

1988

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

RURAL INDUSTRIES RESEARCH AMENDMENT BILL 1988

EXPLANATORY MEMORANDUM

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

RURAL INDUSTRIES RESEARCH AMENDMENT BILL 1988

OUTLINE

The Bill serves three purposes:

- (a) it provides for an improved organisational and administrative framework under the Rural Industries Research Act 1985 (the Principal Act);
- (b) it enables the expenses of collection and administration relating to relevant levies to be recovered from the Australian Special Rural Research Fund (ASRRF); and
- (c) it remedies certain defects in regulations under the Act.

2. The main organisational and administrative amendments

- (a) enable new levies to be added to existing rural research schemes without having the unwanted effect of creating new Research Councils and new Research Funds;
- (b) enable Commonwealth funds matching industry funds raised through statutory levies to be paid into the ASRRF, in the same way Commonwealth contributions are paid into other Funds under the Principal Act;
- (c) provide new arrangements for the amalgamation, re-organisation and winding-up of Trust Funds and Research Councils, giving a more comprehensive organisational and funding framework;
- (d) provide scope to replace a partly completed five-year research and development plan with a varied plan to cover a new five-year period, giving Councils and State Research Committees more flexibility in their planning systems particularly in incorporating changing industry and market circumstances;
- (e) provide for essential information, without unnecessary detail, to be included in a Council's annual research and development program which is subject to the approval of the Minister;
- (f) provide that Research Councils or State Research Committees will have the responsibility for approving all expenditure made under sections 9 and 36 of the Principal Act: currently expenditure for certain purposes can be made without their approval.

3. The substantive amendments have given rise to many consequential amendments. The amendments also improve the form of the legislation and simplify and clarify the text.

FINANCIAL IMPLICATIONS

4. The Bill facilitates matching Commonwealth funding of rural research under the Australian Special Rural Research Fund, but of itself has no budgetary implications beyond those announced in the May 1988 Statement on Primary Industries and Resources.

NOTES ON INDIVIDUAL CLAUSES
PART I - PRELIMINARY

Clause 1: Short Title

5 This clause states the short title of the Act.

Clause 2: Commencement

6 The Act will commence on the day on which it receives Royal Assent, with the exception of the following parts which will be taken to have commenced on the dates specified:

- . paragraphs 14 (b), 26 (f), 41 (1)(a) and subsection 31 (1)
 - immediately after commencement of the Principal Act (3 October 1985)
- . section 44 - on 28 March 1986
- . section 47: regulations 4A and 4C - on 26 June 1986; and 4B - on 31 January 1986
- . section 48 and paragraph 49 (c) - on 26 June 1986.

PART II - AMENDMENTS OF THE
RURAL INDUSTRIES RESEARCH ACT 1985

Clause 3: Principal Act

7 For Part II this clause provides that the "Principal Act" means the Rural Industries Research Act 1985.

Clause 4: Objects

8 Amends section 3 of the Principal Act to describe levies that are relevant to the objects of the Act consistently with the provisions of section 5 as amended by clause 6 concerning declarations about levies.

Clause 5: Interpretation

9 Amends definitions used in the Principal Act.

Clause 6: Declarations about levies

10 Amends section 5 of the Principal Act to provide that the regulations may declare an additional levy, or class of levies, attached to a specified Research Fund and to a specified Research Council, or to the Special Research Fund and Special Research Council. The provision does not apply to the Barley Research Trust Fund or the Wheat Research Trust Fund.

Clause 7:Levies attached to a Fund or Council

11 Inserts a new section 5A in the Principal Act which sets out how a levy becomes attached to a Fund or Council.

Redirecting a Levy

12 Inserts a new section 5B in the Principal Act which specifies that where any levy becomes attached to a Fund and a Council such levy is redirected to that Fund and Council from any other Fund and Council to which it was attached. This provision will facilitate the re-organisation of Funds and Councils.

Annual research and development program in force when payment made

13 Inserts a new section 5C in the Principal Act which will allow a Council to approve expenditure in relation to a research and development program before the program enters into force.

Relevant industry organisations

14 Inserts a new section 5D in the Principal Act to be consistent with section 5 as amended by clause 6, and sets out the requirements concerning the declaration of relevant industry organisations.

Research and development activities included in an annual research and development program

15 Inserts a new section 5E in the Principal Act to specify the circumstances in which a research and development activity is included in an annual research and development program.

Clause 8: Establishment of Research Funds

16 Provides that declared levies and classes of levies will be taken to have become attached to a Fund at the beginning of a day that is specified in the regulations.

Clause 9: Money to be paid into Research Funds

17 Makes section 7 consistent with new terms "Fund", and "Collection Act", defined in Clause 5; clarifies the text; and omits and takes account of the omission of subsections 7 (2) and (3) which have been replaced by similar clauses 39 A and 39 B.

Clause 10: Separate accounts to be kept: Research Funds generally

18 Replaces and modifies the existing requirements under subsection 8 (1) to maintain accounts, and provides for separate accounting for each levy when more than one levy is attached to a Fund, other than the Barley Research Trust Fund or the Wheat Research Trust Fund.

Clause 11: Separate accounts to be kept: Barley and Wheat Research Trust Funds

19 Omits subsection 8 (1) of the Principal Act, which is replaced by a similar provision in clause 10. Amends section 8 as it relates to Barley and Wheat Research Funds to make it consistent with the new definition of "Fund" and to take account of new provisions concerning the attachment of levies to Funds contained in clauses 7 and 8.

Clause 12: Application of money in Research Funds

20 Requires that all expenditure described in section 9 of the Principal Act be approved by the relevant Research Council or State Research Committee. Such approval is currently required only for payments relating to research and development activities included in annual programs. Provides clearer description of expenses that may be paid from Research Funds.

Clause 13: Insertion of part heading

PART IIA - AGREEMENTS ABOUT RESEARCH
AND DEVELOPMENT FUNDING

21 Part IIA is a new part.

Clause 14: Agreements

22 Amends section 10 of the Principal Act to make it consistent with new definitions for "Council", "Fund" and "relevant kind" contained in clause 5. Corrects error by omitting from paragraphs 10 (4) (a) and (b) "by that Research Council" and substituting "by the Chairperson of a Research Council".

Clause 15: Establishment and functions of Research Councils

23 Provides that a declared levy either be taken to have become attached or becomes attached to a Council at the beginning of a day specified in the regulations. Makes section 11 consistent with the new terms "attached", "Council" and "relevant kind" defined in clause 5, and with the clause 12 provision that makes Councils responsible for the approval of all expenditure under section 9 of the Principal Act.

Clause 16: Establishment and functions of State Research Committees

24 Consequential amendments making section 12 consistent with the term "program year" defined in clause 5, and with the provisions contained in clause 8 that make State Research Committees responsible for approving all expenditure under subsection 9(2).

Clause 17: Amendment of heading

25 Amends the heading of Division 2 of Part III of the Principal Act by omitting "Research Councils" and substituting "Councils", with the effect of including the Australian Special Rural Research Council under Division 2.

Clause 18: Constitution of Councils and State Research Committees

26 Incorporates in section 14 the terms of "Council" and "relevant kind" that are defined in clause 5. Omits sub-section 14(3) and replaces it with a similar provision that requires the Minister to consult with the relevant industry organisations before determining the number of members of a Council.

Clause 19: Research and development plans

27 Consequential amendments to section 22 arising from the new definition of "Council" contained in clause 5. Includes the Special Research Council in section 22 provisions concerning the development of research and development plans.

Clause 20:

28 Clause 20 inserts sections 24A, 24B and 24C in the Principal Act.

Approval for varied plan to run for 5 years from next 1 July: Councils generally

29 Section 24A enables a Council which is seeking ministerial approval for variation to a research and development plan to also seek ministerial approval for the varied plan to be in force for a 5 year period. This provides more flexibility than the current arrangement under which a plan, or varied plan, applies for a fixed 5 year period, at the end of which a new plan for a new 5 year period would apply.

Approval for varied plans to run for 5 years from next 1 July: Barley and Wheat Research Councils and Committees

30 Section 24B enables a Council and the State Research Committees for the Barley Research Trust Fund or the Wheat Research Trust Fund to jointly request the Minister's approval for varied plans to be in force for a 5 year period.

Pre-conditions for approval under sections 24A or 24B

31 Section 24C stipulates the pre-conditions for approval for varied research and development plans, managed by Councils and State Research Committees, that are to run for 5 years. The conditions include requirements for Councils to consult with industry, to have regard to the views expressed in those consultations, and to give the Minister a statement of reasons for making the request to vary a plan.

Clause 21: When variations of research and development plans take effect

32 Repeals section 26, and replaces it with a similar provision that provides when a varied plan will come into effect.

Clause 22: Annual research and development programs

33 Replaces section 27. Defines a new form in which research and development programs are to be submitted to the Minister for approval. The new form provides for essential information, without unnecessary detail, to be included in a Council's or State Research Committee's annual program for the Minister's consideration.

Clause 23: Staff and consultants

34 Amends section 29 to provide that the Chairperson of a Council or State Research Committee may engage a suitably qualified person as a consultant or to provide professional services in relation to any of the functions of the Council or Committee. Presently section 29 provides for the engagement of advisers, including consultants, but not of persons otherwise to provide professional services.

Clause 24: Annual reports of Councils

35 Amends section 30 to reflect as necessary the changes in the form of the Act; to provide for the annual report of the Special Research Council (previously covered under Section 39); and to take account of the new definition of "Council" in clause 5.

Clause 25: Accountability to industry

36 Amends section 31 by including the new term "Council" defined in clause 5. Includes provision for the accountability to industry of the Special Research Council (previously covered through section 39).

Clause 26: Establishment, Functions and Powers of Special Research Council

37 Amends section 33 to reflect the new term "relevant kind", interpreted in clause 5, and to reflect the broader responsibility of the Special Research Council to approve all expenditure under section 36, as provided in clause 30. Sub-clause 26 (3) remedies an omission in section 13 of the Principal Act to provide power to the Special Research Council to do all things that are necessary or convenient to be done in performance of its functions.

Clause 27: Money to be Paid into Special Research Fund

38 Amends section 34 of the Principal Act to provide for two additional categories of money that shall be paid into the Special Research Fund: amounts received under the Commonwealth Collection Act for each levy attached to the Fund, and Commonwealth matching contributions.

Clause 28: Appropriation

39 Provides for appropriations for the purposes of paying money into the Special Research Fund from Consolidated Revenue pursuant to section 34 as amended by clause 27.

Clause 29: Separate accounts

40 Provides for the keeping of additional accounts when a levy is attached to the Special Research Fund and Commonwealth matching contributions are paid into that Fund.

Clause 30: Application of Money in Special Research Fund

41 Amends section 36 of the Principal Act to enable payments out of an account relating to a particular kind of goods in relation to a levy attached to the Special Research Fund.

Clause 31: Repeal of Section 37

42 Amends an anomaly in subsection 37(2) prior to repeal of section 37, and provides that after repeal occurs agreements that were made under section 37 will be taken to have been made under section 10 of the Principal Act. Agreements relating to research and development that were made by the Special Research Council in accordance with section 37 will be made in the future under the amended section 10.

Clause 32: Repeal of Section 38

43 Repeals section 38 of the Principal Act. The requirements that were in section 38 concerning the accountability of the Special Research Council to industry will be included in the amended section 31.

Clause 33: Repeal of section 39

44 Repeals section 39 of the Principal Act. The provisions in section 39, which were concerned with the application of many of the provisions in the Principal Act in relation to the Special Research Council, are rendered redundant by replacement amendments made to many parts of the Principal Act with the aim of improving the Principal Act's form and simplifying the text.

Clause 34:

45 Clause 34 provides for two new parts for the Principal Act

- . Part IVA - Certain payments into, and out of Funds
 - containing new sections 39A, 39B, 39C and 39D
- . Part IVB - Reorganisations of Funds and Councils
 - containing new sections 39E, 39F, 39G, 39H, 39J, 39K, 39L, 39M, 39N, 39P, 39Q and 39R.

PART IVA

CERTAIN PAYMENTS INTO AND OUT OF FUNDS

Matching amounts not to exceed levy revenue

46 Inserts a new section 39A to provide that the Commonwealth matching contributions in relation to a levy shall not exceed the net amounts relating to levy paid into the relevant Trust Fund. Replaces a similar provision, subsection 7(2), to be omitted from the Principal Act under clause 9.

Matching amount not to exceed certain proportion of value of production of relevant kinds of goods

47 Inserts a new section 39B to provide that the Commonwealth matching amount relating to a levy in a particular financial year shall not exceed the equivalent of 3.5 cents per kilogram for tobacco leaf and 0.5% of the gross value of production in that financial year for each other leviable good. Replaces a similar provision, sub section 7(3), that is to be omitted from the Principal Act under clause 9.

Commonwealth may recover levy collection expenses from Funds

48 The Principal Act enables money to be paid out of an account attached to the Fund, except the Australian Special Rural Research Fund (ASRRF), for the purpose of repaying the Commonwealth the costs of collection and administration of levies. The amendment contained in new section 39C enables similar application of money in the ASRRF.

Account from which levy reimbursement to be paid

New Section 39D will specify the account from which reimbursements of levies are to be made.

PART IVB

REORGANISATIONS OF FUNDS AND COUNCILS

Additional levies attached to a Research Fund and a Research Council

49 Under the new section 39E additional levies declared in the regulations to be attached to a specified Research Fund and Research Council become attached from the day specified in the regulations.

Levies attached to the Special Research Fund and Special Research Council

50 Under the new section 39F additional levies declared in the regulations to be attached to the Special Research Fund and Special Research Council become attached from the day specified in the regulations.

Change of name of Research Fund, Research Council or State Research Committee

51 New section 39G enables change of name of a Research Fund, Research Council or State Research Committee by regulation.

Transfer of money between Funds where levies redirected

52 New section 39H provides for the transfer of money between an account in one Fund and an account in another Fund when a levy is redirected from one Fund to another.

Treatment of unmatched amount when levies redirected

53 New section 39J provides that where a levy is redirected from one Fund to another Fund when the Commonwealth has a current or contingent obligation to make a matching contribution to the Fund for the relevant commodity, that obligation will be transferred simultaneously with the levy.

Transfer of liabilities where levies redirected

54 New section 39K provides that where levies are redirected from one Fund and Council to another, liabilities relating to the first mentioned Fund can be transferred to the Fund to which the levies were redirected.

Treatment of amounts received, after levies redirected from Fund, as a result of earlier expenditure from Fund

55 New section 39L provides that amounts received in relation to a Fund from which a levy has been redirected may be paid, in accordance with the Minister's determination, into the Fund to which the levy has been redirected.

Variation of research and development plans because of attachment of levies

56 New section 39M stipulates that after a levy becomes attached to a Council, that Council and any Council to which the levy was previously attached shall review its research and development plan having regard to the newly attached levy, and with the Minister's approval make any variation. The review process for the Council to which the levy becomes attached includes consultations with the relevant industry organisation.

Consequential variation of annual research and development programs

57 New section 39N provides for any necessary variation of a Council's annual research and development program where that Council's research and development plan is varied as a consequence of the process of attaching a levy to a Council.

Effect of redirecting levies on agreements under section 10

58 New section 39P provides that when a levy is redirected from one Council to another Council and there is a research grant agreement in force between the first mentioned Council and a grantee, the agreement will continue in force under the Council to which the levy was redirected.

Effect on staff and consultants of redirecting levies

59 New section 39Q makes provision for persons engaged by a Council from which a levy is redirected to be transferred to the Council to which the levy is redirected subject to Chairperson's or Minister's approval.

Winding up Research Funds and Research Councils to which no levy is attached

60 New section 39R provides that the regulations may provide for the winding up of affairs and the abolition or dissolution of Research Funds and Research Councils to which no levy is attached.

END OF PART IV B

Clause 35: Constitution of Selection Committee for performance of functions under paragraphs 41 (b) and (c)

61 Amends section 44 of the Principal Act consistent with new terms "Council" and "relevant kind" defined in clause 5.

Clause 36: Selecting persons for nomination

62 Amends section 46 of the Principal Act consistent with new terms "Council" and "relevant kind" defined in clause 5.

Clause 37: Deputies of Selection Committee members

63 Under the amendment, which replaces a similar provision, sub-paragraph 39 (p) (3) that is repealed under clause 33, the Minister may appoint a deputy to a member of the Special Research Council.

Clause 38: Selection Committee to notify costs to each Council

64 Provides for the Research Councils Selection Committee to recover its costs from Councils on the basis of years ended 30 June, rather than 31 December as at present.

Clause 39: Staff and consultants

65 Provides that the Chairperson of the Research Councils Selection Committee may engage a suitably qualified person as a consultant or to perform professional services, to assist the Committee in identifying persons suitable for nomination to the Minister. The existing section 59 provides for the engagement of consultants but not of persons "to perform services of a professional nature".

Clause 40: Co-ordination meetings

66 Provides Chairpersons of the following Research Corporations and Councils with the right and obligation to attend co-ordination meeting of Chairpersons called under provisions of the Principal Act: Australian Meat and Livestock Research and Development Corporation; Horticultural Research and Development Corporation; Fishing Industry Research and Development Council; and Wool Research and Development Council.

67 The Principal Act currently provides for all Council Chairmen appointed under that Act to attend the co-ordination meetings.

Clause 41: Schedule 1

68 Changes the names of the Poultry Research Trust Fund and the Poultry Research Council to Egg Industry Research Trust Fund and Egg Industry Research Council, respectively; and amends to properly describe the "Cotton Levy Act 1983".

Clause 42: Consequential amendments

69 A number of sections of the Principal Act are amended by omitting "Research Council" (wherever occurring) and substituting the new term "Council" defined in clause 5.

PART III - AMENDMENTS OF THE RURAL
INDUSTRIES RESEARCH REGULATIONS

Clause 43: Principal Regulations

70 Describes the "Principal Regulations" as the Rural Industries Research Regulations.

Clause 44: Interpretation

71 Amends regulation 3 of the Principal Regulations by inserting a definition of "leviable grain legumes".

Clause 45: Repeal of regulation 3A

72 Repeals regulation 3A of the Principal Regulations.

Clause 46: Declaration about levies; general kinds of goods

73 Amends regulation 4 of the Principal Regulations, to declare that specific kind of goods are the general kind of goods in relation to specified levies.

Clause 47:Research components of levies generally

74 Inserts regulation 4A declaring that the whole of each of certain levies is the research component of the levy.

Research component of grains legumes levy

75 Inserts regulation 4B declaring that the whole of the levy imposed by the Grain Legumes Levy Act 1985 is the research component of that levy.

Research component of wine grape levy

76 Inserts regulation 4C which declares the research component of the levy imposed by the Wine Grapes Levy Act 1979.

77 Provides that for the purposes of the definition of "research component" in subsection 4(1) of the Principal Act, the new regulations, 4A, 4B and 4C, made through clause 47 shall be taken always to have been regulations made for the purposes of section 5 of that Act.

Clause 48: Grape and Wine Research Fund and Council

78 New regulation 6A specifies the names of the Grape and Wine Research Trust Fund and the Grape and Wine Research Council.

Clause 49: Schedule 2

79 Amends Schedule 2 of the Principal Regulations by including additional prescribed classes of levies.

Clause 50: Addition to Schedule 3

80 Adds at the end of the Principal Regulations Schedule 3 to the Act "General Kinds of Goods in Relation to Levies".

Clause 51: Repeal of Statutory Rules 1986 No. 143

81 Repeals Statutory Rules 1986 No. 143, "Rural Industries Research Regulations (Amendment), relating to the Grape and Wine Research Fund and the Grape and Wine Research Council.

PART IV - CONSEQUENTIAL AMENDMENTS OF OTHER ACTS

Clause 52: Refund of levy etc

82 Specifies the funds under the Rural Industries Research Act 1985 from which refunds of levies collected under specified Levy Collection Acts shall be made.

Clause 53: Refund of milk Fat levy

83 Makes provision concerning refunds of milk fat levies, indicating the amount to be paid to the Commonwealth from the relevant fund under the Principal Act.

