

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

PRIMARY INDUSTRIES AND ENERGY LEGISLATION
AMENDMENT BILL (No 3) 1989

EXPLANATORY MEMORANDUM

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

PRIMARY INDUSTRIES AND ENERGY LEGISLATION AMENDMENT BILL (No 3)
1989

GENERAL OUTLINE

This Bill is an omnibus Bill for legislation administered within the Primary Industries and Energy portfolio. Its purpose is to make a number of amendments to existing legislation.

2. The Bill makes the following amendments.

WOOL MARKETING ACT 1987

3. The principal purpose of the amendments to this Act is to give effect to revised arrangements for wool research and development (R & D).

4. The legislative changes provide for:

- a new composition of the Wool Research and Development Council (WRDC)
- new selection arrangements for the WRDC
- increased industry involvement in the planning of R & D for wool
- "rolling" five year R & D plans
- Wool R & D Fund monies to be used for commercial exploitation of the results of research, and the Australian Wool Corporation to be able to use Fund monies under certain circumstances.

5. Amendments to the Act also concern procedures relating to refunds to growers of wool tax paid into the Market Support Fund. Most of these provisions were previously in the Regulations under the Act.

6. Provision is to be made in the Act for inspection of wool sampling sites, showfloors and testing laboratories for registration purposes. These provisions were previously in the Regulations under the Act.

BASS STRAIT FREIGHT ADJUSTMENT LEVY ACT 1984
BASS STRAIT FREIGHT ADJUSTMENT LEVY COLLECTION ACT 1984
BASS STRAIT-FREIGHT ADJUSTMENT TRUST FUND ACT 1984
CUSTOMS TARIFF (STAND-BY) DUTY ACT 1985

7. The amendments will repeal these Acts which have become redundant.

AUSTRALIAN MEAT AND LIVE-STOCK RESEARCH AND DEVELOPMENT CORPORATION ACT 1985

8. The amendments to this Act will:

- (a) alter the Act to clarify the intention of allowing the Australian Meat and Live-stock Research and Development Corporation to invest surplus monies in specified ways without needing to seek the permission of the Minister for Primary Industries and Energy for each transaction; and
- (b) effect a minor amendment of the provisions of the Act pertaining to required notification of motions to be put to the Annual General Meeting of the industry to make the Act internally consistent.

HONEY LEVY COLLECTION ACT 1962

9. The amendment to this Act will enable levy payers who owe small amounts of levy to pay annually rather than the usual monthly. This will reduce the cost to industry of levy collection.

HONEY MARKETING ACT 1988

10. The amendments to this Act will clarify the sunset provision and correct a spelling error.

SOIL CONSERVATION (FINANCIAL ASSISTANCE) ACT 1985

11. The amendments to this Act will increase the membership of the Soil Conservation Advisory Committee and include the Australian Capital Territory in the definition of "State".

BARLEY RESEARCH LEVY COLLECTION ACT 1980
OILSEEDS LEVY ACT 1977
OILSEEDS LEVY COLLECTION ACT 1977

12. The amendments to these Acts will standardise collection periods and enable consolidation of return forms for levies collected under the various grain levy legislation.

RURAL INDUSTRIES RESEARCH ACT 1985
WHEAT MARKETING ACT 1989

13. The Act is amended to correct an anomaly in regard to the means by which the Australian Wheat Board can raise finance for general purposes (Section 71 of the Act) and for making advance payments and other related payments which are subject to Commonwealth underwriting (Section 77 of the Act).

14. The amendments also enable the research component of funds raised under the Wheat Industry Fund Levy Act 1989 to be transferred to the Wheat Research Trust Fund.

15. Under the Wheat Marketing Act 1989, the Grains Council of Australia determines an operative levy rate each year for the purposes of the Wheat Research Trust Fund and the Wheat Industry Fund.

16. The wheat levy has been set at 2.5% for the 1989/90 season and the levy has been apportioned such that 2% will be used for the Wheat Industry Fund and 0.5% will be used for the Wheat Research Trust Fund.

17. Amendments to the Rural Industries Research Act are now required to enable the portion of the levy intended for research to be directed to the Wheat Research Trust Fund. In the absence of this amendment, funds levied from the wheat industry for the purposes of research are unavailable for use by the State Research Committees. This money will remain in consolidated revenue until a mechanism for its release is enacted. These amendments provide the necessary mechanism.

FINANCIAL IMPACT STATEMENT

18. The amendments will not affect Government expenditure and will have no staffing implications for the Department of Primary Industries and Energy.

NOTES ON INDIVIDUAL CLAUSESPART 1 INTRODUCTORYClause 1 - Short Title

19. Formal.

Clause 2 - Commencement

20. This clause provides that the provisions of the Bill will come into operation on the day on which it receives the Royal Assent, with the following exceptions:

- (a) Clauses 21 and 23 will commence on 1 July 1990. These clauses relate to requirements for the Annual Report and will commence on that date so that work on the current year's report will not be disrupted;
- (b) Part 2 (other than sections 21, 23 and 26) commences on a day to be fixed by Proclamation or if not earlier proclaimed, 6 months after the day on which the Act receives Royal Assent. This provision is required because the amendments in Part 2 will place inspection powers, which are currently dealt with by Regulation, in the Act. Accordingly, it is necessary that the commencement of the amendments and amending Regulations coincide;
- (c) Subsection 29(2) and Part 2 of the Schedule commence on a day to be fixed by Proclamation or if not earlier proclaimed, on 1 July 1990. These provisions are designed to standardise collection periods for levies and, in order to coincide with other quarterly collected levies, it is essential that the provisions commence on 1 July, 1 October, 1 January or 1 April;
- (d) Subsection 29(3) and Part 3 of the Schedule are to be taken to have commenced on 1 July 1989. These provisions are retrospective in order to ensure all levy monies collected can be paid into the Wheat Research Trust Fund for use by State Research Committees and to ensure that revenue raising measures taken by the Australian Wheat Board are valid.

PART 2 - AMENDMENTS OF THE WOOL MARKETING ACT 1987

Clause 3: Principal Act

21. This clause defines the Principal Act for the purposes of this Part of the Bill.

Clause 4: Definitions

22. This clause provides definitions of various terms used in the Bill and amends or omits specified definitions in the Principal Act.

Clause 5: Powers of the Corporation

23. Clause 5 amends section 7 of the Principal Act to provide the Corporation with the power to enter agreements with the Research Council and to undertake certain approved research and development activities relating to the commercial exploitation of research results.

Clause 6: Abolition of Selection Committee

24. This clause amends section 33 of the Principal Act to provide that a Selection Committee is considered to be abolished once it has completed its task, rather than the Presiding Member having to take specific action to terminate the Committee.

Clause 7: Employees

25. Clause 7 amends section 37 of the Principal Act to provide: that one of the employees of the Corporation is to be employed as Executive Director of the Research Council; for the method of his or her selection; and for employment to cease at age 65.

Clause 8: Refund Periods

26. This clause amends subsection 50(1) of the Principal Act to remove an unintentional time frame ambiguity. The amendment means that a declared refund period refers to previous financial years during which the wool tax was originally apportioned to the Market Support Fund (MSF) rather than the financial year in which the refund of MSF portion of the wool tax to the grower is to be effected.

Clause 9: Refunds

27. Clause 9 amends section 51 of the Principal Act to allow refunds of wool tax apportioned to the MSF to be repaid to other persons as prescribed, in addition to the growers who originally paid the wool tax. This is to cater for circumstances where the original contributor is, for example, deceased, or the contributor was a partnership which has since been dissolved. The clause also omits from section 51 the paragraph concerning making regulations about entry to premises (which are to be inserted in the Act - see clause 22) and reduces the level of penalties applicable under the regulations.

Clause 10: Powers of AWC relating to quality assurance for wool

28. This clause substitutes "laboratories" for "wool testing facilities" in section 74 of the Principal Act consequent upon the insertion of a definition of "laboratories" in clause 4.

Clause 11: Agreements relating to wool research and development

29. This clause corrects a drafting error.

Clause 12: Application of research fund

30. This clause amends paragraph 94(1)(e) of the Principal Act consequent upon changes made to the name of the Selection Committee which selects the members of the Research Council and the reference to the relevant new portion in the Act (see clauses 4 and 20).

Clause 13: Research Council to prepare research and development plans

31. This clause makes provision for "rolling" five year research and development plans in section 95 of the Principal Act. Subsection 95(1) is omitted and a new subsection inserted which provides that each year before 1 June (commencing in 1990), the Research Council must prepare a written research and development plan relating to a five year period beginning on the next 1 July. The clause specifies the matters which are to be covered in a five year plan. As a consequence of these amendments, the clause also omits subsection 95(4) and (5) and amends subsection 95(6).

Clause 14: Variation of research and development plans

32. This clause omits subsection 97(2) and (3) of the Principal Act as a result of changes made in clause 13.

Clause 15: Research Council to develop annual research and development programs

33. This clause inserts new subsections in Section 100 of the Principal Act requiring the Research Council to consult with, and take notice of the views expressed by, the Wool Council and other bodies in the preparation of its annual research and development program. A requirement for such consultation already exists in the Act in respect of the Research Council's five year research and development plan.

Clause 16: Approval for funding of particular wool research and development activities

34. Clause 16 amends section 102 of the Principal Act so that the Research Council may recommend to the Corporation particular activities for funding under an approved annual research and development program. The amendment removes the previous restriction that the Research Council could not recommend to the Corporation that the Corporation itself undertake a research and development activity using funds from the Wool Research and Development Fund. By virtue of clause 5, the Corporation will only be able to undertake, with support from the Fund, activities relating to commercial exploitation of research results.

Clause 17: Constitution of the Wool Research and Development Council

35. This clause amends section 103 of the Principal Act by deleting provisions relating to the constitution of the Wool Research and Development Council and inserting a new constitution of the Council.

36. Subclause 17(a) provides for the new membership of the Research Council.

37. Subclause 17(b) provides for all members of the Research Council, other than the Executive Director (who is an employee of the Corporation) to be appointed by the Minister.

38. Subclause 17(c) provides that the seven members of the Research Council in paragraph 103(1)(d) are to be appointed by the Minister from persons nominated by the Selection Committee in accordance with Division 6A of the Act.

39. Subclause 17(d) provides that all Council members, except the Executive Director, are to be part-time appointees.

40. Subclause 17(e) provides that Council members, except the government member and Executive Director, hold office for a period of up to 3 years and are eligible for reappointment.

41. Subclause 17(f) provides that the government member holds office until he or she reaches age 65. Subclause 18(a) provides that the Minister may terminate the government member's appointment at any time.

42. Subclause 17(g) provides that the chairperson, government member and seven members of the Research Council mentioned in paragraph 103(1)(d) cannot be appointed as Council members if they have reached the age of 65 years.

43. Subclause 17(h) provides that the chairperson or the seven members of the Research Council in paragraph 103(1)(d) cannot be appointed beyond the day on which they turn 65 years.

44. Subclause 17(j) provides that the Minister may extend the term of appointment of a Council member, other than the government member, for a specified period in particular circumstances.

45. Subclause 17(k) provides that Council members, except the Executive Director, hold office on such terms and conditions (if any) relating to matters which are not covered in the Act and which are determined, in writing, by the Minister.

Clause 18: Removal and Resignation of Council members

46. Subclause 18(a) amends section 106 of the Principal Act by omitting subsection (3) and inserting a provision that the Minister may terminate the appointment of the government member on the Research Council at any time.

47. Subclause 18(b) provides that in subsection 106(4) a Council member, except the Executive Director, may resign from office by writing to the Minister.

Clause 19: Meetings of Research Council

48. This clause amends paragraph 108(5)(a) of the Principal Act by increasing from 5 to 6 the number of Council members required to be present at a Council meeting to constitute a quorum, consequent on the increase in the size of the Council from 9 to 10 members.

Clause 20: Insertion of Division 6A-Nomination and Selection Process for Membership of the Research Council

49. This clause inserts a new Division 6A in the Principal Act concerning the process for nomination and selection for membership of the Research Council. The provisions of Division 6A are similar to those applying to nomination and selection for membership of the Corporation in Division 4 of Part II of the Principal Act.

Minister must request nomination for membership of Research Council

50. This provides for the Minister to request in writing the Presiding Member to establish a Selection Committee to provide, within a specified time period, nominations for the purpose of appointment of prescribed Research Council members or to fill a vacancy caused by a prescribed Council member ceasing to be such a member.

Selection Committee

51. This provides for the Presiding Member to establish a Wool Industry Selection Committee and for the Wool Council to nominate persons for appointment to the Selection Committee. The purpose of the Selection Committee is to select and nominate person(s) to the Minister for appointment to the Research Council. The membership of the Selection Committee is the Presiding Member appointed by the Minister and from three to six other members appointed by the Minister on the nomination of the Wool Council. The Minister can reject a nomination if the Minister is not satisfied with the suitability of a person nominated and require the Wool Council to submit a further nomination. The Selection Committee as established under this clause will, in effect, be an ad hoc committee.

Nominations for Research Council

52. This specifies procedures to be followed by the Selection Committee in nominating persons to the Minister. The procedure includes inviting the Corporation and the Wool Council to nominate a person(s) for appointment to the Research Council, and placing advertisements in a major newspaper circulating throughout Australia inviting applications for nomination for appointment. This procedure will ensure that a suitable person(s) is considered for nomination for appointment to the Research Council. Only one nomination is to be made by the Selection Committee in respect of each appointment to be made. Where seven members are to be appointed to the Research Council, the Selection Committee is also required, subject to subsection 109D, to nominate to the Minister at least one but not more than three of the persons nominated by the Corporation. The Selection Committee is required to provide a statement supporting its nomination(s) and the Minister may ask the Committee to provide additional information.

Selection of nominees for Research Council

53. This requires the Selection Committee to nominate persons who collectively possess qualifications and experience across the fields of activity specified in the legislation. The Presiding Member is to consult the Chairperson of the Research Council on the skills and qualities required of Council members. A person who is, or has been, a member of a particular Selection Committee appointed to recommend an appointment for one or more positions cannot be nominated for appointment to the Research Council by that Selection Committee.

Minister may reject nomination

54. This permits the Minister to reject in writing a nomination if the Minister is not satisfied with the suitability of the person nominated and to require the Committee to submit a new nomination.

Abolition of Selection Committee

55. This provides that the Selection Committee will be taken to be abolished when the appointment process has been completed by the Minister.

Selection Procedures

56. This provides that the listed sections of the Principal Act as they apply to a Selection Committee established to select nominees for the Corporation are to be read as applying to a Selection Committee selecting nominees for the Research Council. The sections cover meetings of the Selection Committee, engagement of staff and consultants by the Selection Committee and other applied provisions which concern terms and conditions of office, exercise of functions not being affected by vacancies, disclosure of interests, leave of absence, resignation, termination of appointments and resolutions without formal meetings.

Clause 21: Annual Report of the Research Council

57. This clause adds a subsection to Section 110 of the Principal Act to require the Minister to table the annual report of the Research Council within 15 sitting days of receipt by him. Amendments in clause 23 provide that from the 1989/90 annual report onwards the Research Council's annual report will be separate from that provided by the Corporation.

Clause 22: Insertion of new Part VIIA (Inspections) concerning appointment of authorised persons and powers relating to the entry to, & inspection of, premises

58. Clause 22 inserts a new part, Part VIIA, in the Principal Act for inspections relating to MSF refunds and inspection of certain registered premises. The three Divisions of this clause primarily transfer into the Act the contents of certain regulations which were previously in the Wool Marketing Regulations.

Appointment of inspectors to monitor compliance

59. This provides for appointment of an inspector for the purposes of inspections relating to refunds and the issue of an identity card to that person.

Entry and inspection: monitoring compliance

60. This provides for the entry of an inspector to a premises, either by consent or with a warrant issued under section 119C, and the powers of an inspector. Any person failing to make available any document relating to refunds without reasonable excuse is subject to a penalty of \$3000.

Monitoring warrants: refunds

61. This provides that a magistrate may issue a search warrant to an inspector in respect of a particular premises, when satisfied that there is reasonable necessity for an inspector to have access to find out whether the requirements of this Act and the regulations relating to refunds are being complied with. A warrant is effective for 6 months from date of issue.

Appointment of inspectors of registered premises

62. This provides for the appointment of an inspector by the Secretary of the Department for the purposes of inspections relating to the compliance with the terms of registration of certain registered premises and the issue of an identity card to that person. The registered premises cover sampling sites, wool showfloors and testing laboratories.

Entry and inspection registered premises

63. This provides for the entry of an inspector to a registered premises for the purposes of determining whether procedures are being carried out in accordance with the terms of registration of the premises. The inspector may enter the premises either by consent or with a warrant issued under section 119G and the powers of an inspector are specified. Any person failing to comply with requirements made by the inspector is subject to a penalty of \$3000.

Entry and inspection: premises of the Association

64. This provides for the entry of an inspector to any premises of the National Association of Testing Authorities for the purposes of determining whether the procedures carried out at a registered premises accord with the terms of registration by the Association. Entry into the Association's premises is by either consent or with a warrant issued under section 119G and the powers of an inspector are specified. Any person failing to comply with an inspector's requirement is subject to a penalty of \$3000.

Monitoring warrants: registered premises

65. This provides that a magistrate may issue a warrant if satisfied that an inspector should have access to registered premises or the premises of the Association for the purposes as specified. The information required to be in a warrant is also specified.

Definition of inspector

66. This gives a definition of the term "inspector".

Return of identity card

67. This requires an identity card to be returned once an inspector ceases to be an authorised inspector.

Proof of Authority

68. This provides that an inspector is not entitled to exercise his or her powers without first showing his or her identity card.

Obstruction of inspectors

69. This provides for a penalty of \$3000 should a person obstruct, hinder or resist an inspector without reasonable excuse.

Appointment of authorised representatives

70. This provides that an operator of a sampling site, laboratory or showfloor may appoint a person as the operator's authorised representative in matters relating to premises which arise under this Part of the Act.

Clause 23: Annual Report

71. This clause amends section 123 of the Principal Act by deleting the requirement in paragraph 123(3)(d) that the Corporation's annual report contain a copy of the annual report of the Research Council, as this latter report is to be a separate document under clause 21.

Clause 24: Regulations

72. This clause amends Section 127 of the Principal Act by reducing the level of penalties which may be prescribed under the regulations from \$5,000 to \$2,000 and omitting from paragraph 127(2)(e) reference to subsection 116(2) of the Commonwealth Functions (Statutes Review) Act 1981 which is repealed in Part 1 of the Schedule to this Bill.

Clause 25: Continuation of Committees

73. This clause repeals subsection 131(2) of the Principal Act concerning the Wool Marketing Service of the Corporation which has been sold to private enterprise.

Clause 26: Corporation not liable to be sued in certain cases

74. As Part IV of the Commonwealth Functions (Statutes Review) Act 1981 is to be repealed under this Bill, this clause repeals section 137 of the Principal Act and inserts a new section which provides that the Corporation is not liable to be sued in any case which could not have been lodged if section 118 of the Commonwealth Functions (Statutes) Review Act had still been in force.

Clause 27: Transitional Provisions

75. Subclause 27(1) provides that the chairperson of the Research Council who holds office on the date of commencement of the amendments continues to hold office for the remainder of his term of appointment.

76. Subclauses 27(2) & (3) provide that the members of the Research Council who hold office on the date of commencement of the amendments continue to hold office until either the end of their term or their appointment is terminated by the Minister, whichever occurs first. It is envisaged that the terms of the present Research Council members will be terminated immediately before the Minister makes appointments to the new Research Council as provided for in this Bill.

77. Subclause 27(4) provides that the current five year research and development plan of the Wool Research and Development Council which applied at the commencement of the amendments in this Bill, will continue to apply until a new five year plan under clause 13 comes into effect.

78. Subclause 27(5) defines commencing day.

PART 3 - REPEAL AND AMENDMENT OF VARIOUS ACTS

Bass Strait Freight Adjustment Levy Act 1984

Bass Strait Freight Adjustment Levy Collection Act 1984

Bass Strait Freight Adjustment Trust Fund Act 1984

Customs Tariff (Stand-by) Duty Act 1985

79. The amendments will repeal these Acts. These four Acts gave effect to the Import Parity Pricing Policy and the Bass Strait Coastal Freight Adjustment Scheme which were terminated in 1987. The Acts were not repealed immediately to ensure the oil companies discharged their obligations under the Bass Strait Crude Oil Allocation Scheme, which previously prescribed the amount of crude oil produced in Bass Strait that Australia's oil companies were obliged to buy. The scheme has now been successfully concluded, and the Acts can be safely repealed.

SCHEDULE - AMENDMENT OF ACTS - PART 1Australian Meat and Live-stock Research and Development Corporation Act 1985

80. The amendments to section 7 of the Act clarify the intention of allowing the Australian Meat and Live-stock Research and Development Corporation to invest surplus monies in specified ways without needing to seek the permission of the Minister for Primary Industries and Energy for each transaction.

81. The amendment to paragraph 24(1)(a)(ii) of the Act pertains to required notification of motions to be put to the Annual General Meeting of the industry. This change is consequential on an amendment in the Australian Meat and Live-stock Industry Legislation Amendment Act 1987, and is intended to make the Principal Act internally consistent.

Commonwealth Functions (Statutes Review) Act 1981

82. Part IV of the above Act was enacted to provide for the sale to private enterprise of the Australian Wool Testing Authority, which was an integral part of the Australian Wool Corporation. A private company limited by guarantee, Australian Wool Testing Authority Ltd, commenced on 1 July 1982.

83. Part IV of the above Act is no longer required and is to be repealed under this Bill.

Honey Levy Collection Act 1962

84. The amendments to subsection 6(1) are self explanatory

85. New section 6A provides for levy payers who expect to pay less than \$100 for seven months of a year or \$1200 in a full year, or such other amount as is prescribed, to apply for exemption from monthly payment. Granting of an exemption requires levy to be paid on 28 February of the next year.

86. Applications are to be made to the Secretary of the Department of Primary Industries and Energy in a form approved by the Secretary. The Secretary is required to grant or refuse an application and advise the applicant in writing of such decision within 14 days.

87. Provision is also made for the Secretary to continue or refuse to continue an exemption and notify the applicant of such a decision.

88. Subsections 12A(1) and 12A(2) which provide for appeals to the Administrative Appeals Tribunal are amended to allow appeals under the new section 6A.

Honey Marketing Act 1988

89. The amendments to paragraph 35(1)(a) are self explanatory

90. The amendment to subsection 62(1) (the sunset clause) clarifies the intent that the Act terminate six years after the date of Royal Assent. The provision currently provides that the Act will terminate six years after commencement, but this is unclear since not all parts of the Act commenced on the same day.

Soil Conservation (Financial Assistance) Act 1985

91. The amendment to subsection 3(1) enables the Australian Capital Territory to be considered as a State for the purposes of the Act to reflect the fact that the Territory now has self government.

92. Paragraph 11(1)(c) is amended to increase the number of persons with experience in, special knowledge of, or educational qualifications relevant to soil conservation on the Soil Conservation Advisory Committee from not less than four to not less than five. This will bring the total number of members of the Committee to eight. The maximum number of members with these qualifications that can be appointed to the Committee has not been prescribed to enable flexibility in appointing members without the need for further changes in the legislation.

93. Paragraph 11(6)(b) is amended to retain the intent of the original legislation, namely that the exercise of a power or the performance of a function by the Committee is not invalidated if the Committee membership comprises less than the minimum number of persons to be appointed under paragraph 11(1)(c) for a period of not more than three months.

94. Subsection 17(3) is amended so that a quorum will consist of two thirds of the Committee membership. A definite number has not been prescribed so that if there are changes to the Committee membership in future there will be no need for further changes to the legislation.

SCHEDULE - AMENDMENT OF ACTS - PART 2

Barley Research Levy Collection Act 1980

95. The amendment to subsection 5(1) is self explanatory.

96. The amendments to subsections 5(2) and (3) replace the existing definition of a quarter by providing for:

- (a) present three month periods to continue until the last day of February, May, August or November immediately before commencement of the amendment;
- (b) a four month transition period; and
- (c) the inclusion of each succeeding period of three months.

Oilseeds Levy Act 1977

97. The amendment to subsection 4(1) is self explanatory.

98. New subsection 4(1A) defines the meaning of a "levy year" as follows:

- (a) each period of 12 months from the commencement of the scheme (ie. 1 November 1987) until the end of October before commencement of the amendment;
- (b) a transitional period from 1 November prior to Proclamation until 30 June next (ie either 7 months or 19 months); and
- (c) each 12 months afterwards.

Oilseeds Levy Collection Act 1977

99. The amendment to section 5 provides for a change from monthly to quarterly payments, with the first such quarter commencing on the first day of July, October, January or April on or immediately following proclamation.

SCHEDULE - AMENDMENT OF ACTS - PART 3

RURAL INDUSTRIES RESEARCH ACT 1985

100. The amendment to subsection 12(2) of the Rural Industries Research Act 1985 inserts a reference to the Wheat Industry Fund Levy Act 1989 to enable levies imposed by that Act to be included in the appropriate prescribed class of levies.

101. Schedule 1 is amended by inserting a reference to the levy imposed by the Wheat Industry Fund Levy Act 1989. The amendment relates the amount of the levy that is to be applied to the Wheat Research Trust Fund to an amount equal to the percentage of the levy determined by the Grains Council of Australia under the provisions of the Wheat Marketing Act 1989.

102. Column 1 of Part II of Schedule 2 is amended by inserting a reference to the levy imposed by the Wheat Industry Fund Levy Act 1989.

WHEAT MARKETING ACT 1989

103. The amendment to subsection 3(1) inserts a definition of borrowing which applies to the raising of money or the obtaining of credit by any means that the Australian Wheat Board has power to use. It is limited only so as to exclude credit transactions forming part of the Board's day-to-day activities eg., obtaining goods on a monthly account, thereby enabling the Board to conduct such transactions without Ministerial approval or being subject to other borrowing provisions contained in the Act.

104. Section 71 of the Act is repealed by the amendments and replaced with four new sections related to borrowings by the Board other than underwritten borrowings under Section 77 of the Act.

105. The Board is empowered to borrow money in Australian or foreign currency with the Minister's approval, which may be for a particular or a class of transactions, and subject to any conditions attached. Provision is made for the Commonwealth to guarantee such borrowings and for the Board to use its assets as security.

106. Amendments to Section 74 of the Act are required as a consequence of the new definition of borrowing.

107. Inclusion of additional provisions in section 77 of the Act makes clear that borrowings to fund advance payments and related purposes, as specified in subsection 77(1), can be made in Australian or foreign currency and that the required Ministerial approval may be given in relation to a particular or a class of transactions.

108. Subsections 78(1) and 78(3) are amended to make clear that Commonwealth underwriting of section 77 borrowings includes the Board's liability under such borrowings.

109. A new subsection is inserted to provide that any Commonwealth underwriting payment made to the Board under subsection 78(1) of the Act can only be used to discharge the outstanding borrowing liability which caused such payment to be made.

110. Consequential amendments are made to subsections 78(3), 79(4)(c) and 87(2).

