

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

PRIMARY INDUSTRIES LEGISLATION  
AMENDMENT BILL 1993

EXPLANATORY MEMORANDUM

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



## **PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL 1993**

### **OUTLINE**

1. This Bill proposes to:
  - (a) substitute the Pork Council of Australia for the Australian Pork Producers' Federation in the Pig Industry Act 1986 as the eligible industry body for the purpose of consultation with the Australian Pork Corporation and for nomination of members to the Australian Pork Corporation Selection Committee, and
  - (b) terminate the Australian Pig Industry Policy Council (APIPC) through the repeal of Part III of the Pig Industry Act 1986 and to create the Australian Pig Industry Council (APIC) under the Primary Industry Councils Act 1991 with enhanced functions and Commonwealth funding.
2. The Bill provides for transitional arrangements between the APIPC and APIC. It ensures that all assets, rights, obligations and liabilities of the APIPC accrue to the Australian Pork Corporation, which currently funds the APIPC, thus allowing the APIC to commence without encumbrance.
3. The Bill provides for the APIPC to continue beyond the date of commencement of the APIC for the sole purpose of preparing and submitting a final annual report to Parliament.
4. The Bill proposes to amend the Australian Meat and Live-stock Corporation Act 1977 and the Meat Research Corporation Act 1985 to bring the proportion of votes required to pass levy and no confidence motions at annual general meetings of the Corporations into line with those applying to other Primary Industry statutory marketing authorities. Levy motions would be passed on a simple majority and no confidence motions on a two thirds majority.
5. The Bill proposes to amend the Meat Research Corporation Act 1985
  - (a) to provide the Corporation with the power to conduct activities in relation to the dissemination, adoption and commercialisation of the results of meat and livestock industry research and development,
  - (b) to bring the Corporation's operational powers into line with those of other Primary Industry research and development corporations established under the Primary Industries and Energy Research and Development Act 1989, including the removal of the limitation placed on the Corporation's ability to enter into agreements and contracts and the making of provisions allowing the Board of the Corporation to hold meetings by telephone or by other means of communication, and

- (c) to remove the 65 year age limit on Board members to give effect to the Government policy on the appointment of part-time officeholders.

#### FINANCIAL IMPACT STATEMENT

- 6. The APIC will be funded by the Commonwealth and annual operating costs are estimated at \$205,000, subject to cost efficiencies arising from rationalisation of support services for all industry councils. Funding will be provided from existing Departmental running costs.

## NOTES ON CLAUSES

### **PART 1 – PRELIMINARY**

#### Clause 1 – Short title

7. Provides for the Bill to be called the Primary Industries Legislation Amendment Act 1993.

#### Clause 2 – Commencement

8. Provides for the Bill to come into effect on the day it receives Royal Assent.

### **PART 2 – AMENDMENTS OF THE PIG INDUSTRY ACT 1986**

#### Clause 3 – Principal Act

9. Provides that where "Principal Act" is referred to in this Part it means the Pig Industry Act 1986 as amended.

#### Clause 4 – Interpretation

10. Subclause (1) substitutes the Pork Council of Australia (PCA) for the Australian Pork Producers' Federation (APPF) as the body defined as the "eligible industry body".
11. Subclause (2) deletes the definition of "Council" as being the Australian Pig Industry Policy Council.

#### Clause 5 – Corporate plans

12. Amends the corporate planning provisions of the Australian Pork Corporation (APC) by deleting the requirement for the APC to outline arrangements that would apply to the APIPC during the APC's planning period.

#### Clause 6 – Annual operational plans

13. Amends the annual operational planning requirement of the APC by deleting the need to outline arrangements that it proposes to implement in relation to the APIPC.

#### Clause 7 – Application of money of Corporation etc.

14. Removes the liability of the APC to pay the expenses and discharge the liabilities of the APIPC subject to Part 4.
15. Removes the requirement for the APIPC to pay any monies received by it subject to Part 4.

16. Removes the requirement for the Chairman of the APIPC to consult with the Chairperson of the APC regarding expenses and liabilities in the forthcoming financial year.

#### Clause 8 – Membership of Committee

17. Substitutes the PCA for the APPF as the body that may nominate 2 members for appointment to the Australian Pork Corporation Selection Committee (APCSC).

#### Clause 9 – Termination of appointments

18. Substitutes the PCA for the APPF as the body that may request the Minister to terminate the appointment of the PCA nominated members of the APCSC.

#### Clause 10 – Repeal of Part III

19. Repeals Part III of the Pig Industry Act 1986 thereby dissolving the Australian Pig Industry Policy Council.

### **PART 3 – AMENDMENTS OF THE PRIMARY INDUSTRY COUNCILS ACT 1991**

#### Clause 11 – Principal Act

20. Provides that where "Principal Act" is referred to in this Part it means the Primary Industry Councils Act 1991 as amended.

#### Clause 12 – Schedule

21. Adds a Schedule to the Principal Act which:
  - (a) establishes a council for the pig industry,
  - (b) names the Council as the Australian Pig Industry Council (APIC),
  - (c) provides the constitution of the Council to be comprised of a Chairperson, 3 members appointed on the nomination of the PCA, a member appointed on the nomination of the National Meat Processors Association, a member appointed on the nomination of the Meat and Allied Trades Federation of Australia, the Chairperson of the APC and the Chairperson of the Pig Research and Development Corporation,
  - (d) provides that a council meeting must be convened if it is requested in writing by at least 4 members of the Council,
  - (e) specifies the quorum at a meeting of the Council to be 5 members.

## **PART 4 – TRANSITIONAL ARRANGEMENTS**

### **Clause 13 – Definitions**

22. Defines APIC as the Australian Pig Industry Council; APIPC as the Australian Pig Industry Policy Council; commencement day as the day this Part commences; and the Corporation as the Australian Pork Corporation.

### **Clause 14 – Transfer of assets and liabilities etc**

23. Subclause (1) provides for the assets, rights, obligations and liabilities of the APIPC to be transferred to the APC on and after the commencement day, except as specified in subclause 14 (2).
24. Subclause (2) provides for the above section not to apply to documents transferred to the APIC under clause 15.

### **Clause 15 – Transfer of documents to the APIPC**

25. Allows the Minister to cause any documents held by the APIPC to be transferred to the APIC upon its creation.

### **Clause 16 – Transferred agreements etc**

26. Provides for the APC to replace the APIPC in respect of any agreement and instrument in force on and following the day this Bill comes into effect.

### **Clause 17 – Final report of APIPC**

27. Subclause (1) states that in spite of the repeal of the APIPC it should continue in existence for the specific purpose of giving the Minister a report of its operation from 1 July 1992 to the day immediately before the commencement of this Bill.
28. Subclause (2) provides for certain clauses relating to the termination of the APIPC not to take effect to the extent that it is necessary for the report to be prepared; and requires that the APIPC prepare and give the Minister a report as soon as practicable after the day this Bill commences.
29. Subclause (3) provides for any costs associated with the preparation of the final report of the APIPC to be borne by the APC.

## PART 5 – AMENDMENTS OF OTHER ACTS

### Clause 18 – Amendments of other Acts

30. Provides that the Australian Meat and Live-stock Corporation Act 1977 and the Meat Research Corporation Act 1985 are to be amended as set out in the Schedule.

### SCHEDULE – AMENDMENTS OF OTHER ACTS

#### Australian Meat and Live-stock Corporation Act 1977

##### Subsection 30G(5)

31. Amends the Act to provide that a levy motion put to an annual general meeting of the Corporation shall be passed if a majority of votes cast by persons registered on the appropriate producers' register, and a majority of votes cast by persons registered on the register of processors and exporters are in favour of the motion.

##### Subsection 30G(6)

32. Amends the Act to provide that a motion of no confidence in the Chairman or the Corporation put to an annual general meeting of the Corporation shall be passed if two thirds of the total votes cast are in favour of the motion. Additionally, at least 50 per cent of the votes cast by persons registered on the two producer registers and at least 50 per cent of the votes cast by persons registered on the register of processors and exporters must be in favour of the motion.

#### Meat Research Corporation Act 1985

##### Paragraph 6(ca)

33. Amends the Act to provide the Meat Research Corporation with the power to perform the additional function of facilitation of the dissemination, adoption and commercialisation of the results of meat and livestock research and development.

##### Subsection 7(3)

34. Omits subsection 7(3) which requires the Corporation to seek Ministerial approval before entering into a contract or agreement for the purchase of real or personal property exceeding a limiting amount of \$100,000 set in the Act, or a higher amount if that amount is prescribed by the regulations.

##### Subsection 7(5)

35. Omits subsection 7(5) as a consequence of the omission of subsection 7(3) to which it refers. Subsection 7(5) provides for an exception to be made to subsection 7(3) in respect of investments made in accordance with section 63E of the Audit Act 1901.

Subsection 12(6)

36. Omits subsection 12(6) to remove the 65 year age limit on the appointment of Board members.

Section 19A

37. Inserted to provide that the Corporation may permit Board members to participate in a meeting of the Corporation by telephone or by any other means of communication, and that the members who participate by these means are to be regarded as being physically present at the meeting.

Section 19B

38. Inserted to provide that the Corporation, if it wishes, may pass resolutions without physically meeting where a majority of the participating members of the Board indicate agreement with the resolution by the method of communication determined by the Corporation. The majority must consist of at least six members, which is the number of members which would, if physically present at a meeting and entitled to vote on the resolution at that meeting, have constituted a quorum under section 19 of the Act.

Subsection 27(5)

39. Amends the Act to provide that a levy motion put to an annual general meeting of the Corporation shall be passed if a majority of votes cast by persons registered on the appropriate producers' register, and a majority of votes cast by persons registered on the register of processors and exporters are in favour of the motion.

Subsection 27(6)

40. Amends the Act to provide that a motion of no confidence in the Chairman or the Corporation put to an annual general meeting of the Corporation shall be passed if two thirds of the total votes cast are in favour of the motion. Additionally, at least 50 per cent of the votes cast by persons registered on the two producer registers and at least 50 per cent of the votes cast by persons registered on the register of processors and exporters must be in favour of the motion.

Section 39

41. Amends the Act to provide the Executive Director with the power to conduct the affairs of the Corporation and that, in so doing, he or she must act in accordance with the Corporation's policies and also with any directives given by the Corporation.



Section 39A

42. Inserted to provide that the Executive Director may delegate, by writing, all or any of his or her powers under the Act to a member of the staff of the Corporation. In exercising a power delegated by the Executive Director, the delegate must comply with any directions given by the Executive Director.













