

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

WOOL LEGISLATION (REPEALS AND CONSEQUENTIAL PROVISIONS) BILL
1993

EXPLANATORY MEMORANDUM

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

WOOL LEGISLATION (REPEALS AND CONSEQUENTIAL PROVISIONS) BILL 1993

OUTLINE

This Bill repeals the Australian Wool Corporation Act 1991, Australian Wool Industry Council Act 1991 and the Australian Wool Realisation Commission Act 1991 and amends those sections of the Primary Industries and Energy Research and Development Act 1989 relating to the Wool Research and Development Corporation.

The Bill forms part of a package of Bills to establish a new institutional structure and marketing arrangements in the wool industry. The four statutory wool industry organisations which currently have responsibility for marketing and promotion, research and development and the development of industry policy will be replaced by the Australian Wool Research and Promotion Organisation, which will be responsible for generic promotion and research and development, and Wool International which will market the stockpile and foster the development of risk management and marketing mechanisms. The Bill also provides for arrangements to cover the transitional period between the existing arrangements and the new arrangements.

The Bill also amends the Wool Tax Administration Act 1964 in order to provide the basis for allocating shares in the future in Wool International to wool-tax payers. It does this by requiring wool-brokers, dealers, exporters and manufacturers to provide details relating to tax paid on behalf of individual tax payers to the Commissioner of Taxation. Some minor amendments to the Act to provide for all wool-dealers to be registered by the Commissioner and greater uniformity in penalty provisions across different categories of persons who remit wool-tax to the Commissioner have also been made.

The Act is to commence at the same time as the Australian Wool Research and Promotion Organisation Act 1993.

Part 1 covers preliminary matters, including commencement.

Part 2 repeals the Australian Wool Corporation Act 1991, the Australian Wool Industry Council Act 1991 and the Australian Wool Realisation Commission Act 1991.

Part 3 amends the Primary Industries and Energy Research and Development Act 1989 under which the Wool Research and Development Corporation is established, by removing specific reference to the wool industry and removing specific provisions for the governance and operation of that Corporation.

Part 4 amends the Wool Tax (Administration) Act 1964 to require all wool-dealers to be registered and to require wool-brokers, dealers, exporters and manufacturers to provide details relating to tax paid on behalf of individual tax payers to the Commissioner of Taxation. Other amendments provide for greater uniformity in penalties for non-compliance.

Part 5 provides for transitional arrangements including the final annual reports of the Wool Research and Development Corporation, the Australian Wool Corporation, the Australian

Wool Realisation Commission and the Australian Wool Industry Council, the continued employment of staff and retention of staff benefits, the transfer of assets, liabilities, documents etc, exemption from stamp duty and pending proceedings.

FINANCIAL IMPACT STATEMENT

This Bill will not impose any additional costs on the Commonwealth.

NOTES ON CLAUSES

Part 1 – PRELIMINARY

Clause 1 – Short Title

1. Provides for the Bill to be called the Wool Legislation (Repeals and Consequential Provisions) Act 1993.

Clause 2 – Commencement

2. The Act, together with the Wool International Act 1993, commences on the day the Australian Wool Research and Promotion Organisation Act 1993 commences which is on the day fixed by proclamation, or on 1 July 1994, whichever is the earlier.

Part 2 – REPEALS

Clause 3 – Repeal of Acts

3. The Australian Wool Corporation Act 1991, Australian Wool Industry Council Act 1991 and the Australian Wool Realisation Commission Act 1991 are repealed.

Part 3 – AMENDMENTS OF THE PRIMARY INDUSTRIES AND ENERGY RESEARCH AND DEVELOPMENT ACT 1989

Clause 4 – Principal Act

4. Formal.

Clause 5 – Definitions

5. This clause removes references to the wool research and development function from the Primary Industries and Energy Research and Development Act 1989 (the Development Act) by:
 - a) specifically exempting the wool industry from the coverage of the Development Act;
 - b) removing reference to the Australian Wool Corporation, the Wool Tax Acts, the register of wool-tax payers, the Managing Director of the Wool Research and Development Corporation, and the inclusion of a member of the Australian Wool Corporation on the Board of the Wool Research and Development Corporation;
 - c) omitting the definition of the sale value of shorn wool.

Clause 6 – Constitution

6. This clause removes the reference to arrangements for a separate Research and Development Corporation for the wool industry.

Clause 7 – Appointment of directors

7. This clause removes the reference to the conditions governing the appointment of directors of the Wool Research and Development Corporation.

Clause 8 – Payments to R & D Corporation – general

8. This clause removes the reference to separate arrangements for the Wool Research and Development Corporation, for the payment of funds appropriated by Parliament.

Clause 9

9. This clause removes the reference to specific arrangements for the wool industry.

Clause 10 – List of levy payers

10. This clause removes the reference to separate arrangements for the wool industry's register of wool-tax payers.

Clause 11 – R & D Corporation to convene annual general meetings

11. This clause removes the reference to specific arrangements for the wool industry relating to annual general meetings.

Clause 12 – Purpose of annual general meeting

12. This clause removes the reference to specific arrangements for matters which may be debated at the annual general meeting of the Wool Research and Development Corporation.

Clause 13 – Regulations may provide for certain matters

13. This clause removes the reference to specific arrangements for the method of determining the number of votes which may be cast at an annual general meeting of the Wool Research and Development Corporation.

Clause 14 – Notification of motions passed

14. This clause removes the requirement for the Wool Research and Development Corporation to provide the Minister with advice on motions passed at an annual general meeting on the rate of wool tax.

Clause 15 – Heading to Division 9 of Part 2

15. This clause removes the reference to the specific terminology applicable to the Wool Research and Development Corporation.

Clause 16

16. This clause removes reference to the specific terminology applicable to the Wool Research and Development Corporation relating to the Executive Director.

Clause 17 – Employees

17. This clause provides that the specific transitional arrangements for the transfer of employees from wool industry statutory organisations to the Wool Research and Development Corporation, at its commencement, are terminated.

Clause 18 – Repeals

18. Under this clause sections 30B, 89A, 89B and 89C of the Development Act are to be repealed. These Sections deal with wool tax matters, including the payment of collections from consolidated revenue, the provision of matching Commonwealth funding, action to be undertaken by the Minister if an annual general meeting recommendation on tax rates is amended and transitional provisions affecting the operation of the Wool Research and Development Corporation from 1 July 1991.
19. Section 147A is also repealed. This deals with transitional and consequential provisions to be made in regulations if the Wool Research and Development Corporation was established on 1 July 1991.

PART 4 – AMENDMENTS OF THE WOOL TAX (ADMINISTRATION) ACT 1964Clause 19 – Principal Act

20. Formal.

Clause 20 – Officers to observe secrecy

21. This clause permits the Commissioner of Taxation to provide information to Wool International on particulars, prescribed by regulation, relating to specified wool transactions as is provided to the Commissioner by persons who remit wool-tax.

Clause 21 – Repeal

22. This clause provides for the repeal of Section 12A to remove the reference to the implementation of a Ministerial determination under the Australian Wool Realisation Commission Act 1991. That determination, which has been in operation since 1992–93, states that persons becoming liable for shorn wool tax during the following financial year may be entitled to a rebate of wool tax.

Clause 22

23. Section 14, which details the procedure by which wool-dealers may be registered, is repealed, and replaced by a new Section 14 which requires all wool-dealers to be registered. The main differences are:

- (a) a wool-dealer who purchases shorn wool other than from a wool-broker, in a State in which the dealer is not registered to purchase wool, will be subject to a per day fine for each day that the offence continues, rather than a fixed penalty, to bring penalties into line with those set for wool-brokers, exporters and manufacturers; and
- (b) the inaugural purchase of wool in a State in which a wool-dealer is registered is no longer notifiable to the Commissioner.

Clauses 23, 24, 25, 26, 27 – Returns by wool-brokers; Returns by wool-dealers; Returns by manufacturers; Returns by persons exporting wool in pursuance of arrangement; Returns by other persons exporting wool

- 24. These clauses require wool-brokers, wool-dealers, manufacturers and two categories of wool-exporters who are involved in a transfer of ownership of wool, or the export of wool on which tax has not already been paid, to provide the Commissioner with details of transactions on or after 1 July 1993 and details of the person who has borne the tax.
- 25. The purpose of this is to allow the Commissioner to supply Wool International with information to develop a register of wool-tax payers so that at the time of privatisation of Wool International, the share entitlement of wool-tax payers can be made proportional to the tax paid since 1 July 1993.

Clause 28 – Penalty for unpaid tax

- 26. Under this clause, the penalty rate for unpaid wool tax, due and payable after the commencement of this Act, is reduced from 20% to 16%. This is in line with reductions to penalties for non payment of other taxes currently being implemented by the Commonwealth.

Clause 29 – Schedule of amendments

- 27. This clause provides for the removal of references throughout the Act to "registered wool-dealer" to reflect the fact that all wool-dealers will be registered.

Clause 30 – Transitional provision: information relating to wool sold etc. before commencement of Part

- 28. This clause makes provision for wool-brokers, wool-dealers, manufacturers and exporters who lodged wool tax returns in the period 1 July 1993 to the date of commencement of the Act to provide the Commissioner of Taxation, within six months, with the details required in Clauses 23–27, or face penalty provisions. The provision of six months recognises there will need to be adequate time available for records relating months past to be provided.

PART 5 – TRANSITIONAL PROVISIONS

Clause 31 – Definition

29. This clause provides for transitional provisions in respect of the Australian Wool Corporation and the Wool Research and Development Corporation and for defining an authorised person for the purposes of providing certificates for the transfer of assets etc.

Clause 32 – Final annual report of Australian Wool Corporation

30. This clause provides for the Australian Wool Corporation to continue after the repeal of the Australian Wool Corporation Act 1991 for the sole purpose of providing the Minister with a report for the period from 1 July 1993 to the repeal of that Act.
31. The clause provides for the Australian Wool Corporation Act 1991 to continue to the extent necessary to enable the preparation, and presentation, of the report, with the exception of the removal of the Selection Committee process by which the Minister has appointed members with special qualifications.
32. The clause requires a copy of this report to be provided by the Minister to the Chairperson of the Australian Wool Research and Promotion Organisation and requires the Chairperson to present the report to the first annual general meeting of the Organisation.
33. The clause also requires the Organisation to pay or discharge any liabilities incurred by the Australian Wool Corporation in connection with preparing the report.

Clause 33 – Final annual report of Australian Wool Industry Council

34. This clause provides for the Australian Wool Industry Council to continue after the repeal of the Australian Wool Industry Council Act 1991 for the sole purpose of providing the Minister with a report for the period from 1 July 1993 to the repeal of that Act.
35. The clause provides for the Australian Wool Industry Council Act 1991 to continue to the extent necessary to enable the preparation, and presentation, of the report. As the Council is funded by Commonwealth appropriation, no provisions are necessary for finances.

Clause 34 – Final annual report under Australian Wool Realisation Commission Act

36. This clause provides for the Australian Wool Realisation Commission Act 1991 to continue, to the extent necessary, solely to enable a report for the period from 1 July 1993 to the repeal of that Act, to be provided to the Minister. Certain sections of the Commission Act do not apply during this period including the Selection Committee process by which the Minister has appointed members with special qualifications; the process by which the first appointments of members with special qualifications

were made; and the requirement for the Chairperson to present the annual report to a meeting of Wool Council.

37. For the purpose of this clause, the members of the Commission before the commencement of this Act continue to constitute the Commission.
38. The clause also requires Wool International to pay or discharge any liabilities incurred in connection with preparing the report.

Clause 35 – Final annual report of Wool Research and Development Corporation

39. This clause provides for the Corporation to continue after the commencement of the Wool Legislation (Repeals and Consequential Provisions) Act 1993 for the sole purpose of providing the Minister with a report for the period from 1 July 1993 to the commencement of the Act.
40. The clause provides for those section of the Primary Industries and Energy Research and Development Act 1989 relating to the wool industry and the Wool Research and Development Corporation to continue to the extent necessary to enable the preparation, and presentation, of the report to the Minister. Certain changes have effect during this period including that the Selection Committee process by which the Minister has appointed members other than the Chairperson, government director and the Executive Director does not apply.
41. The report prepared must also be provided to the Chairperson of the Australian Wool Research and Promotion Organisation who will present it to the first annual general meeting of the Organisation.
42. The clause requires the Organisation to pay or discharge any liabilities incurred by the Wool Research and Development Corporation in connection with preparing the report.

Clause 36 – Staff of replaced corporations

43. This clause provides for employees of the Australian Wool Corporation and the Wool Research and Development Corporation to become employees of the Australian Wool Research and Promotion Organisation, on no less favourable terms and conditions and with entitlement to benefits accrued prior to commencement of the Australian Wool Research and Promotion Organisation.
44. The clause provides for employees of the Australian Wool Realisation Corporation to continue as employees of the Wool International on no less favourable terms and conditions and with entitlement to benefits accrued prior to commencement of the Australian Wool Realisation Corporation.
45. The clause also provides for persons who become employees of the Australian Wool Research and Promotion Organisation, and who are then employed by Wool International to be employed on equal terms and conditions of employment and without loss of benefit, provided their employment is continuous. In a similar way the clause provides for persons who become employees of Wool International, who

are later employed by the Australian Wool Research and Promotion Organisation to be employed on equal terms and conditions of employment and without loss of benefit, provided their employment is continuous.

46. No reference is required to staff of the Australian Wool Industry Council as it has no employees in its own right.

Clause 37 – Transfer of assets, liabilities etc.

47. This clause provides for the transfer of assets, rights, obligations and liabilities to the Australian Wool Research and Promotion Organisation from the Australian Wool Corporation and the Wool Research and Development Corporation. In the case of the transfer from the Wool Research and Development Corporation, the section of the Primary Industries and Energy Research and Development Act 1989 which permits the Minister to transfer assets of an R & D Corporation which has ceased to exist to the Commonwealth, does not apply.

Clause 38 – Transfer of documents

48. This clause provides for the transfer of relevant documents to the Australian Wool Research and Promotion Organisation.

Clause 39 – Certificates in relation to assets, liabilities etc.

49. This clause provides for an authorised person to certify that any article referred to in clauses 37 and 38 is owned by the Australian Wool Research and Promotion Organisation, or by Wool International.

Clause 40 – Exemption from stamp duty

50. This clause exempts certified documents which exist as a result of the operation of the Wool Legislation (Repeals and Consequential Provisions) Act 1993 from stamp duty or other duty or tax.

Clause 41 – Pending proceedings

51. This clause substitutes the Australian Wool Research and Promotion Organisation for the Wool Research and Development Corporation or the Australian Wool Corporation in any court or tribunal proceedings pending prior to the commencement of the Act.

Clause 41 – Regulations for transitional matters

52. This clause provides for the Governor-General to make transitional or consequential provisions by regulation. The provision is intended to cover machinery matters of a technical or procedural nature and is the same facility as was provided when the Australian Wool Realisation Commission was established.



