

1986

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

WOOL INDUSTRY AMENDMENT BILL 1986

EXPLANATORY MEMORANDUM

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

WOOL INDUSTRY AMENDMENT BILL 1986

OUTLINE

The main purpose of the Bill is to change the arrangements governing the organisation and administration of wool industry research and development set down in the Wool Industry Act 1972.

The opportunity is also being taken to make some other necessary and/or desirable amendments to the Act and these are referred to later.

The proposed new arrangements are designed to improve the efficiency and effectiveness of wool research and development, encourage better use of the community's resources and skills and achieve greater accountability for moneys expended on wool research and development. The Bill will bring the wool industry into line with the revamped arrangements now operating for meat under the Australian Meat and Live-stock Research and Development Corporation Act 1985 and for other rural industries under the Rural Industries Research Act 1985.

The planning of wool research and development will be the responsibility of the Wool Research and Development Council. This 9-man body will be required to evaluate the needs of the wool industry for wool research and development, draw up strategic 5-year plans and annual operational plans, select and recommend individual projects for approval by the Wool Corporation and oversight and monitor wool research and development activities.

The Chairperson of the Research Council will be selected by the Minister from a list of names of at least 2 persons provided by the Australian Wool Corporation. Four persons will be members nominated by the AWC and four others by the Industry Selection Committee.

The Research Council will work to the Corporation which is now to be responsible for both executing and administering wool research and development activities. The Corporation will consider recommendations from the Council on particular research activities and where it approves the Council's recommendations arrange for implementation and financing. The Corporation is empowered by the Bill to execute agreements for research and development, to enter into joint ventures and arrange patents.

Moneys provided for wool research and development, including industry contributions via the wool tax and the Commonwealth's matching contribution, will be paid into a Wool Research and Development Fund administered and controlled by the Corporation.

The Research Council will be directly accountable to industry by the requirement that, following the submission of its annual report to the Minister, arrangements be made for the Chairperson to address a meeting of the Wool Council on its operations for the year and answer questions from the floor.

Accountability to the Parliament for wool research and development is achieved by having the 5-year research and development plan and the annual operational plan subject to Ministerial approval. There is also, of course, the requirement that the Research Council and the Corporation report together annually on their operations in connection with wool research and development.

As mentioned earlier the opportunity is being taken to make several other amendments to the Act. The most significant are the amendments to Section 42Z, which will provide the option for the Minister for Primary Industry to appoint an independent arbitrator in circumstances where relevant parties are unable to reach agreement on principles for the remuneration of persons involved in making refunds to woolgrowers from the Market Support Fund. Other amendments cover a range of matters and are principally designed to bring the provisions of the Act into line with other recent legislation relating to statutory marketing authorities, or to achieve consistency within the Act.

There are no implications in the Bill for added costs to the public sector.

NOTES ON CLAUSES

PART I - PRELIMINARY

CLAUSE 1: Short title

Provides mode of citation of Act.

CLAUSE 2: Commencement

Provides for the commencement of the legislation. Clause 1 and sub clauses 2(1), 26(1) and 26(3) are to come into effect on 30 June 1986. This is to enable the transfer of the assets of the Wool Research Trust Fund to the Australian Wool Corporation to be made in the 1985/86 financial year. The remaining provisions will operate from 1 July 1986.

PART II - AMENDMENTS OF THE WOOL INDUSTRY ACT 1972

CLAUSE 3: Principal Act

Establishes that references in Part II to the Principal Act are references to the Wool Industry Act 1972.

CLAUSE 4: Objects of Act

Provides for necessary changes to Section 5 as a consequence of the changes to the wool research arrangements and more particularly to the fact that a specific objects clause has been provided in Part V - Wool Research and Development.

CLAUSE 5: Interpretation

Specifies amendments to Interpretation, Section 6, of the Principal Act, including definitions of 'Research Council' and 'wool research and development'.

CLAUSE 6: Membership of Corporation

Clause 6(1) amends section 8 of the Wool Industry Act 1972 to preclude persons being appointed to the Board of the Australian Wool Corporation if they are 65 years of age or more, or if they will attain the age of 65 before the expiry of the normal period of appointment, unless unique skills requirements pertain.

Clause 6(2) Commencement. Ensures that existing appointees not affected.

CLAUSE 7: Terms of office of members

Clause 7(1) amends section 9 of the Wool Industry Act 1972 to provide that the Chairman and members of the Corporation may be appointed for periods less than, but not greater than, the terms previously prescribed by the Act. This allows persons with special skills to be appointed for shorter periods under sub-section 8(9).

Clause 7(2) Commencement. Ensures that existing appointees not affected.

CLAUSE 8: Remuneration and allowances of members and deputies of members

Clause 8 replaces existing section 14 of the Wool Industry Act 1972 with a new section 14 which similarly provides for remuneration and allowances of members and deputies of members but also provides for allowances to be paid out of the funds of the Corporation to the member representing the Australian Government or the deputy of that member, on the same basis as for other members.

Sub-section 14(1) provides for rates of remuneration and allowances for members or deputies of members except the member representing the Australian Government or the deputy of that member to be determined by the Remuneration Tribunal.

Sub-section 14(2) provides for rates of allowances for members and deputies, other than those determined by the Remuneration Tribunal, to be prescribed by regulations.

Sub-section 14(3) provides that section 14 has effect subject to the Remuneration Tribunals Act 1973. Sub-section 7(11) of that Act precludes the member representing the Australian Government or the deputy of that member from receiving remuneration but not from receiving a travelling allowance.

Sub-section 14(4) provides that the member representing the Australian Government or the deputy of that member shall be paid travelling allowance at the rate determined by the Remuneration Tribunal in respect of other members of the Corporation.

Sub-section 14(5) provides that remuneration and allowances are paid from the funds of the Corporation.

CLAUSE 9: Functions and powers of Corporation

Clause 9 empowers the Corporation to apply for patents and to deal with patents vested in the Corporation.

CLAUSE 10: Committees

Clause 10 amends section 21 of the Wool Industry Act 1972 to provide for payment of remuneration and allowances to members of committees established by the Corporation to be on the same basis as payment of remuneration and allowances to members of the Corporation.

Sub-section 21(4) provides for members of committees to be paid such remuneration and allowances, if any, as are prescribed by the Remuneration Tribunal.

Sub-section 21(4A) provides for rates of allowances of committee members, other than those determined by the Remuneration Tribunal, to be prescribed by regulations.

Sub-section 21(4B) provides that section 21 has effect subject to the Remuneration Tribunal Act 1973, other than subsections 7(9) and 7(13) of that Act. Sub-section 7(9) of the Remuneration Tribunal Act 1973 provides for payment of remuneration or allowances determined by the Remuneration Tribunal to be paid out of the Consolidated Revenue Fund except in specific circumstances including remuneration or allowances payable to officers or appointees of statutory corporations. Sub-section 7(13) of the Remuneration Tribunal Act 1973 appropriates the Consolidated Revenue Fund for the above purpose.

Sub-section 21(4C) provides that a member of a committee established by the Australian Wool Corporation who is also a full-time public office holder shall be paid allowances at the rate determined by the Remuneration Tribunal in respect of members of that committee who are not full-time public office holders.

Sub-section 21(4D) provides that remuneration and allowances, where paid to members of a committee established by the Australian Wool Corporation, are paid from the funds of the Corporation.

CLAUSE 11: Repeal of sections 27 and 28

Clause 11 repeals sections 27 and 28 of the Wool Industry Act 1972 which provide the legislative base for the Australian Wool Corporation's Working Capital Trust Fund, established in the early years of the Corporation as an avenue for loan moneys advanced by the Government to the Corporation for working capital. As the Fund has not been used since the loan moneys were repaid in 1978/79 it is no longer required by the Corporation.

CLAUSE 12: Market Support Fund

Clause 12 amends section 28A of the Wool Industry Act 1972 to provide that moneys standing to the credit of the Australian Wool Corporation's Market Support Fund may be used in payment of fees in respect of arbitration carried out under sub-section 422 of the Wool Industry Act 1972, in relation to remuneration of expenses incurred by registered persons in the payment of refunds from the Market Support Fund.

CLAUSE 13: Application of moneys of Corporation

This clause expands section 35 of the Principal Act (Application of moneys) to include moneys in the Wool Research and Development Fund and thus empowers the Corporation to expend moneys in that Fund.

CLAUSE 14: Investment of moneys of Corporation

This clause extends the investment power of the Corporation to include moneys in the Wool Research and Development Fund.

CLAUSE 15: Remuneration of registered persons making payments under this Part

Clause 15 amends section 42Z of the Wool Industry Act 1972 to provide for the Minister for Primary Industry to appoint an independent arbitrator in circumstances where the Wool Council of Australia and registered persons, that is woolbrokers and others who originally collect wool tax cannot reach agreement on the principles of remuneration for persons involved in making refunds to woolgrowers from the Market Support Fund. The arbitrator's costs are to be shared equally between the Wool Council and registered persons.

Sub-section 42Z(2) provides that the relevant organisations (ie the Wool Council of Australia representing woolgrowers and the respective organisations representing registered persons) shall, if they are in agreement on principles of remuneration, make a joint submission to the Minister on those principles.

Sub-section 42Z(3) provides that, if the relevant organisations are unable to reach agreement on principles of remuneration, the Minister may appoint an arbitrator.

Sub-section 42Z(4) provides for an arbitrator appointed under sub-section 42Z(3) to investigate the matters in dispute and provide the Minister with a written report recommending principles for the Minister's approval.

Sub-section 42Z(5) describes the considerations the Minister shall have regard to in approving principles for remuneration of registered persons.

Sub-section 42Z(6) provides for the Australian Wool Corporation to pay the fees of an arbitrator appointed under sub-section 42Z(3), then to recover half of those fees from the Wool Council of Australia and half from the registered persons by reducing the remuneration of registered persons by a total amount equal to half of the arbitrator's fees.

Sub-section 42Z(7) defines relevant organisation as: the Wool Council of Australia; and any other organisation declared by the Minister to be an organisation representing the interests of registered persons for the purposes of this section.

CLAUSE 16: The existing Part VI of the Principal Act has been repealed and replaced by the following new Part V

"PART V - WOOL RESEARCH AND DEVELOPMENT

"DIVISION 1 - Preliminary

"SECTION 44: Interpretation

Provides for interpretation of 'Chairperson' and 'member of the Research Council' for Part V.

"SECTION 45: Object of Part

This new section sets out the objectives of Part V which are to provide for the funding and administration of wool research and development. Specifically the objectives include improving the efficiency and effectiveness of wool research and development and accountability of expenditure on research projects.

"DIVISION 2 - Functions and powers of the Corporation in relation to Wool Research and Development

"SECTION 46: Functions of Corporation in relation to wool research and development

Specifies the research and development (R&D) functions of the Corporation. In the main these are to consider recommendations by the Research Council for particular research projects and to implement those recommendations of which it approves. The Corporation is also required to monitor and report on wool R&D operations to the Minister and to the Wool Council.

"SECTION 47: Manner in which Corporation to exercise its powers

Requires that the Corporation exercise its powers so as to give effect to the research and development plan and annual operational plan.

"SECTION 48: Agreements relating to wool research and development, &c

Authorises the Corporation to execute agreements for the funding of approved research and development activities.

New sub-section 48(2) sets out the conditions that may be attached to such agreements. An agreement may specify that money provided under the agreement and property acquired with that money is to be used only for the purposes specified in the agreement. It may also provide for payment to the Corporation of a part or the whole of any net income derived from property acquired under the agreement or from patents for inventions made or property acquired in the course of R&D activities related to the agreement. Other conditions that may be included in agreements provide for the assignment to the Corporation of any property and patents referred to above or for the payment to the Corporation of an amount determined by the Corporation in the event of the disposal of any property.

"SECTION 49: Corporation may participate in joint ventures

Authorises the Corporation to invest in joint ventures for purposes consistent with the R&D plan and stipulates matters to be provided for or provisions to be included for such an agreement. This will enable the Corporation to tap both R&D managerial expertise and funds which might not otherwise be available to it.

"DIVISION 3 - Establishment and functions of the Wool Research and Development Council

"SECTION 50: Establishment of Wool Research and Development Council

This new section establishes the Wool Research and Development Council

"SECTION 51: Functions of Research Council

Specifies the functions of the Research Council. Essentially the Council is a planning body. Its functions include the evaluation of needs of the wool industry; the formulation of a five year strategic R&D plan and a series of annual operational plans to cover the period of the long term plan. It recommends particular projects to be funded by the Corporation. It also has a monitoring and co-ordination role.

"DIVISION 4 - Wool Research and Development Fund

"SECTION 52: Establishment of Wool Research and Development Fund

This new section establishes the Wool Research and Development Fund under the Corporation.

"SECTION 53: Moneys to be paid into Fund

Provides for the Fund to receive from the Consolidated Revenue Fund a prescribed percentage of the moneys collected by the Commonwealth in the Wool Tax. It also provides for payment from the Consolidated Revenue Fund to the Corporation of the Commonwealth's matching contribution on a dollar-for-dollar basis of industry funds subject to an upper limit of 0.5 per cent of the assigned gross value of wool production in any financial year. The Fund will also receive moneys from the sale of any property of the Corporation paid for by the Fund, from interest on investments and from the sale of property produced from wool R&D activities.

"SECTION 54: Application of Fund

Specifies the purposes for which moneys in the Wool Research and Development Fund can be spent. Covered are the funding of approved R&D activities; expenses incurred by the Corporation and the Research Council in the performance of their functions in relation to wool R&D; the salaries and allowances of Council members; and the expenses of the Selection Committee in selecting Council members. This new section also provides authority for the payment out of the Fund of moneys that are to be invested.

"DIVISION 5 - Research and Development Plans, Annual Operational Plans and approval of research and development activities for funding

"SECTION 55: Research Council to develop research and development plans

Requires the Research Council to prepare a five year R&D plan setting out the objectives of the Corporation and the Research Council and the strategies to be pursued. In so doing the Research Council is required to provide an assessment of the economic outlook for wool and an evaluation of the R&D needs of the industry. Preparation of the plan must be preceded by consultation with the Wool Council and other appropriate organisations. The purpose of the R&D plan, which is subject to the Minister's agreement, is to enhance the effectiveness of the operation of the Corporation and the Research Council and provide a basis for accountability to the Minister and the industry. The R&D plan is presented to the Corporation by the Research Council.

"SECTION 56: Agreement to research and development plans

Requires the Corporation to submit the R&D plan for the Minister's agreement. The Corporation may also submit its comments on the R&D plan. The new section also provides for the Minister to agree to the R&D plan, and makes provision for the Minister to be able to request revisions of the plan. Where he requests a revision the Minister is required to provide a statement setting out the reasons for his request.

"SECTION 57: Variation of research and development plans

Provides for variations to be made by the Research Council to the R&D plan. Variations can be made at any time during the life of the plan. The Council is required however, to re-assess the plan at least annually to ensure it continues to fulfill its intended purposes. Where variations are considered necessary the plan can be varied with the approval of the Minister. The Council must provide the Minister with details of why a variation is required. The Minister may accept or reject a requested variation.

"SECTION 58: Variation of research and development plans at request of Minister

The Research Council may vary the R&D plan at the request, and with the approval of the Minister. The Minister must when requesting changes to the R&D plan provide a statement outlining the reasons for making the request.

"SECTION 59: Date of commencement of research and development plans as varied

Provides for amended and agreed plans to operate as if the original plan had been agreed with the variations.

"SECTION 60: Research Council to develop annual operational plans

Requires the Research Council to prepare an annual operational plan setting out details of research and development activities that the Research Committee recommends be funded by the Corporation during the year. The annual operational plan shall include an estimate of the maximum financial outlay to be made on the different kinds of wool R&D activities.

"SECTION 61: Agreement to annual operational plans

Requires the Corporation to submit the annual operational plan, along with its comments, if any, to the Minister for his approval. If the Minister considers the annual operational plan is inconsistent with the R&D plan he may by notification to the Corporation request the Council to revise the annual operational plan. The Research Council is required to consider such a request by the Minister and make an appropriate revision to the annual operational plan.

"SECTION 62: Approval for funding of particular wool research and development activities

New section 62 makes it a function of the Research Council to recommend individual projects to the Corporation for funding. The Council is required to detail the nature of the research activity, its likely duration and estimate the cost to the Wool Research and Development Fund.

"DIVISION 6 - Constitution and Meetings of Wool Research and Development Council

"SECTION 63: Constitution of the Research Council

Specifies that the Research Council comprises a Chairperson, 4 members nominated by the Corporation and 4 members nominated by the Selection Committee. Appointments are made by the Minister and in the case of the Chairperson from the names of at least two persons nominated by the Corporation. Members hold office for a term, not exceeding 3 years, as specified in the instrument of appointment. Members are eligible for re-appointment. There is an age limit on membership of 65 years.

"SECTION 64: Acting Chairperson

Provides for the appointment, terms and conditions of appointment, and the termination of appointment of an acting Chairperson. The power is exercisable by the Minister.

"SECTION 65: Leave of absence

Provides for the Minister to grant leave of absence to the Chairperson, and for the Chairperson to grant leave of absence to other members.

"SECTION 66: Removal and resignation of members of Research Council

Provides discretion for the Minister to terminate the appointment of a member for misbehaviour or physical or mental incapacity, but where the member becomes bankrupt, is absent without leave from three consecutive meetings, or fails to comply with his obligations concerning disclosure of pecuniary interests the Minister must terminate the appointment. This new section also requires the Minister to terminate the appointment of a member nominated by the Corporation who ceases to be a member of the Corporation if requested to do so by the Corporation. A member may resign in writing to the Minister.

"SECTION 67: Disclosure of interests of members of Research Council

Provides that a member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Research Council shall disclose the nature of his interest and that such a disclosure shall be recorded in the minutes of the meeting.

"SECTION 68: Meetings of Research Council

Provides for the convening of Research Council meetings, and the working arrangement to apply at such meetings.

New sub-section 68(5) provides for a quorum to be constituted by five members with questions to be decided by a majority of votes of members voting.

"SECTION 69: Sub-committees of Research Council

Authorises the Research Council to set up sub-committees to assist in its deliberations and to include non-members of the Council on such sub-committees.

"SECTION 70: Remuneration and allowances

Provides for the remuneration and allowances of members of the Research Council and members of any sub-committee established by the Research Council to be fixed by the Remuneration Tribunal.

"DIVISION 7 - Accountability

"SECTION 71: Annual report of Research Council

Requires the Research Council to prepare an annual report for each year ending 30 June and to include in the report an assessment of the working of the research and development plan and annual operational plan. This new section also requires that the report be submitted to the Corporation who in turn submit the report, along with any comments, to the Minister.

"SECTION 72: Accountability to wool industry

Requires that after the annual report is submitted to the Minister arrangements be made to enable the report to be considered at a meeting of the Wool Council at which the Chairperson of the Research Council will be available to address the meeting and answer questions on the Research Council's activities.

CLAUSE 17: Restrictions on transfer, &c

Clause 17 amends sub-section 76(3) of the Principal Act dealing with a direction to the Corporation for the disposal of wool stores. The clause provides that any proceeds from the sale of wool stores that have been sold on the Minister's direction shall be used specifically for the benefit of the wool industry.

CLAUSE 18: Payments to Corporation

Clause 18 amends section 83 of the Principal Act to accommodate the re-numbering of the former section 68 (now section 53) which is referred to in paragraph 83(2)(b).

CLAUSE 19: Payment to Corporation in respect of market support

Clause 19 amends section 84A of the Principal Act to accommodate the re-numbering of the former section 68 (now section 53) which is referred to in paragraph 84A(4)(b).

CLAUSE 20: Appropriation

This Clause amends Section 84(c) of the Principal Act to delete the reference to the Wool Research Trust Fund.

CLAUSE 21: Repeal of Section 86

Clause 21 repeals section 86 of the Principal Act, which provides for preservation of the rights of former Commonwealth public servants employed by the Australian Wool Corporation. Section 86 has become redundant following insertion of section 87 TA into the Public Service Act 1922 and the repeal of sub-sections 44(2) and 45(2) of the Public Service Amendment Act 1978 by the Public Service Amendment Act 1982.

CLAUSE 22: Reports

Clause 22 amends Section 90 of the Principal Act by providing that the Corporation's annual report include a report on the Corporation's activities in relation to wool research and development. It also provides that a copy of the annual report of the Research Council is to be included in the Corporation's annual report. This is to ensure the tabling of the Research Council's annual report.

PART III - AMENDMENT OF THE RURAL INDUSTRIES RESEARCH ACT 1985

CLAUSE 23: Principal Act

Establishes that reference in Part III to the Principal Act are references to the Rural Industries Research Act 1985.

CLAUSE 24: Co-ordination meetings

Clause 24 amends the Rural Industries Research Act to provide that the Wool Research and Development Council is a Research Council for the purposes of section 61 of that Act. This enables the Chairperson of Wool Research and Development Council to attend and participate in co-ordination meetings of Rural Industry Research Councils.

PART IV - TRANSITIONAL PROVISIONS

CLAUSE 25: Interpretation

Provides for interpretation of the terms 'Corporation', 'new fund', 'previous fund' and 'Principal Act' when used in Part IV of the Bill.

CLAUSE 26: Payments into Wool Research and Development Fund

Sub-clauses 26(1) and 26(3) provide that the cash and non-cash balances of the Wool Research Trust Fund shall be paid to the AWC. As these sub-clauses come into effect on 30 June 1986 it allows transfer of the balances of this account to be effected in the 1985/86 financial year. Other parts of the clause provide for payment to the Corporation on or as soon as practicable after 1 July 1986 of moneys that were due for payment into the Trust Account on or before 30 June 1986.

CLAUSE 27: Operation of section 53 of Principal Act as amended

Clause 27 provides that for the purposes of the operation of Section 53 (Moneys to be paid into Fund), amounts that had been paid into the Wool Research Trust Fund or had been paid out of this Account shall be deemed to have been paid into or paid out of, as the case may be, the newly established Wool Research and Development Fund.

CLAUSE 28: Payments out of Wool Research and Development Fund

Clause 28 provides that any amount that was before 1 July 1986 payable under section 70 before it was repealed may be paid on or after that date from the Wool Research and Development Fund.

CLAUSE 29: Certain arrangements and agreements to continue in force

Clause 20 provides that the Corporation will assume responsibility for any current agreements having been entered into by the Minister, on behalf of the Commonwealth, under section 73 before it was repealed, that is agreements for the purposes of research carried out with moneys provided from the former Wool Research Trust Fund.

CLAUSE 30: Special provisions in relation to 1986-87 financial year

Clause 30 provides that the Corporation may with the approval of the Minister expend moneys from the Wool Research and Development Fund on wool research during 1986/87 and enter into agreements in relation to the expenditure of such money. The purpose is to avoid a possible vacuum in the wool research program and to enable adjustments to be made to existing wool research projects before the Research and Development Plan and the Annual Operational Plan come into force.

CLAUSE 31: Savings

Clause 31 maintains certain regulations in force. These are concerned with prescribing the percentage of the Wool Tax that is to be used for wool R&D and for other purposes.

