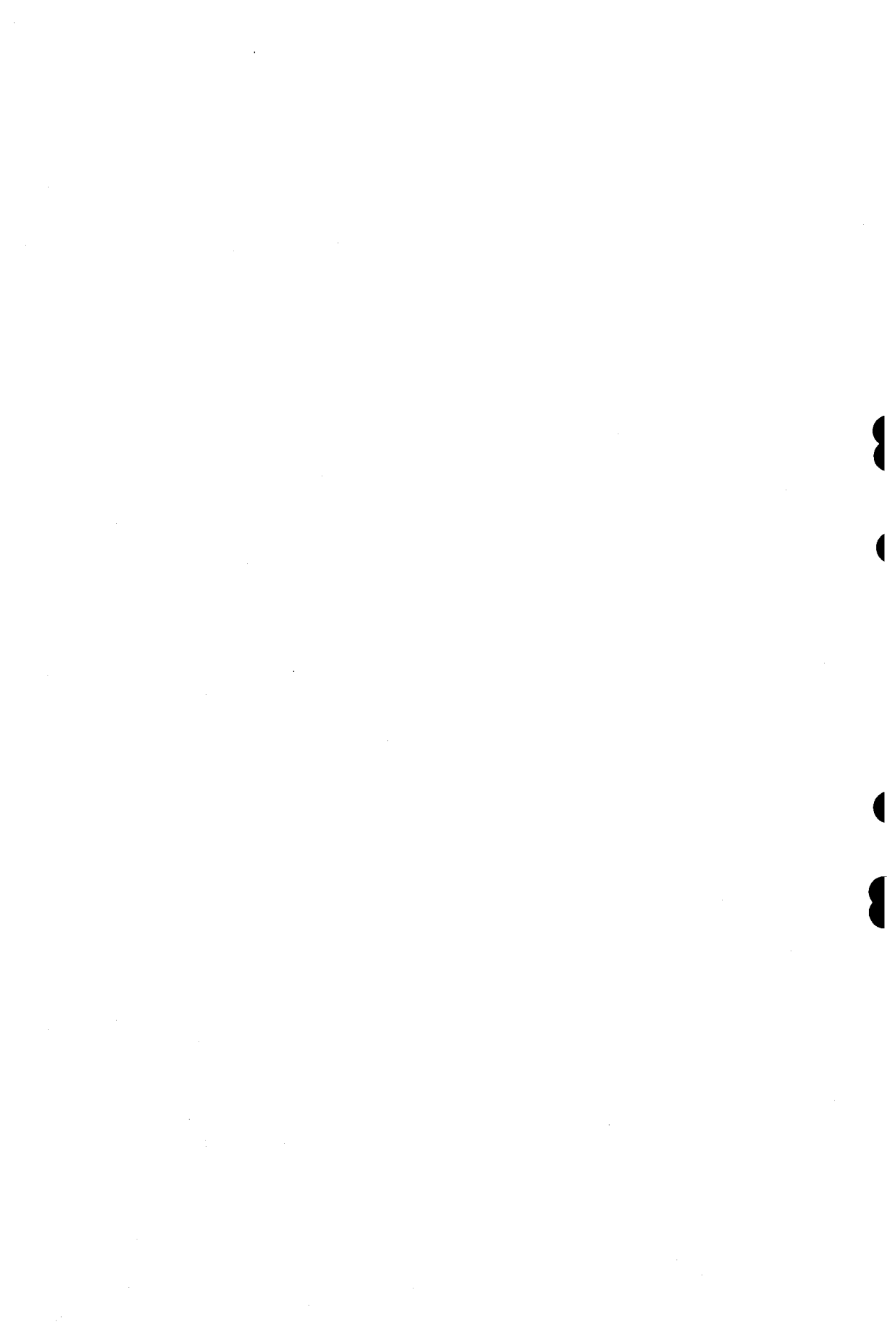


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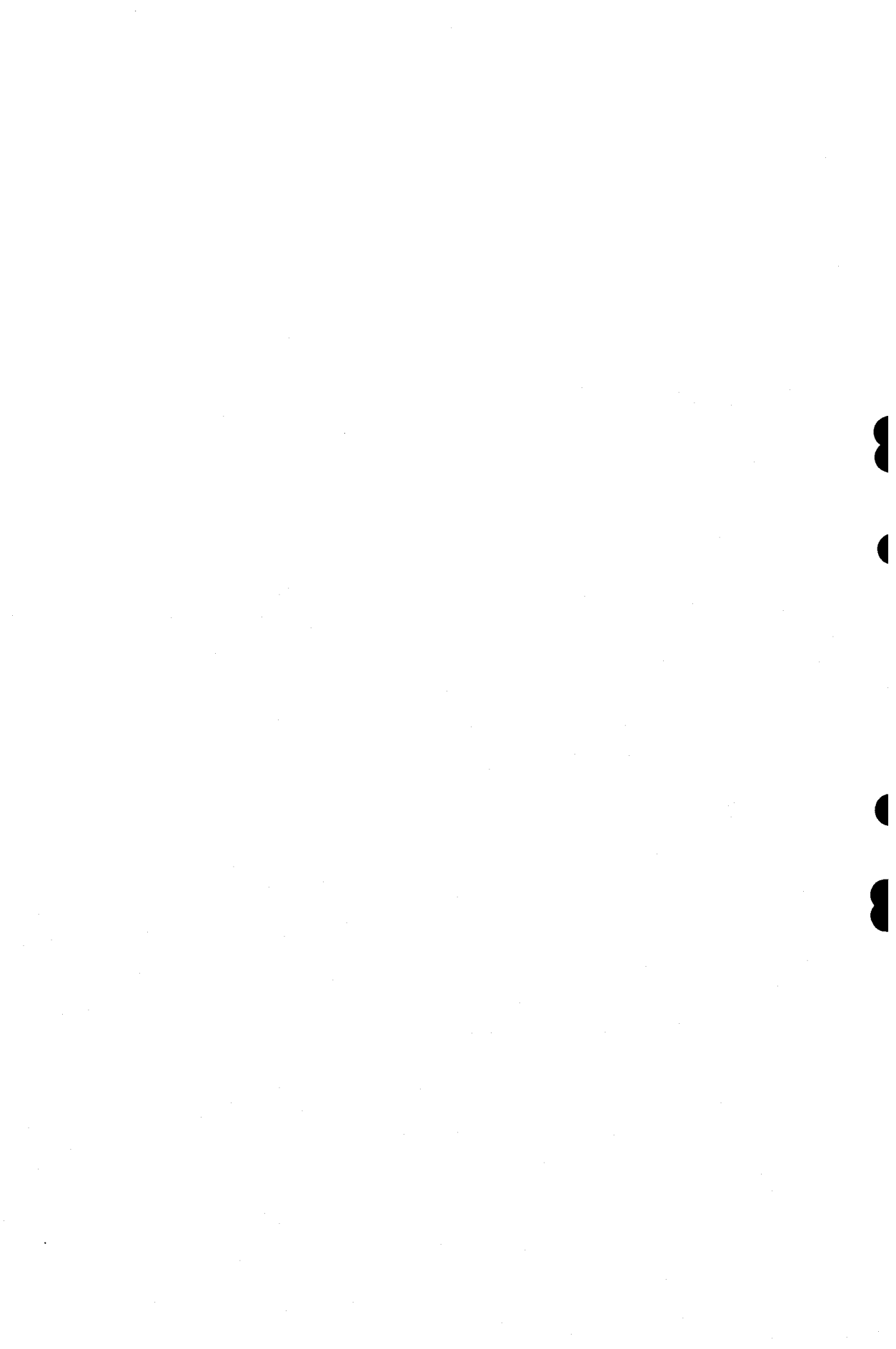


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