

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

RURAL INDUSTRIES RESEARCH BILL 1985

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Primary Industry
the Hon. John Kerin, MP)

OUTLINE

The Rural Industries Research Bill 1985 has the following main purposes:

- (1) to provide standard provisions for the funding and administration of rural industry research funds (RIRFs), in the one omnibus Bill.
- (2) to establish new arrangements for organization and administration of RIRFs including:
 - . specification of the objectives of RIRFs and the Australian Special Rural Research Fund (ASRRF) in the omnibus legislation and a broadening of the definition of research
 - . the development and presentation of a five year strategic plan for research and an annual research and development program
 - . changes in the composition of RIRFs and the adoption of new selection procedures for selecting members for Research Councils
 - . arrangements for improved accountability to both government and industry
 - . more autonomy and fewer direct controls
 - . facility for relevant industry bodies to undertake the provision of administrative and secretarial support services to RIRFs and cost recovery from RIRFs for services where they are provided by the Commonwealth
 - . an annual co-ordination meeting which will provide a forum for all Chairpersons to discuss matters of common interest.
- (3) to establish the new Australian Special Rural Research Fund along similar lines to the new arrangements for RIRFs
 - . it will replace the Commonwealth Special Research Grant and will be put on a statutory basis
 - . will provide for provisions similar to those outlined above for the RIRFs.
- (4) to provide a simple mechanism for amendments to the legislation in future years and the inclusion of new industries in the arrangements as required.

- (5) to reaffirm the Government's commitment to match rural industry research levy contributions on a dollar for dollar basis
- . with the objective of raising the level of industry and Commonwealth contributions each to 0.5 percent of Gross Value of Production (GVP) of industries included in a RIRF, within a five year period
 - . the Government contribution will be limited to 0.5 percent of GVP to enable Commonwealth encouragement of research to be spread widely without Budgetary provisions rising to unsustainable levels
 - GVP will be calculated by averaging the actual industry GVP for the two previous years and an estimate for the year in which the contribution will be made
 - .. this should enable closer predictions and reduce fluctuations
 - tobacco will be exempted from these arrangements, remaining at a maximum of 3.5 cents/kilogram established in 1984, which is currently above 0.5 percent of that industry's GVP
 - .. concerned with the policy decision to contribute to the funding of research by the Tobacco industry into alternate crops
 - the average Government contribution to rural research through RIRFs is presently at a level of around 0.24 percent of GVP
 - .. it will rise in accord with industry preparedness to further contribute to research, on a dollar for dollar basis.

RURAL INDUSTRIES RESEARCH BILL 1985

NOTES ON CLAUSES

PART I - PRELIMINARY

Clause 1 : Short title

1. Rural Industries Research Bill 1985

Clause 2 : Commencement

2. The Bill will come into operation on the day it receives Royal Assent, however, until levies are prescribed under the Bill, Research Funds, Research Councils and State Research Committees will not be established. Levies will be prescribed on or after 1 January 1986.

Clause 3 : Objects

3. The objects of the Bill are set out in this clause, 3(a), relates to industries that have had a levy prescribed under the Bill and provides standardised RIRF provisions for funding and administration of research and development under the Bill. 3(b) are the objects of the Bill as they relate to the Australian Special Rural Research Fund (ASRRF). This part of the Bill makes provision for the operation of the ASRRF along similar lines as are provided for RIRFs. It specifies areas of research and development which are in the national interest, not covered by funds established under the RIRF provisions, infant/small industries and multi-disciplinary, multi-commodity research that may involve some or all of the industries covered by RIRF provisions.

Clause 4 : Interpretation

Sub-Clause 4(1)

4. "acting Chairperson" means the person appointed to act as Chairperson to either a Research Council, a State Research Committee, the Research Councils Selection Committee, or a person appointed to act as Chairperson of the Special Research Council.
5. "animal" means an animal dead or alive other than man.
6. "annual research and development program" refers to an annual program developed by a Research Council, State Research Committee or the Special Research Council and approved by the Minister for its consistency with the five year strategic research and development plan.
7. "appoint" provides for re-appointment also.

8. "appropriate Minister" refers to State Ministers for Agriculture or a Minister of that State who is acting on behalf of the Minister for Agriculture.
9. "Chairperson" means the person appointed as Chairperson to either a Research Council, State Research Committee, the Special Research Council or the Research Council Selection Committee.
10. "goods" refers to an animal or plant or part of an animal or plant. It also covers anything derived from an animal or plant.
11. "government member" is the member appointed to a Research Council or the Special Research Council by the Minister for his or her knowledge and experience in government policy formulation and public administration.
12. "plant" means any member of the plant kingdom dead or alive.
13. "prescribed organization" is the organization specified and Gazetted by the Minister that relates to the Special Research Fund as provided for in 4(6) of the Bill.
14. "relevant industry organization" is the relevant industry organization specified and Gazetted by the Minister that relates to a particular commodity/industry as provided for in 5(3) of the Bill.
15. "research and development" means analysis and experimentation in science, technology or economics which is carried out with a view to acquiring and applying information which can be used to improve production, processing, storage, transport or marketing in the industries concerned.
16. "research and development activity" in respect of a particular industry refers to, a research and development project; the training of persons to carry out research and development; the dissemination of information; the provision of advice; extension activity; the publication of reports, periodicals etc which are aimed at ensuring that industry adopt improvements; and any other activity that might be incidental to one of these areas.
17. "research and development plan" refers to the five year strategic research and development plan to be developed by a Research Council, State Research Committee or the Special Research Council and to be approved by the Minister.
18. "research and development project" in respect of a particular industry means a project of research and development in that particular industry.

19. "Research component" means in relation to a levy that is prescribed in column 1 of a Part of Schedule 1 so much of that levy as is described in column 2 of that Part or in the case of a levy not referred to in column 1 of any Part of Schedule 1 so much of that levy as is declared by the regulations.

20. "Research Council" refers to a Council established in respect of a prescribed levy.

21. "Research Fund" refers to a trust fund established in respect of a prescribed levy.

22. "Selection Committee" is the body established in this legislation to select and nominate to the Minister members for Research Councils.

23. "Special Research Fund" is the trust fund established to enable the Australian Special Rural Research Fund to operate.

24. "Special Research Council" is the Research Council established to operate the Australian Special Rural Research Fund.

25. "State Research Committee" means the State committees established in respect of the Wheat and Barley Industries in the states of NSW, Victoria, Queensland, South Australia, and Western Australia. This provides for the continuation of long standing arrangements in respect of the Wheat and Barley Industries which are strongly supported by those industries.

Sub-Clause 4(2)

26. This sub-Clause provides for the Chairperson of a Research Council, State Research Committee, the Selection Committee or the Special Research Council to be referred to as Chairman or Chairwoman as the case may be.

Sub-Clause 4(3)

27. This allows activities not specifically referred to in an annual research and development program to be carried out so long as the activities in question are of a kind similar to those described in the program and the Council or Committee is prepared to fund them under the program.

Sub-Clause 4(4)

28. This Clause provides that unless specifically referred to the contrary a reference in the Bill to marketing shall be taken not to include the promotion of the goods concerned and a reference to a levy shall be taken as a reference to any tax or charge whether referred to as a levy, a tax or a charge.

Sub-Clause 4(5)

29. Any reference in this Bill to goods for which a levy is imposed and which are grown, reared or maintained either wholly or partly to enable the production of another good will be taken to include a reference to both the good on which the levy is imposed and the other goods for which they are used (for example a levy imposed on wine grapes will through this interpretation enable wine research to be carried out as wine grapes are used in the production of wine).

Sub-Clause 4(6)

30. The Minister can under this Sub-Clause provide for a particular organization or organizations to be declared and Gazetted a prescribed organization or prescribed organizations for purposes required for the operations of the Special Research Fund as in 33(2)(d), 38 and 39(d). The Minister can vary such a declaration by declaring another organization or by terminating a previous declaration.

Clause 5 : Prescribed levies, &c

31. This Clause provides for levies to be prescribed under the Bill. The Bill is 'levy-based' and the establishment of a Trust Fund and a Research Council follows from a levy or group of levies being prescribed. Levies cannot be prescribed prior to 1 January 1986 the intended commencement date for the new RIRF arrangements. Where a levy or levies are prescribed, the Minister can by a notice published in the Gazette declare an organization or organizations to be the relevant industry organization as defined in Sub-Clause 4(1). The Minister can vary such a declaration by declaring another organization or by terminating a declaration. Relevant industry organizations are declared so as to determine industry representation on and nominations to the Selection Committee (as provided for in clause 44) and to specify the relevant industry body for accountability (as in clause 31.) They will also be consulted in determining the size of the Research Councils (clause 14(3)).

PART II - RESEARCH FUNDS

Clause 6 : Establishment of Research Funds

32. This Clause establishes both the Research Fund and the name the Fund will be known by. This is achieved when a levy is prescribed and Part I, II, III, IV or V of Schedule 1 of the Bill takes effect, or when a levy or group of levies is prescribed by regulation under this Bill. Each Research Fund is a Trust Account for the purposes of section 62A of the Audit Act 1901.

Clause 7 : Money to be paid into Research Funds

Sub-Clause 7(1)

33. This Sub-Clause provides for monies to be paid into Research Funds. Monies are received from levies, the Commonwealth matching contributions and other monies paid to the Commonwealth for Research Funds. These other monies include amounts received by the Commonwealth for the Research Fund, (ie donations etc), from the sale of any property paid for by the Research Fund, from the sale of any property produced from carrying out research and development, in respect of work paid for from the Research Fund and any income derived from licencing and patents resulting from research and development activities.

Sub-Clause 7(2)

34. This Sub-Clause provides that the amount of money the Commonwealth provides by way of dollar-for-dollar matching does not exceed the amounts paid to the Research Fund by 7(1)(a)(i) and (ii) less any refunds.

Sub-Clause 7(3)

35. Sub-Clause 7(3) provides for an upper limit to be placed on the Commonwealth's dollar-for-dollar matching contribution. The upper limit is based on a moving average of the industry's gross value of production (GVP) as determined by the Minister and specified in the regulations. Special arrangements apply to Tobacco as provided for in 7(3)(b).

Sub-Clause 7(4)

36. This provides for monies paid from levies into Consolidated Revenue 7(1)(a) and the Commonwealth's matching contribution 7(1)(b) to be paid out of Consolidated Revenue.

Clause 8 : Separate Accounts to be kept.

37. This Clause sets up separate accounts within the Research Fund so that monies from different sources can be identified and traced. The Clause provides arrangements for Research Councils and State Research Committees.

Clause 9 : Application of money in Research Funds.

38. This Clause provides for the use of monies in Research Funds and covers Research Council arrangements in 9(1) and State Research Committee arrangements in 9(2). Research Fund monies can be used for a wide range of activities including: research and development activities; in payment of expenses incurred by the Research Councils and Committees in performing their functions; in payment of expenses incurred in the

management of investments; in payment of remuneration and allowances to members and to persons appointed by the Research Councils and Committees; and in payment of expenses of the Research Council Selection Committee. The Clause specifically provides for payment of administrative and clerical services provided by the Commonwealth or an organization, or another person engaged under sub-section 29(1).

Clause 10 : Agreements relating to research and development, &c

39. Agreements relating to research and development can be made subject to this Clause. It covers both Research Council and State Research Committee administration and provides for the Chairperson of Research Councils and Committees or persons authorised by Councils and Committees to enter into an agreement on behalf of the Commonwealth with a person, authority or organization for the purposes of funding a research and development activity (see 10(1)(2)(3)). Sub-Clause 10(4) provides for circumstances where an agreement may not specify what is to happen to assets and other income derived from, or required for, a research and development activity. In these circumstances the monies or assets would be returned to the Research Fund.

PART III - ADMINISTRATION OF RESEARCH AND DEVELOPMENT

Division 1 - Establishment, functions and powers of Research Councils and State Research Committees.

Clause 11 : Establishment and functions of Research Councils

40. This clause establishes both the Research Councils and the name by which the Research Councils will be known, as well as setting out the functions of the Research Councils. This is achieved when a levy is prescribed and Part I, II, III, IV or V of Schedule 1 of this Bill has effect or when a levy or group of levies is prescribed by regulation under this Bill. The functions of the Research Council include: to investigate and evaluate the requirements for research and development and prepare five year strategic research and development plans; to develop for each year covered by a plan an annual research and development program; to approve the disbursement of money from the Research Fund; to monitor and report to Parliament and to the relevant industry organizations on research and development activities; and to participate in co-ordination meetings convened subject to clause 61 of this Bill.

Clause 12 : Establishment and functions of State Research Committees

41. State Research Committees are established when a levy is declared by regulation, prescribed and is covered by column 1 of Part I or II of Schedule 2. This Clause establishes the name by which the State Research Committee will be known,

(column 3) as well as setting out the functions of the Research Committees. State Research Committees are established for the Wheat and Barley industries. The functions of State Research Committees include : to investigate and evaluate the research and development requirements of the State and to prepare five year strategic research and development plans for the State; to develop for each year covered by a plan a research and development program for the State; to approve the disbursement of money from the Research Fund in relation to the State; and to monitor and report to the Research Council on research and development activities in the State.

Clause 13 : Powers of Research Councils and State Research Committees

42. This is a general Clause providing for Research Councils and State Research Committees to have the powers necessary for them to perform their functions. The Councils or Committees shall endeavour to ensure that they exercise the powers conferred by this Bill so that they are consistent with the five year strategic research and development plan and the research and development program in force at that time.

Division 2 - Constitution of Research Councils and State Research Committees

Clause 14 : Constitution of Research Councils and State Research Committees.

43. The membership of the Research Council and State Research Committees is established in Clause 14. A Research Council is made up of the Chairperson, the government member and from three to seven other members as determined by the Minister in consultation with the relevant industry organization (see 14(3)). A State Research Committee is made up of the Chairperson and from four to eight other members as determined by the Minister in consultation with the appropriate Minister of that State (see 14(4)). All members are part-time members and with the exception of the government member are appointed by the Minister for a period up to three years. The government member is appointed by the Minister and holds office at the Ministers pleasure. A person who is 65 years of age or who will attain the age of 65 years will not be appointed as a member for a term beyond that age. The government member will be appointed for his/her knowledge of and experience in the formulation of government policy and public administration. Other members of a Research Committee are appointed from persons nominated by the Selection Committee (see clause 46). The Chairperson and members of a State Research Committee are appointed from persons nominated by the appropriate Minister of the State concerned.

Clause 15 : Acting Chairperson of Research Councils or State Research Committees

44. The Bill provides for a person to act in position of Chairperson in both Research Councils and State Research Committees. The Minister may appoint a person to act in these positions if : there is a vacancy in the office of Chairperson or, the Chairperson is absent from duty. A person appointed to act during a vacancy may do so for up to twelve months. The Minister determines the terms and conditions of such acting appointments and may terminate an appointment at any time. An acting Chairperson has and may exercise all the powers and perform all the functions of the Chairperson.

Clause 16 : Leave of absence in respect of members of Research Councils and State Research Committees.

45. This Clause provides for leave of absence. The Minister may grant leave to the Chairperson of a Research Council or State Research Committee on such terms and conditions as he/she thinks fit. The Chairperson may in turn grant leave to other members of a Research Council or State Research Committee on such terms and conditions as he/she thinks fit.

Clause 17 : Removal and resignation of members of Research Councils or State Research Committees

46. The Minister has the power under this Bill to terminate the appointment of a member of a Research Council or State Research Committee for a variety of reasons and in particular, misbehaviour or physical or mental incapacity. Other reasons for dismissal include : if a member becomes bankrupt, fails to comply with the provisions covering disclosure of interests (clause 18), and if the Chairperson or a member of a Council or Committee is absent, except with approved leave from three consecutive meetings. Under these circumstances the Minister shall terminate the appointment of the member concerned. A member of a Council or Committee may resign in writing delivered to the Minister.

Clause 18 : Disclosure of interests of members of Research Councils or State Research Committees

47. A member of a Council or Committee who has a direct or indirect pecuniary interest in a matter being considered by a Council or Committee which could conflict with the members functions shall as soon as possible disclose the nature of that interest to the meeting of the Council or Committee. A disclosure shall be recorded in the minutes of the meeting.

Clause 19 : Remuneration and allowances of members of Research Councils and State Research Committees

48. Members will be paid such remuneration and allowances as is determined by the Remuneration Tribunal. These provisions have effect subject to the Remuneration Tribunals Act 1973 other than sub-sections 7(9) and (13) of that Act. The Remuneration Tribunals Act 1973 provides, amongst other things that employees of the Commonwealth, a State or Territory or of an authority established by the Commonwealth, a State or Territory not be eligible for remuneration.

Clause 20 : Appointment of members to sub-committees

49. Research Councils and State Research Committees may appoint members to a sub-committee of that Council or Committee. The members appointed to such sub-committees will receive the same remuneration and allowances as they would for work performed for the Council or Committee.

Clause 21 : Meetings of Research Councils or State Research Committees

50. This Clause provides for the calling of meetings and provides the guidelines under which meetings will be held by Research Councils and State Research Committees. These provisions apply to both the Research Councils and State Research Committees. The Chairperson may convene meetings as he/she considers are necessary and they shall be held in such places and at such times as are determined by the Chairperson. If the Chairperson is absent from a meeting then the members of the Council or Committee will elect one of the members present to preside at the meeting. A quorum for a meeting will be a majority of members. All questions at the meeting will be determined by a majority of votes of the members present and voting. The person presiding has a deliberative vote and, if necessary, a casting vote. A record of proceedings is to be kept by Councils and Committees.

Division 3 - Research and Development Plans and Annual Research and Development Programs

Clause 22 : Research Councils and State Research Committees to develop research and development plans

51. Each Research Council and State Research Committee must prepare for each successive five year periods a strategic research and development plan. This plan will seek to define the principal objectives of the Council or Committee during the period and give a broad outline of the way in which it will achieve these objectives. State Research Committees will be required to pay particular attention to research and development requirements of their State. In preparing a strategic research and development plan a Council or Committee

must consult widely including its relevant industry organization or organizations; and any Department or agency that it considers may be appropriate. State Research Committees must also consult with their relevant Research Council.

Clause 23 : Approval of research and development plans

52. The Research Councils and State Research Committees must submit the strategic research and development plan prepared in clause 22 to the Minister for approval at least three months prior to the date of commencement of the plan. The Minister may in special circumstances agree to a lesser period than the three months. The plan will not have effect until the day it is approved by the Minister or the commencement date of the plan whichever is the later. The Minister may, where he/she considers it is necessary, request the Council or Committee to revise the plan. He/she will provide to the Council or Committees reasons for making the request. The Council or Committee will amend the plan as it considers to be appropriate and re-submit the revised plan for approval.

Clause 24 : Variations of research and development plans by Research Councils or State Research Committees

53. This Clause provides for variations to be made by a Research Council or State Research Committee to a strategic research and development plan. Variations can be made at any time during the life of the plan. Councils or Committees should, however, re-assess the plan at least annually so as to ensure it continues to fulfill its intended functions as outlined in clause 22. Where variations are considered necessary the plan can be varied with the approval of the Minister. Councils and Committees must provide the Minister with details of why the variations are required. The Minister may accept or reject such requested variations.

Clause 25 : Variation of research and development plans at request of Minister

54. Research Councils and State Research Committees may vary a strategic research and development plan at the request, and with the approval of the Minister. The Minister must when requesting changes to a strategic research and development plan provide the Council or Committee with a statement outlining the reasons for the variation.

Clause 26 : Date of commencement of research and development plans as varied

55. Where the Minister agrees to the variation of a plan (as in clauses 24 or 25) the varied plan will take effect on the day the variations are approved by the Minister.

Clause 27 : Research Councils and State Research Committees to develop annual research and development programs

56. Research Councils and State Research Committees will be required to prepare each year an annual research and development program. The program will specify the actual projects (if known) the Council or Committee proposes to fund and it will describe the particular areas which the Council or Committee would like to fund subject to an examination of specific proposals. The program must give effect to the strategic research and development plan. Where the information is available a research and development program will set out the nature of a project, provide an estimate of the total cost of a project and provide an estimate of total expenditure to be incurred under the program. Where information is not readily available the Council or Committee should provide an estimate of the maximum amount likely to be paid in areas where specific proposals may not yet have been examined.

Clause 28 : Approval of annual research and development programs

57. A Research Council or State Research Committee which has prepared a research and development program in accordance with clause 27 shall submit it to the Minister for approval as to its consistency with a strategic research and development plan, not less than two months prior to the commencement date of the program. The Minister may allow a lesser period than the two months in special circumstances. The program will come into force when it is approved by the Minister or on the first day to which the plan relates whichever is the later. If the Minister is of the opinion that the program is inconsistent with the strategic research and development plan he/she may request the Council or Committee to revise the program accordingly. Having received such a request a Council or Committee will revise the program where necessary and re-submit it to the Minister for approval. If a Council or Committee seeks to vary a strategic research and development plan (as in clause 24) to which a research and development program relates, then they may also have to vary the research and development program. Both will then have to be submitted to the Minister for approval.

Division 4 - Staff and Advisers

Clause 29 : Staff and advisers

58. The Chairperson of a Research Council or State Research Committee may, subject to the Minister's approval of that service being provided by persons other than the Commonwealth, engage on behalf of the Commonwealth such persons to perform administrative and clerical functions as required. A person engaged to perform these functions will be employed on such terms and conditions as are determined by the Council or Committee with the approval of the Public Service Board. The

Chairperson of a Research Council or State Research Committee may also engage on behalf of the Commonwealth advisers with suitable qualifications and experience. A person engaged as an adviser will be employed on such terms and conditions as the Council or Committee determines.

Division 5 - Accountability

Clause 30 : Annual reports of Research Council

59. Each year as soon as possible after 30 June Research Councils shall prepare and present to the Minister a report of their operations during the year. In the case of the Wheat and Barley industries, the State Research Committees and the Tasmanian Minister will provide to the Research Councils no later than 31 August in each year a report of their operations during the year ending 30 June including particulars of their intended activities during the next year. This information will be included in the Research Councils' annual report. The annual report prepared by the Research Councils or the information prepared by State Research Committees for the annual report shall include an assessment of how the operations of the Council or Committee have contributed to the objectives set out in the strategic research and development plan and how they have given effect to the annual research and development program. The Minister will, within fifteen sitting days of receiving the report, table it in the Parliament.

Clause 31 : Accountability to industry

60. The Clause provides for each Research Council to report on its operations to industry. The Chairperson of a Research Council will as soon as possible after providing the Minister with a copy of the annual report make arrangements with the relevant industry organization or organizations to attend a meeting of the executive of that industry organization or organizations. The meeting will consider the annual report and receive an address by the Chairperson of the Research Council on the activities and performance of the Council (and any Committees associated with that Council) over the period. It will also be able to question the Chairperson on any aspect of these activities.

PART IV - AUSTRALIAN SPECIAL RURAL RESEARCH FUND

Clause 32 : Establishment of Special Research Fund

61. The Bill establishes a Fund to be known as the Australian Special Rural Research Fund (ASRRF). The ASRRF will come into being from a day specified in the regulations being no earlier than 1 January 1986. The Special Research Fund is a Trust Account for the purposes of section 62A of the Audit Act 1901.

Clause 33 : Establishment and functions of Special Research Council

62. The Bill establishes the Australian Special Rural Research Council which will come into effect on the day the Special Research Fund is established. The functions of the Council are to investigate and evaluate research requirements that; are in the national interest, involve industries or commodities for which there is no other Research Fund or Council established, (particularly small or infant industries) and cover areas of common interest to rural industries generally which are not covered by individual Research Councils (ie multi-disciplinary research). The Council is to develop five year strategic research and development plans, and annual research and development programs in accordance with clause 22 and clause 29 subject to clause 39. The Council will also have to approve the disbursement of money in accordance with paragraph 36(1)(a) from the Special Research Fund; monitor and report to Parliament, and the prescribed industry organization or organizations on its activities and participate in the co-ordination meetings convened pursuant to clause 61.

Clause 34 : Money to be paid into Special Research Fund

63. This Clause provides for monies to be paid into the Special Research Fund. Monies are received from appropriations by the Parliament for the Fund and other monies paid to the Commonwealth for the Fund. These other monies include amounts received by the Commonwealth; for the Special Research Fund (ie donations etc), for the purposes of a particular research and development activity, from the sale of any property paid for by the Fund, from the sale of any property produced from carrying out research and development, in respect of work paid for from the Fund and any other income derived from research and development activities.

Clause 35 : Separate accounts

64. This Clause sets up separate accounts within the Special Research Fund and enables monies from different sources to be identified and traced. Where money is paid to the Fund for a particular research and development activity a separate account shall be kept of that money. The Clause provides for monies to flow from section 34. The Bill also provides for monies to be transferred from accounts which may no longer be active (ie where a project may have been completed but where there may be a small residual left in the account). In these circumstances the Minister may, having received advice from the Council, agree to the transfer of the monies involved. The Minister can specify that the funds be credited to either those provided for by 34(a) or (b) or a specific account that most nearly relates to the purpose for which the account was kept (35(1)).

Clause 36 : Application of money in Special Research Fund.

65. Monies standing to the credit of an account kept under clause 35 can be paid out of the Fund for a wide range of activities but generally only when expenses are incurred as a result of the research and development activity for which a separate account was established under clause 35. These activities include : research and development activities approved by the Council; payment of expenses incurred by the Council in performing its functions; in payment of expenses in the management of investments; payment of remuneration and allowances to the members of the Special Research Council and to persons appointed by the Council; and in payment of expenses of the Research Council Selection Committee. Monies can only be paid out of an account established under section 35 for the particular research and development activity for which the account was established. The Clause specifically provides for the payment of administrative and clerical expenses provided by the Commonwealth or an organization or another person engaged under sub-clause 29(1).

Clause 37 : Agreements relating to research and development, &c

66. Agreements relating to research and development can be made subject to this Clause. The Chairperson or another person being a member of the Special Research Council or an authorised officer of the Australian Public Service may on behalf of the Commonwealth enter into an agreement with a person, an authority or an organization for the purposes of funding a research and development activity which is included in the Councils research and development program (see 37(1)). Sub-Clause 37(2) provides for circumstances where an agreement may not specify what is to happen to assets and other income derived from, or required for, a research and development activity. In these circumstances the monies or assets would be returned to the Special Research Fund.

Clause 38 : Accountability of Special Research Council to industry

67. The Clause provides for the Special Research Council to provide to the prescribed industry organization or organizations a copy of its annual report as soon as is possible after providing it to the Minister. The Chairperson of the Council will then meet with the executive of the organization or organizations or a sub-committee of the executive in order that they may : receive the annual report, receive a report by the Chairperson on the activities and performance of the Council and be able to question the Chairperson on any aspect of the Councils' activities during the period.

Clause 39 : Application of provisions of this Act in relation to Special Research Council

68. Clause 39 provides for application of provisions of this Bill in relation to the Special Research Council. This Clause specifies changes to 27 clauses, 14 to 30 (inclusive), 41, 44 to 48 (inclusive), 50, 56, 58 and 61 so that these clauses also cover the operations of the Special Research Council.

PART V - RESEARCH COUNCILS SELECTION COMMITTEE

Division 1 - Establishment, functions and powers of Selection Committee

Clause 40 : Establishment of Research Councils Selection Committee

69. The Research Councils Selection Committee is established as an authority by this Bill.

Clause 41 : Functions of Selection Committee

70. The functions of the Selection Committee are to develop standard procedures and formulate criteria for the selection of persons for Research Councils and the Special Research Council and to select and nominate persons to the Minister for appointment to the Councils.

Clause 42 : Power of Selection Committee

71. The Selection Committee has the power to do all things necessary to perform its functions under clause 42.

Division 2 - Constitution and meetings of Selection Committee

Clause 43 : Constitution of Selection Committee otherwise than for performance of functions referred to in paragraph 41(b) or (c)

72. The Selection Committee consists of two parts - a core group as outlined in clause 43 and up to three industry specific representatives as provided for in clause 44. The combination of the core group and the industry representatives will be required to select and nominate persons for appointment to Research Councils. Clause 43 provides for the establishment of the Core group which will consist of an independent Chairperson; a person with knowledge of and experience in either scientific matters, research development and/or marketing; a person appointed on the nomination of the Australian Agricultural Council (AAC) and a person appointed on the nomination of the National Farmers' Federation (NFF). All members will be part-time members, appointed by the Minister for up to three years, and will be eligible for re-appointment. The Minister may request further nominations

from the AAC or the NFF if he/she is not satisfied with a nomination. If either the AAC or the NFF request that the appointment of a member who was nominated by them cease, the Minister shall terminate the appointment.

Clause 44 : Constitution of Selection Committee for performance of function referred to in paragraph 41(b) & (c)

73. This Clause provides for industry representatives to be added to the core group so as to select a Research Council for that industry. The Minister may appoint up to three industry representatives having consulted with and received from, the relevant industry organization or organizations nominations for the positions. An industry representative appointed to the Selection Committee will be a part-time member appointed by the Minister for up to three years and will be eligible for re-appointment. The Minister may request a further nomination from the relevant industry organization or organizations if he/she is not satisfied with a nomination. If a relevant industry organization or organizations request that the appointment of a member who was nominated by them cease, the Minister shall terminate the appointment.

Clause 45 : Minister may request nominations

74. The Minister may request in writing nominations for the appointment of members to a Research Council or the Special Research Council. The Minister will request that the Selection Committee as constituted in clause 44 provide within a specified period, the name of a person or persons who are considered suitable by the Selection Committee for appointment to particular Councils.

Clause 46 : Selection of persons for nomination

75. The Selection Committee may seek nominations of persons for consideration as members of Research Councils. In selecting persons to be nominated for appointment to Research Councils or the Special Research Council the Selection Committee must have regard to relevant qualifications and experience and shall choose from the available candidates such persons as will best ensure that the Research Council collectively possesses qualifications and experience in : production, processing, marketing, science, technology and technology transfer, economics, administration of research and development, finance and business management. The Selection Committee may seek nominations as it considers appropriate, of persons, for consideration for appointment to Councils. A person can be nominated for appointment to a Research Council even though that person may have previously been considered and not nominated by the Selection Committee or may have been nominated by the Selection Committee but rejected by the Minister. A member of the Selection Committee is not eligible for nomination to a Research Council for a period of one year from the time he/she ceased to be a member of the Selection Committee.

Clause 47 : Nominations

76. This Clause provides for the Selection Committee to inform the Minister of its nominations. The Selection Committee shall provide in writing the names of persons they consider suitable for appointment and subject to 48(1) they will provide only one nomination for each appointment to be made by the Minister. In order to assist the Minister the Selection Committee will provide in respect of each nomination, details of the persons qualifications or experience and any other information that they consider appropriate. The Minister may if he/she considers it necessary request from the Selection Committee further information in order to assess a nomination.

Clause 48 : Minister may reject nominations

77. The Minister may request a further nomination if he/she is not satisfied with a nomination provided by the Selection Committee. A request made by the Minister in this clause will be treated in the same way as a request made under clause 45.

Clause 49 : Acting Chairperson of Selection Committee

78. Clause 49 provides for a person to act as Chairperson of the Selection Committee. The Minister may appoint a person to act in this position if : there is a vacancy in the office of Chairperson, or the Chairperson is absent from duty. A person appointed to act during a vacancy may do so for up to twelve months. A member of the Selection Committee or a deputy of a member (see clause 50) will not be appointed to act as Chairperson. This is to preserve the independent nature of the Chairperson. The Minister determines the terms and conditions of an acting Chairperson and may terminate an appointment at any time. An acting Chairperson has and may exercise all the powers and perform all the functions of the Chairperson.

Clause 50 : Deputies of members of Selection Committee

79. The Bill provides for the Minister to appoint deputies to members of the Selection Committee. In circumstances where members have to be nominated by specific organizations (see clauses 43 & 44) the Minister may appoint a deputy nominated by that organization. A person who is appointed to be a deputy of a member can attend meetings, which are not attended by the member and he/she will be deemed at these meetings to be a member of the Selection Committee.

Clause 51 : Casual Vacancies

80. This Clause provides for the filling of casual vacancies where they arise. If the Chairperson or a member of the Selection Committee resigns from the Committee prior to his/her term of appointment, then the Minister may appoint another person to that position for the remainder of that appointment.

In circumstances where the member was nominated by a specific organization (as in clauses 43 and 44) the person appointed to fill the casual vacancy by the Minister shall be nominated to the Minister by that body.

Clause 52 : Leave of absence in respect of members of Selection Committee.

81. Leave of absence can be granted to both the Chairperson and members of the Selection Committee. In the case of the Chairperson the Minister may grant leave on such terms and conditions as he/she thinks fit. The Chairperson of the Selection Committee may grant leave to another member of the Committee. Leave is provided on such terms and conditions as the Chairperson thinks fit.

Clause 53 : Removal and resignation of members of Selection Committee

82. The Minister has the power under the Bill to terminate the appointment of members of the Selection Committee for a variety of reasons and in particular, misbehaviour or physical or mental incapacity. Other reasons for dismissal include: if a member becomes bankrupt, fails to comply with provisions covering disclosure of interests (clause 54), or if the Chairperson or a member of the Committee is absent, except with approved leave from three consecutive meetings. Under these circumstances the Minister shall terminate the appointment of the member concerned. A Committee member may resign in writing delivered to the Minister.

Clause 54 : Disclosure of interests of members of Selection Committee

83. A member of the Selection Committee who has a direct or indirect pecuniary interest in a matter being considered by the Committee which could conflict with the members' functions, shall, as soon as possible, disclose the nature of that interest. A disclosure shall be recorded in the minutes of the meeting. Where a conflict of interest becomes known prior to, or between meetings, which could conflict with a members' functions, the member shall, as soon as possible, disclose the nature of that interest to the Minister.

Clause 55 : Remuneration and allowances of members of Selection Committee

84. Each member of the Selection Committee and each deputy shall be paid such remuneration and allowances as is determined by the Remuneration Tribunal. These provisions have effect subject to the Remuneration Tribunals Act 1973 other than sub-sections 7(9) and (13) of that Act. The Remuneration Tribunals Act 1973 provides, amongst other things, that employees of the Commonwealth, a State or Territory or of an authority established by the Commonwealth, a State or Territory not be eligible for remuneration.

Clause 56 : Meetings of Selection Committee

85. This clause provides for the calling of meetings and provides the guidelines under which meetings will be held by the Selection Committee. The Chairperson may convene meetings as he/she considers are necessary and they shall be held in such places and at such times as are determined by the Chairperson. If the Chairperson is absent from a meeting then the members of the Committee will elect one of the members to preside at the meeting. A quorum of the core group will be a majority of members that form the core group (clause 43). A quorum for the core group and industry representatives (ie the selection committee as constituted for a particular industry) must include a majority of the industry representatives. All questions at the meeting will be determined by a majority of votes of the members present and voting. The person presiding has a deliberative vote and a casting vote if that person is the Chairperson. If the Chairperson is absent the person presiding has a deliberative vote only. At a meeting where the Chairperson is absent a person cannot be nominated for appointment to a Council if his or her proposed nomination is voted against by more than one of the members of the Committee who are present. The Selection Committee shall keep a record of its proceedings.

Clause 57 : Resolutions without formal meetings of Selection Committee

86. Where a majority of members of the Selection Committee sign a document in favour of a resolution, the resolution will be deemed to have been passed at a duly convened meeting of the Selection Committee. This clause provides for matters to be considered by the Committee without having to formally convene a meeting of the Committee. The Clause also provides for more than one document containing identical statements to be circulated to members so as to speed up the process of seeking agreement to such a resolution.

Clause 58 : Selection Committee to notify cost to each Research Council

87. This clause enables the Selection Committee to recoup the costs it incurs in selecting and nominating persons to the Minister for appointment to specific Research Councils and the Special Research Council. These costs, which are to be recovered from each Council will be provided in writing by the Selection Committee after 31 December each year. The costs provided to the Research Councils by the Selection Committee will cover all the costs incurred by the Committee in providing nominations for the Councils.

Division 3 - Staff and Consultants

Clause 59 : Staff and Consultants

88. The Chairperson of the Selection Committee may, subject to this Clause and with the approval of the Minister, engage on behalf of the Commonwealth persons to perform administrative and clerical services as required to enable the Selection Committee to perform its functions. A person engaged for this purpose will be employed on such terms and conditions as are determined by the Committee with the approval of the Public Service Board. The Chairperson may also engage on behalf of the Commonwealth consultants and other persons who have suitable qualifications and experience so as to assist the Selection Committee in selecting and nominating persons for appointment to Research Councils. A person engaged as an adviser or consultant will be employed on such terms and conditions as are determined by the Selection Committee.

Division 4 - Accountability

Clause 60 : Annual reports of Selection Committee

89. The Core group (see clause 43) of the Selection Committee will be required as soon as possible after 30 June each year to prepare and present to the Minister a report on its operations during the year to 30 June. The Minister will within fifteen days of receiving the report table it in the Parliament. The Clause provides for circumstances where the Selection Committee may be established on a day other than 1 July. It provides for any period less than six months to be included in the following annual report period and any period more than six months but less than a year to be considered as a one year period.

PART IV - MISCELLANEOUS

Clause 61 : Co-ordination meetings

90. The Bill provides for a meeting to be held each year to bring together the Chairpersons of Research Councils and any other research organizations as is considered appropriate. The Minister will call meetings annually to be held at a time and a place to be nominated. The meeting will consider, and where practicable, co-ordinate the research and development activities pursued by Research Councils and State Research Committees. The Minister will nominate the Chairperson of one of the Research Councils to preside at the meeting. The meeting will be attended by the Chairperson of each of the Research Councils or where this is not possible a person nominated by the Council. In the case of the Wheat and Barley industries where there are both Research Councils and State Research Committees, the State Research Committees will upon receipt of a request from the Research Council provide such information as is requested concerning its operations since the

time of its last report to the Research Council in sub-clause 30(2). The Chairperson nominated to preside at the meeting has control over the way in which the meeting is run. If the Chairperson nominated by the Minister to preside at the meeting is unable to attend the meeting, the persons attending the meeting will elect one of their number to preside at the meeting. All questions will be decided by a majority of votes of the persons attending the meeting and voting, while the person presiding has a deliberative vote, and in the event of an equality of votes also has a casting vote.

Clause 62 : Regulations

91. Regulations can be made by the Governor-General on all matters required or permitted to be prescribed or where necessary or convenient for carrying out or giving effect to the Bill.

SCHEDULE 1

92. Schedule 1 provides details of the levies for the industries initially covered by the Bill and names the Research Funds and Research Councils established under the Bill.

SCHEDULE 2

93. Schedule 2 provides similar details to Schedule 1 in respect of State Research Committees. The levy, the name of the State for which State Research Committees are established and the name of the State Committee established under the Bill are provided in this Schedule.

