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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

PRIMARY INDUSTRIES LEGISLATION
AMENDMENT BILL 1993

EXPLANATORY MEMORANDUM

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

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

PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL 1993

OUTLINE

1. This Bill proposes to:
 - (a) amend the Australian Meat and Live-stock Industry Selection Committee Act 1984 to substitute one of the three members of the Committee nominated by the Australian Meat Exporters' Federal Council for one nominated by the Meat and Allied Trades Federation of Australia;
 - (b) 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
 - (c) 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. The amendments will also allow the two Corporations to accept proxy forms lodged by facsimile for the purposes of voting at their annual general meetings.
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. This clause provides for the Bill to be called the Primary Industries Legislation Amendment Act 1993.

Clause 2 – Commencement

8. This clause provides for the Bill to come into effect on the day it receives Royal Assent.

PART 1A – AMENDMENTS TO THE AUSTRALIAN MEAT AND LIVE-STOCK INDUSTRY SELECTION COMMITTEE ACT 1984

Clause 2A – Principal Act

9. This clause provides that where "Principal Act" is referred to in this Part it means the Australian Meat and Live-stock Industry Selection Committee Act 1984.

Clause 2B – Membership of Committee

10. This clause amends section 11 of the Principal Act to change the membership of the Australian Meat and Live-stock Industry Selection Committee (AMLISC). The Principal Act currently provides that the membership of the AMLISC shall consist of:
- the Chairperson, appointed by the Minister;
 - two members appointed to represent cattle producers, appointed on the nomination of the Cattle Council of Australia (CCA);
 - one member appointed to represent sheep producers, appointed on the nomination of the Sheepmeat Council of Australia (SCA); and
 - three members appointed to represent meat processors and exporters, appointed on the nomination of the Australian Meat Exporters' Federal Council (AMEFC).
11. Subclause 2B(c) amends paragraph 11(1)(d) of the Principal Act and inserts new paragraph 11(1)(e) to provide that instead of three members being appointed to represent meat processors and exporters, two members will be appointed to represent meat exporters and one will be appointed to represent meat processors.
12. Subclause 2B(d) inserts new subsection 11(6A) into the Principal Act to provide that the member appointed to represent meat processors will be appointed on the nomination of the Meat and Allied Trades Federation of Australia (MATFA). The two members appointed to represent meat exporters will continue to be appointed on the nomination of the AMEFC.
13. Subclause 2B(e) includes the MATFA in subsection 11(7) of the Principal Act, which provides that if the Minister is not satisfied as to the suitability of a person nominated

for appointment to the AMLISC by a particular body, the Minister may request the nominating body to make a further nomination.

Clause 2C – Deputies

14. This amendment includes the MATFA in section 13 of the Principal Act, which provides for the appointment of a person to be the deputy of a member on the nomination of the appropriate nominating body.

Clause 2D – Casual Vacancies

15. This amendment includes the MATFA in subsection 14(1) of the Principal Act, which provides that if the member appointed on the nomination of a particular body ceases to hold office before the expiration of their term of appointment, another person may be appointed on the nomination of that body for the remainder of the term.

Clause 2E – Meetings

16. This amendment amends section 20 of the Principal Act to provide that a quorum of the AMLISC will constitute five members, of whom at least two must be members appointed on the nominations of the CCA and the SCA, and at least two must be members appointed on the nominations of the AMEFC and the MATFA.

PART 2 – AMENDMENTS OF THE PIG INDUSTRY ACT 1986

Clause 3 – Principal Act

17. This clause provides that where "Principal Act" is referred to in this Part it means the Pig Industry Act 1986 as amended.

Clause 4 – Interpretation

18. 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".
19. Subclause (2) deletes the definition of "Council" as being the Australian Pig Industry Policy Council.

Clause 5 – Corporate plans

20. This clause 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

21. This clause 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.

22. This clause removes the liability of the APC to pay the expenses and discharge the liabilities of the APIPC subject to Part 4.
23. This clause also removes the requirement for the APIPC to pay any monies received by it subject to Part 4.
24. The clause also 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

25. This clause 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

26. This clause 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

27. This clause 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

28. This clause provides that where "Principal Act" is referred to in this Part it means the Primary Industry Councils Act 1991 as amended.

Clause 12 – Schedule

29. This clause 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

- 30. This clause 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

- 31. 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).
- 32. 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

- 33. This clause 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

- 34. This clause 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

- 35. 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.
- 36. 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.
- 37. 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

38. This clause 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 30E(4)

39. This amendment will allow a form appointing another person to be the proxy of a person entitled to vote at the Australian Meat and Live-stock Corporation's annual general meeting to be lodged with the Corporation by facsimile. The Act currently provides that the original instrument must be lodged with the Corporation.

Subsection 30G(5)

40. This amendment will 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)

41. This amendment will 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(ea)

42. This amendment will 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)

43. This amendment will omit 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)

44. This amendment will omit 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)

45. This amendment will omit subsection 12(6) to remove the 65 year age limit on the appointment of Board members.

Subsection 25(4)

46. This amendment will allow a form appointing another person to be the proxy of a person entitled to vote at the Meat Research Corporation's annual general meeting to be lodged with the Corporation by facsimile. The Act currently provides that the original instrument must be lodged with the Corporation.

Section 19A

47. This amendment will allow the Corporation to 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

48. This amendment will allow the Corporation, if it wishes, to 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)

49. This amendment will 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)

50. This amendment will 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

51. This amendment will 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

52. This amendment will allow the Executive Director to 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.



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