



Australian Horticultural Corporation Act 1987

Act No. 164 of 1987 as amended

Consolidated as in force on 26 February 1999

(includes amendments up to Act No. 102 of 1998)

Prepared by the Office of Legislative Drafting,
Attorney-General's Department, Canberra

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An Act to establish an Australian Horticultural Corporation and to provide for the establishment of Product Boards, and for related purposes

Part I—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Australian Horticultural Corporation Act 1987*.

2 Commencement [see Note 1]

- (1) Parts I, III and VI shall come into operation on the day on which this Act receives the Royal Assent.
- (2) The remaining Parts shall come into operation on a day to be fixed by Proclamation.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

Australian Board products, in relation to a Board, means:

- (a) Board products of that Board grown or harvested in Australia; or
- (b) Board products produced by processing in Australia products referred to in paragraph (a).

Australian horticultural industry means any industry carried on in Australia in connection with:

- (a) producing Australian horticultural products; or
- (b) handling, storing, transporting, processing or marketing Australian horticultural products.

Australian horticultural products means:

- (a) horticultural products grown, produced or harvested in Australia;
- (b) horticultural products produced by the processing in Australia of products referred to in paragraph (a); or

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- (c) products in a class of products prescribed for the purposes of this definition.

Board means a Product Board.

Board industry, in relation to a Board, means any industry carried on in Australia in connection with:

- (a) producing Australian Board products of that Board; or
- (b) handling, storing, transporting, processing or marketing such Australian Board products.

Board products means, in relation to a Board, the horticultural product or class of horticultural products in respect of which the Board was established.

Chairperson means:

- (a) in relation to the Corporation—the Chairperson of the Corporation; and
- (b) in relation to the Corporation Selection Committee—the Chairperson of the Corporation Selection Committee; and
- (c) in relation to a Board—the Chairperson of the Board.

Corporation means the Australian Horticultural Corporation.

Corporation Selection Committee means the Australian Horticultural Corporation Selection Committee.

cut flowers and foliage includes processed cut flowers and foliage.

Deputy Chairperson means:

- (a) in relation to the Corporation—the Deputy Chairperson of the Corporation;
- (b) in relation to the Corporation Selection Committee—the Deputy Chairperson of the Corporation Selection Committee; and
- (c) in relation to a product group selection committee—the Deputy Chairperson of the product group selection committee.

eligible industry body means a body prescribed by the regulations for the purposes of the provision in which the expression is used.

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export charge, in relation to a Board, means a charge whose rate is fixed under section 8A of the Export Charge Act in relation to the Board.

Export Charge Act means the *Horticultural Export Charge Act 1987*.

Export Charge Collection Act means the *Horticultural Export Charge Collection Act 1987*.

fruits includes processed fruits.

General Manager, in relation to a Board, means the General Manager of the Board.

government member means the government member of the Corporation.

horticultural products means:

- (a) fruits;
- (aa) honey;
- (b) vegetables;
- (c) nuts;
- (d) nursery products;
- (e) cut flowers and foliage; and
- (f) products in a class of products prescribed for the purposes of this paragraph;

but does not include products in a class of products that are declared by the regulations not to be horticultural products for the purposes of this definition.

joint venture means an undertaking carried on by 2 or more persons in common otherwise than as partners.

Levies and Charges Collection Act means the *Primary Industries Levies and Charges Collection Act 1991*.

levy, in relation to a Board, means a levy whose rate is fixed under section 8A of the Levy Act in relation to the Board.

Levy Act means the *Horticultural Levy Act 1987*.

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Levy Collection Act means the *Horticultural Levy Collection Act 1987*.

Managing Director means the Managing Director of the Corporation.

member includes:

- (a) in relation to the Corporation—the Chairperson of the Corporation, the Deputy Chairperson of the Corporation, the government member and the Managing Director; and
- (b) in relation to the Corporation Selection Committee—the Chairperson and Deputy Chairperson of the Corporation Selection Committee; and
- (c) in relation to a Board—the Chairperson of the Board.

nominated member means:

- (a) in relation to the Corporation—a member of the Corporation other than the Chairperson, the government member and the Managing Director; and
- (b) in relation to the Corporation Selection Committee—a member of the Corporation Selection Committee other than the Chairperson; and
- (c) in relation to a Board—a member of the Board other than the Chairperson.

nursery products includes trees, shrubs, plants, seeds, bulbs, corms, tubers, propagating material and plant tissue cultures, grown for ornamental purposes or for producing fruits, vegetables, nuts, or cut flowers or foliage.

nuts includes processed nuts.

order means an order made under the regulations.

Parliament means:

- (a) in relation to the Australian Capital Territory—the Legislative Assembly of the Australian Capital Territory; and
- (b) in relation to the Northern Territory—the Legislative Assembly of the Northern Territory.

prescribed includes prescribed by an order.

process, in relation to a product, means the performance of any operation in relation to the product, and includes the chilling, freezing, drying, bottling, packing, canning or preserving of the product, but does not include the performance of an operation included in a class of operations prescribed for the purposes of this definition, either generally or in relation to the product or a class of products in which the product is included.

product includes a thing occurring naturally.

Product Board means a Board established under section 100.

regulations includes orders.

securities includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments and documents.

share means a share in the share capital of a corporation, and includes stock.

State includes the Australian Capital Territory and the Northern Territory.

this Act includes the regulations.

vegetables includes:

- (a) mushrooms and other edible fungi; and
 - (b) processed vegetables (including mushrooms and other edible fungi).
- (2) A reference in this Act to dealing with securities includes a reference to:
- (a) creating, executing, entering into, drawing, making, accepting, indorsing, issuing, discounting, selling, purchasing and reselling securities;
 - (b) creating, selling, purchasing and reselling rights and options in relation to securities; and
 - (c) entering into agreements and other arrangements in relation to securities.

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4 Act binds Crown

- (1) This Act binds the Crown in right of the Commonwealth, of each of the States and of Norfolk Island.
- (2) Nothing in this Act renders the Crown in right of the Commonwealth, or of a State or Norfolk Island, liable to be prosecuted for an offence.

5 Application of Act

This Act applies both within and outside Australia.

Part II—The Australian Horticultural Corporation

Division 1—Establishment, functions and powers of Corporation

6 Establishment

A corporation by the name of the Australian Horticultural Corporation is established by this section.

7 Objects

- (1) The principal object of the establishment of the Corporation is to assist Australian horticultural industries to achieve their full potential in overseas markets.
- (2) The objects of the establishment of the Corporation also include assisting the development of Australian horticultural industries.
- (3) It is the intention of the Parliament that the principal object of the establishment of the Corporation should be achieved through the Corporation acting, to the greatest extent practicable:
 - (a) in co-operation with all segments of Australian horticultural industries; and
 - (b) in conjunction with Commonwealth, State and Territory authorities concerned with the export of Australian horticultural products.

8 Functions

- (1) The functions of the Corporation are:
 - (a) to encourage, assist, facilitate, promote and co-ordinate the export of Australian horticultural products;
 - (b) to improve:
 - (i) the efficiency and competitiveness of Australian horticultural industries;
 - (ii) the quality of Australian horticultural products;
 - (iii) the producing of Australian horticultural products, whether by:

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- (A) growing or harvesting; or
 - (B) processing Australian horticultural products;
and
 - (iv) the handling, storing, transporting, processing or marketing of Australian horticultural products; particularly with a view to enhancing the exportability of Australian horticultural products;
 - (c) to promote the consumption and sale, both in Australia and overseas, of Australian horticultural products;
 - (d) to encourage, assist, facilitate and promote the marketing in Australia of Australian horticultural products, particularly between the States, between States and Territories, between Territories and in the Territories;
 - (e) to co-operate with:
 - (i) persons and bodies representative of Australian horticultural industries; and
 - (ii) Commonwealth, State and Territory authorities concerned with:
 - (A) Australian horticultural industries; or
 - (B) the export of Australian horticultural products;
and
 - (f) such other functions in relation to Australian horticultural industries as are conferred on the Corporation by or under this Act or any other Act.
- (2) Subject to Part IV, where a Product Board has functions in relation to a Board industry or Board product, the Corporation must not perform the same function in relation to that industry or product without the Board's consent.

9 Powers

- (1) The Corporation has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions and, in particular, may:
- (a) negotiate contracts for the carriage of horticultural products to be exported from Australia (including the carriage of such products within Australia);

- (b) negotiate insurance contracts in relation to horticultural products;
 - (c) obtain and disseminate market intelligence;
 - (d) collect and publish statistics in relation to horticultural products;
 - (e) make charges for work done, services rendered, and goods and information supplied, by it;
 - (f) with the written approval of the Minister:
 - (i) form, and participate in the formation of, companies;
 - (ii) subscribe for and purchase shares in, and debentures and other securities of, companies;
 - (iii) enter into partnerships; and
 - (iv) participate in joint ventures and arrangements for the sharing of profits;
 - (g) enter into contracts;
 - (h) appoint agents and attorneys, and act as an agent for other persons;
 - (j) accept gifts, grants, bequests and devises made to it, and act as trustee of money and other property vested in it on trust;
 - (k) do such other things as it is authorised to do by or under this Act or any other Act; and
 - (m) do anything incidental to any of its powers.
- (2) An approval under paragraph (1)(f):
- (a) may be of general or particular application; and
 - (b) may be given subject to specified conditions and restrictions.

11 Consultations with industry representatives etc.

- (1) Without limiting the generality of subsection 9(1), the Corporation may make arrangements for consultations between it and any of the following:
- (aa) a Board; or
 - (a) persons and bodies representative of Australian horticultural industries; or
 - (b) Commonwealth, State and Territory authorities concerned with:
 - (i) Australian horticultural industries; or

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- (ii) the export of Australian horticultural products.
- (2) Arrangements made by the Corporation under subsection (1) may provide for:
 - (a) the Corporation's agreeing to meet travel expenses reasonably incurred by a person in connection with consultations with the Corporation; and
 - (b) subject to written guidelines given to the Corporation by the Minister, the Corporation's agreeing to meet expenses (other than travel expenses) reasonably incurred by an eligible industry body, or a member of an eligible industry body, in connection with consultations with the Corporation.

Division 2—Constitution and meetings of Corporation

12 Corporation is body corporate etc.

- (1) The Corporation:
- (a) is a body corporate with perpetual succession;
 - (b) shall have a common seal;
 - (c) may acquire, hold and dispose of real and personal property;
and
 - (d) may sue and be sued in its corporate name.

Note: The *Commonwealth Authorities and Companies Act 1997* applies to the Corporation. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (2) The common seal of the Corporation shall be kept in such custody as the Corporation directs and shall not be used except as authorised by the Corporation.
- (3) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the common seal of the Corporation appearing on a document and shall presume that it was duly affixed.

13 Constitution of Corporation

- (1) The Corporation consists of the following members:
- (a) the Chairperson;
 - (b) the government member;
 - (c) the Managing Director;
 - (d) 4 other members.
- (2) The performance of the functions, and the exercise of the powers, of the Corporation are not affected by reason only of vacancies in the membership of the Corporation.

Note: For the manner in which the Chairperson may be referred to, see section 18B of the *Acts Interpretation Act 1901*.

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15 Deputy Chairperson

- (1) The Minister shall appoint a nominated member of the Corporation to be the Deputy Chairperson of the Corporation.
- (2) The Minister shall, before appointing a person to be the Deputy Chairperson, consult with the Chairperson of the Corporation.
- (3) The Minister may at any time terminate an appointment made under subsection (1).
- (4) A person appointed as Deputy Chairperson ceases to hold the office if the person ceases to be a nominated member of the Corporation.
- (5) A person appointed as Deputy Chairperson may resign the office by writing signed by the person and delivered to the Minister.
- (6) During any period when:
 - (a) the office of Chairperson of the Corporation is vacant (whether or not an appointment has previously been made to the office); or
 - (b) the Chairperson of the Corporation is absent from Australia or is, for any reason, unable to perform the duties of the office;the Deputy Chairperson shall act as Chairperson.
- (7) The Deputy Chairperson has, when acting as Chairperson, all the powers, duties, rights and entitlements of the Chairperson of the Corporation.
- (9) Anything done by or in relation to a person purporting to act as Chairperson under subsection (6) is not invalid because:
 - (a) there was a defect or irregularity in connection with the appointment of the person as Deputy Chairperson;
 - (b) the appointment of the person as Deputy Chairperson had ceased to have effect; or
 - (c) the occasion for the person to act as Chairperson had not arisen or had ceased.

Note: For the manner in which the Chairperson may be referred to, see section 18B of the *Acts Interpretation Act 1901*.

16 Appointment of members

- (1) The members of the Corporation (other than the Managing Director) shall be appointed by the Minister.
- (2) The Minister shall not appoint a person to be the government member unless the Minister is satisfied that the person has experience in, and knowledge of:
 - (a) the formulation of government policy; and
 - (b) public administration.
- (3) The nominated members of the Corporation shall be appointed from persons nominated by the Corporation Selection Committee under section 80.
- (5) The appointment of a person as a member of the Corporation is not invalid because of a defect or irregularity in connection with the person's nomination or appointment.

17 Members of executive of eligible industry bodies not eligible for appointment etc.

Subject to the regulations, a person who is a member of the executive of an eligible industry body shall not be appointed as a member of the Corporation, and a member of the Corporation who becomes a member of the executive of an eligible industry body ceases to hold office as a member of the Corporation.

18 Term of office

- (1) A member of the Corporation (other than the Managing Director):
 - (a) shall be appointed with effect from the day specified in the instrument of appointment; and
 - (b) holds office, subject to this Act:
 - (i) in the case of a member other than the government member—for such term (not exceeding 3 years) as is specified in the instrument of appointment, but is eligible for re-appointment in accordance with this Act; and
 - (ii) in the case of the government member—during the Minister's pleasure.

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- (2) If a member of the Corporation (other than the government member or the Managing Director) ceases to hold office before the end of the term of appointment, another person may, in accordance with this Act, be appointed in the member's place until the end of the term.

19 Members (other than Managing Director) hold office on part time basis

The members of the Corporation (other than the Managing Director) hold office on a part time basis.

20 Remuneration and allowances

- (1) A member of the Corporation shall be paid such remuneration as is determined by the Remuneration Tribunal.
- (2) A member of the Corporation shall be paid such allowances as are prescribed.
- (3) Where:
- (a) a person who is a member of the Corporation is a member of, or a candidate for election to, the Parliament of a State; and
 - (b) under the law of the State, the person would not be eligible to remain, or to be elected, as a member of that Parliament if the person were entitled to remuneration or allowances under this Act;
- the person shall not be paid remuneration or allowances under this Act, but shall be reimbursed the expenses that the person reasonably incurs in performing duties under this Act.
- (4) Where a person who is a member of the Corporation:
- (a) is a member of the Parliament of a State, but subsection (3) does not apply in relation to the person;
 - (b) is in the service or employment of a State, or an authority of a State, on a full time basis; or
 - (c) holds or performs the duties of an office or position established by or under a law of a State on a full time basis;
- it is a condition of the person's holding office under this Act that the person pay to the State, within one month of receiving an

amount of remuneration under this Act, an amount equal to the amount of remuneration.

- (5) An amount payable under subsection (4) to a State by a person is a debt due to the State, and the State may recover the amount by action against the person in a court of competent jurisdiction.
- (6) This section has effect subject to the *Remuneration Tribunals Act 1973*.
- (7) This section does not apply in relation to the Managing Director.

21 Leave of absence

- (1) The Minister may grant leave of absence to the Chairperson of the Corporation on such terms and conditions as the Minister considers appropriate.
- (2) The Chairperson may grant leave of absence to another member of the Corporation (other than the Managing Director) on such terms and conditions as the Chairperson considers appropriate.

22 Resignation

A member of the Corporation (other than the Managing Director) may resign by writing signed and delivered to the Minister.

24 Termination of appointment

- (1) The Minister may terminate the appointment of the Chairperson or a nominated member of the Corporation for misbehaviour or physical or mental incapacity.
- (2) If:
 - (a) the Chairperson or a nominated member of the Corporation becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - (b) the Chairperson or a nominated member of the Corporation, without reasonable excuse, contravenes section 21 of the *Commonwealth Authorities and Companies Act 1997*;

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- (c) the Chairperson of the Corporation is absent, except with the leave of the Minister, from 3 consecutive meetings of the Corporation; or
 - (d) a nominated member of the Corporation is absent, except with the leave of the Chairperson, from 3 consecutive meetings of the Corporation;
- the Minister shall terminate the member's appointment.

25 Terms and conditions of appointment not provided for by Act

A member of the Corporation (other than the Managing Director) holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, in writing, by the Minister.

26 Meetings

- (1) Subject to subsection (2), meetings of the Corporation shall be held at such times and places as the Corporation from time to time determines.
- (2) The Chairperson of the Corporation may at any time convene a meeting of the Corporation.
- (3) The Chairperson of the Corporation shall preside at all meetings of the Corporation at which the Chairperson is present.
- (4) If the Chairperson and Deputy Chairperson of the Corporation are not present at a meeting of the Corporation, the members present shall appoint one of their number to preside at the meeting.
- (5) At a meeting of the Corporation:
 - (a) 4 members constitute a quorum;
 - (b) a question shall be decided by a majority of the votes of the members present and voting; and
 - (c) the member presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (6) The Corporation shall keep minutes of its proceedings.
- (7) The Corporation may invite a person to attend a meeting for the purpose of advising or informing it on any matter.

Division 3—Corporate plan and annual operational plans

27 Corporate plan

- (1) The Corporation shall, as soon as practicable after the commencement of this Part, prepare a corporate plan.
- (2) The Corporation shall, in each financial year to which the corporate plan relates and not later than 1 April, review and revise the plan.
- (3) The Corporation:
 - (a) may, at any other time, revise the corporate plan; and
 - (b) shall revise the corporate plan if the Minister requests it, in writing, to revise the corporate plan and gives reasons for the request.
- (4) The corporate plan as prepared under subsection (1) shall include a statement of the objectives of the Corporation and of each Board, and an assessment of the market and economic outlook for Australian horticultural industries, including Board industries, for:
 - (a) if the plan is prepared in the first 9 months of a financial year, the financial year in which the plan is prepared and the 4 subsequent financial years; or
 - (b) if the plan is prepared in the last 3 months of a financial year, the next financial year and the 4 subsequent financial years.
- (5) The corporate plan as revised under subsection (2) shall include a statement of the objectives of the Corporation and of each Board, and an assessment of the market and economic outlook for Australian horticultural industries, including Board industries, for the financial year immediately following the financial year in which the corporate plan is revised and the 4 subsequent financial years.
- (6) The corporate plan shall also outline the strategies and policies that the Corporation intends to adopt in order to achieve its objectives.
- (7) The corporate plan, and a revision of the corporate plan:
 - (a) shall be submitted to the Minister as soon as practicable after it is prepared; and

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- (b) has no effect until it is approved, in writing, by the Minister.
- (7A) In preparing or revising the corporate plan, the Corporation must take into account the relevant corporate plan of each Board.
- (8) Before preparing or revising the corporate plan, the Corporation shall consult with eligible industry bodies.

28 Annual operational plans

- (1) When the Corporation is preparing the corporate plan under subsection 27(1) or revising the corporate plan under subsection 27(2), it shall prepare an annual operational plan for the earliest financial year to which the corporate plan or the corporate plan as so revised, as the case may be, will relate.
- (2) The annual operational plan for a financial year shall:
 - (a) contain an estimate of its receipts and expenditure for the financial year; and
 - (b) specify:
 - (i) the programs that the Corporation proposes to carry out; and
 - (ii) the resources that the Corporation proposes to allocate to each such program;in giving effect to the corporate plan during the financial year.
- (3) If the Minister is of the opinion that the annual operational plan is inconsistent with the corporate plan, the Minister may, in writing, request the Corporation to revise the annual operational plan.
- (4) The Corporation may, at any time, revise the annual operational plan, and shall revise the plan if the Minister requests it under subsection (3) to do so and gives written reasons for the request.
- (5) An annual operational plan, and a revision of an annual operational plan:
 - (a) shall be submitted to the Minister as soon as practicable after it is prepared; and
 - (b) has no effect until it is approved, in writing, by the Minister.

- (6) The Minister shall approve an annual operational plan, or a revision of an annual operational plan, unless the Minister is of the opinion that the plan, or the plan as proposed to be revised, as the case may be, is inconsistent with the corporate plan.

29 Corporation to comply with corporate plan and annual operational plans

To the extent that it is practicable to do so, the Corporation shall ensure that the performance of its functions, and the exercise of its powers, is consistent with, and designed to give effect to, the corporate plan and the applicable annual operational plan.

Division 4—Accountability

30 Extra matters to be included in annual report

- (2) The annual report on the Corporation under section 9 of the *Commonwealth Authorities and Companies Act 1997* must also include:
- (a) an assessment of the extent to which the operations of the Corporation during the year have:
 - (i) achieved the objectives stated in the corporate plan; and
 - (ii) implemented the annual operational plan applicable to the year; and
 - (b) particulars of:
 - (i) export trading activities undertaken by the Corporation during the year;
 - (ii) significant capital works programs (if any) undertaken by the Corporation during the year;
 - (iii) significant acquisitions and dispositions of real property by the Corporation during the year;
 - (iv) companies formed by the Corporation, and companies in whose formation the Corporation participated, during the year;
 - (v) shares and securities subscribed for, purchased and disposed of by the Corporation during the year;
 - (vi) partnerships entered into by the Corporation during the year;
 - (vii) joint ventures, and arrangements for the sharing of profits, entered into by the Corporation during the year;
 - (viii) currency futures contracts, interest rate futures contracts and horticultural products futures contracts entered into by the Corporation during the year; and
 - (ix) variations to the corporate plan, and to the applicable annual operational plan, agreed to by the Minister during the year.

30A Corporation to give Minister annual reports on Product Boards

- (1) The Corporation must, by the 15 October after the end of each financial year, give to the Minister the annual report on each Product Board for that year given to the Corporation by the Board under section 9 of the *Commonwealth Authorities and Companies Act 1997* (as modified by section 101A of this Act).
- (2) The Minister may grant an extension of time in special circumstances.
- (3) The Minister must table each report in each House of the Parliament as soon as practicable.

31 Accountability to horticultural industries

- (1) The Chairperson of the Corporation shall, as soon as practicable after an annual report of the Corporation has been given to the Minister, provide copies of the report to each eligible industry body and:
 - (a) make arrangements with each eligible industry body to which this paragraph applies for the Chairperson or another member of the Corporation (the *nominated member*) to attend the next annual conference of the body or a meeting of the executive of the body; and
 - (b) convene a meeting with representatives of the other eligible industry bodies;for the purpose of enabling:
 - (c) the annual report to be considered;
 - (d) the Chairperson or the nominated member, as the case requires, to deliver an address in relation to:
 - (i) the activities of the Corporation in the period to which the report relates; and
 - (ii) the intended activities of the Corporation in the financial year following the end of the period; and
 - (e) the Chairperson or the nominated member, as the case requires, to be questioned in relation to those activities.

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32 Minister may give directions in exceptional circumstances

- (1) Subject to subsection (2), the Minister may give written directions to the Corporation in relation to the performance of its functions and the exercise of its powers, and the Corporation shall comply with the directions.
- (2) The Minister shall not give a direction to the Corporation under subsection (1) unless the Minister:
 - (a) has informed the Corporation, in writing, that the Minister is considering giving the direction;
 - (b) has given the Chairperson of the Corporation an opportunity to discuss the need for the proposed direction with the Minister; and
 - (c) is satisfied that, because of the existence of exceptional circumstances, it is necessary to give the direction to the Corporation in order to ensure that the performance of the functions, or the exercise of the powers, of the Corporation does not conflict with major government policies.
- (3) Subject to subsection (4), where the Minister gives a direction to the Corporation under subsection (1):
 - (a) the Minister shall cause a copy of the direction:
 - (i) to be published in the *Gazette* as soon as practicable after giving the direction; and
 - (ii) to be laid before each House of the Parliament within 15 sitting days of that House after giving the direction; and
 - (b) the annual reports of the Corporation applicable to periods in which the direction has effect shall include:
 - (i) particulars of the direction; and
 - (ii) an assessment of the impact that the direction has had on the operations of the Corporation during the period.
- (4) Subsection (3) does not apply in relation to a particular direction if:
 - (a) the Minister, on the recommendation of the Corporation, determines, in writing, that compliance with the subsection would, or would be likely to, prejudice the commercial activities of the Corporation; or
 - (b) the Minister determines, in writing, that compliance with the subsection would be contrary to the public interest.

Division 5—Managing Director

33 Managing Director

There shall be a Managing Director of the Corporation.

34 Duties

- (1) The Managing Director shall conduct the affairs of the Corporation.
- (2) The Managing Director shall act in accordance with any policies determined by, and any directions given by, the Corporation.
- (3) All acts and things done in the name of, or on behalf of, the Corporation by the Managing Director shall be deemed to have been done by the Corporation.

35 Appointment

- (1) The Managing Director shall be appointed by the Corporation.
- (2) The Chairperson, the government member or a nominated member of the Corporation shall not be appointed as the Managing Director.
- (4) The appointment of a person as Managing Director is not invalid because of a defect or irregularity in connection with the person's appointment.

36 Term of appointment etc.

- (1) The Managing Director:
 - (a) shall be appointed with effect from the day specified in the instrument of appointment; and
 - (b) holds office during the Corporation's pleasure.

37 Terms and conditions of appointment

The Managing Director holds office on such terms and conditions (including terms and conditions relating to remuneration and

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allowances) in relation to matters not provided for by this Act as are determined by the Corporation.

38 Application of Remuneration Tribunal Act

The office of Managing Director is not a public office within the meaning of the *Remuneration Tribunal Act 1973*.

39 Managing Director not to engage in other paid employment

The Managing Director shall not engage in paid employment outside the duties of the office except with the approval of the Corporation.

40 Leave of absence

The Chairperson of the Corporation may grant leave of absence to the Managing Director on such terms and conditions, whether as to remuneration or otherwise, as are determined by the Corporation.

41 Resignation

The Managing Director may resign by writing signed and delivered to the Chairperson of the Corporation.

42 Disclosure of interests

The Managing Director shall give written notice to the Chairperson of the Corporation of all direct or indirect pecuniary interests that the Managing Director has or acquires in any business or in any body corporate carrying on any business.

43 Acting Managing Director

- (1) The Corporation may appoint a person (other than a member of the Corporation) to act as Managing Director:
 - (a) during a vacancy in the office of Managing Director (whether or not an appointment has previously been made to the office); or

- (b) during any period, or during all periods, when the Managing Director is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office.
- (2) An appointment under subsection (1) may be expressed to have effect only in specified circumstances.
- (3) Where:
 - (a) a person is acting under paragraph (1)(b); and
 - (b) the office of Managing Director becomes vacant;then, subject to subsection (2) and paragraph (5)(b), the person may continue to act until the vacancy is filled.
- (4) A person acting as Managing Director has all the powers and duties of the Managing Director.
- (5) The Corporation may:
 - (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person appointed to act as Managing Director; and
 - (b) terminate the appointment at any time.
- (6) A person appointed to act as Managing Director may resign the appointment by writing signed by the person and delivered to the Chairperson of the Corporation.
- (7) Anything done by or in relation to a person purporting to act as Managing Director is not invalid because:
 - (a) the occasion for the appointment had not arisen;
 - (b) there was a defect or irregularity in connection with the appointment;
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion for the person to act as Managing Director had not arisen or had ceased.

44 Exclusion of Managing Director etc. from certain deliberations

- (1) The Managing Director shall not be present during any deliberation of the Corporation or a committee of the Corporation, or take part in any decision of the Corporation or a committee of the Corporation, with respect to:

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- (a) the appointment of a person as Managing Director;
 - (b) the determination or application of any terms and conditions on which a person appointed as Managing Director holds office or may be granted leave;
 - (c) the termination of the appointment of the Managing Director; or
 - (d) the giving or refusing of approval for the Managing Director to engage in paid employment outside the duties of the office.
- (2) A person appointed to act as Managing Director shall not be present during any deliberation of the Corporation or a committee of the Corporation, or take part in any decision of the Corporation or a committee of the Corporation, with respect to:
- (a) the appointment of a person as Managing Director or to act as Managing Director;
 - (b) the determination or application of any terms and conditions on which the Managing Director, or a person appointed to act as Managing Director, holds office or may be granted leave;
 - (c) the termination of the appointment of the person or the Managing Director; or
 - (d) the giving or refusing of approval for the Managing Director, or a person acting as Managing Director, to engage in paid employment outside the duties of the office.

Division 6—Employees and consultants

45 Employees

- (1) The Corporation may engage such employees as it considers necessary for the performance of its functions and the exercise of its powers.
- (2) The terms and conditions of employment shall be determined by the Corporation.
- (3) A person shall not be employed by the Corporation on terms and conditions more favourable than those applying to the Managing Director.

46 Consultants

- (1) The Corporation may engage persons having suitable qualifications and experience as consultants to the Corporation.
- (2) The terms and conditions of engagement shall be determined by the Corporation.

Division 7—Finance

47 Payment of levy and charge to Corporation

- (1) There shall be paid to the Corporation amounts equal to:
 - (a) amounts of levy received by the Commonwealth by virtue of section 8 of the Levy Act; and
 - (aa) amounts received by the Commonwealth by way of penalty under section 15 of the Levies and Charges Collection Act in relation to amounts of levy referred to in paragraph (a); and
 - (b) amounts received by the Commonwealth by way of penalty under section 8 of the Levy Collection Act in relation to amounts of levy referred to in paragraph (a).
- (2) There shall be paid to the Corporation amounts equal to:
 - (a) amounts of charge received by the Commonwealth by virtue of section 8 of the Export Charge Act; and
 - (aa) amounts received by the Commonwealth by way of penalty under section 15 of the Levies and Charges Collection Act in relation to amounts of charge referred to in paragraph (a); and
 - (b) amounts received by the Commonwealth by way of penalty under section 8 of the Export Charge Collection Act in relation to amounts of charge referred to in paragraph (a).
- (2A) There are to be paid to the Corporation amounts equal to:
 - (a) so much of the amounts received by the Commonwealth as charge under the *Honey Export Charge Act 1973* as is received by virtue of paragraph 7(1)(a) of that Act as in force on 31 December 1992; and
 - (b) so much of the amounts received by the Commonwealth as levy under the *Honey Levy Act (No. 1) 1962* as is received by virtue of paragraph 5(1)(a) of that Act; and
 - (c) so much of the amounts received by the Commonwealth as levy under the *Honey Levy Act (No. 2) 1962* as is received by virtue of paragraph 5(1)(a) of that Act; and
 - (d) so much of the amounts received by the Commonwealth in discharge of a person's liability (other than a liability in respect of a penalty under subsection 8(1) of the *Honey Levy*

- Collection Act 1962*) under subsection 7(1) of that Act in respect of amounts payable by virtue of paragraph 5(1)(a) of the *Honey Levy Act (No. 1) 1962* or paragraph 5(1)(a) of the *Honey Levy Act (No. 2) 1962*; and
- (e) so much of the amounts received by the Commonwealth in discharge of a person's liability (other than a liability in respect of a penalty under section 15 of the Levies and Charges Collection Act) under subsection 7(1) of that Act in respect of amounts payable by virtue of paragraph 5(1)(a) of the *Honey Levy Act (No. 1) 1962* or paragraph 5(1)(a) of the *Honey Levy Act (No. 2) 1962*; and
 - (f) so much of the amounts (if any) received by the Commonwealth as penalties under section 6 of the *Honey Export Charge Collection Act 1973* as relates to amounts referred to in paragraph (a) of this section; and
 - (g) so much of the amounts (if any) received by the Commonwealth as penalties under section 15 of the Levies and Charges Collection Act as relates to amounts referred to in paragraph (a) of this section; and
 - (h) so much of the amounts (if any) received by the Commonwealth and payable by way of penalty under section 8 of the *Honey Levy Collection Act 1962* as relates to amounts referred to in paragraph (b), (c) or (d) of this subsection; and
 - (i) so much of the amounts (if any) received by the Commonwealth and payable by way of penalty under section 15 of the Levies and Charges Collection Act as relates to amounts referred to in paragraph (b), (c), (d) or (e) of this subsection.
- (3) Amounts payable under subsections (1), (2) and (2A) shall be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.
- (4) The reference in paragraph (1)(a) to amounts of levy received by the Commonwealth by virtue of section 8 of the Levy Act includes a reference to:
- (a) amounts received by the Commonwealth under paragraph 7(1)(a) of the Levy Collection Act, or by virtue of an agreement entered into under section 7B of that Act, in relation to such levy; and

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- (aa) amounts of levy received by the Commonwealth under subsection 7(1) or (2) of the Levies and Charges Collection Act, or by virtue of an agreement entered into under section 10 or 11 of that Act, in relation to such levy; and
 - (b) amounts received by the Commonwealth under subsection 7A(1) of the Levy Collection Act on account of such levy; and
- (5) The reference in paragraph (2)(a) to amounts of charge received by the Commonwealth by virtue of section 8 of the Export Charge Act includes a reference to:
 - (a) amounts received by the Commonwealth under paragraph 7(1)(a) of the Export Charge Collection Act, or by virtue of an agreement entered into under section 7B of that Act, in relation to such charge; and
 - (aa) amounts of charge received by the Commonwealth under paragraph 7(3)(b) of the Levies and Charges Collection Act, or by virtue of an agreement entered into under section 10 or 11 of that Act, in relation to such charge; and
 - (b) amounts received by the Commonwealth under subsection 7A(1) of the Export Charge Collection Act on account of such charge; and
 - (ba) amounts received by the Commonwealth under subsection 9(1) of that Act, or by virtue of an agreement entered into under section 10 or 11 of that Act, in respect of penalty payable under that Act.
- (5A) The reference in paragraph (1)(aa) to amounts received by the Commonwealth by way of penalty under section 15 of the Levies and Charges Collection Act includes a reference to:
 - (a) amounts received by the Commonwealth under paragraph 7(1)(f) of that Act; and
 - (b) amounts received by the Commonwealth under subsection 9(1) of that Act, or by virtue of an agreement entered into under section 10 or 11 of that Act, in respect of penalty payable under that Act.
- (6) The reference in paragraph (1)(b) to amounts received by the Commonwealth by way of penalty under section 8 of the Levy Collection Act includes a reference to:

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- (a) amounts received by the Commonwealth under paragraph 7(1)(b) of that Act; and
 - (b) amounts received by the Commonwealth under subsection 7A(1) of that Act, or by virtue of an agreement entered into under section 7B of that Act, in respect of penalty payable under that Act.
- (6A) The reference in paragraph (2)(aa) to amounts received by the Commonwealth by way of penalty under section 15 of the Levies and Charges Collection Act includes a reference to:
 - (a) amounts received by the Commonwealth under paragraph 7(1)(f) of that Act; and
 - (b) amounts received by the Commonwealth under subsection 9(1) of that Act, or by virtue of an agreement entered into under section 10 or 11 of that Act, in respect of penalty payable under that Act.
- (7) The reference in paragraph (2)(b) to amounts received by the Commonwealth by way of penalty under section 8 of the Export Charge Collection Act includes a reference to:
 - (a) amounts received by the Commonwealth under paragraph 7(1)(b) of that Act; and
 - (b) amounts received by the Commonwealth under subsection 7A(1) of that Act, or by virtue of an agreement entered into under section 7B of that Act, in respect of penalty payable under that Act.

47AA Other payments to the Corporation

- (1) Where under subsection 115Q(1) an amount, being the Corporation's administrative costs in relation to a Board for a particular period, is deducted from the sum of the other amounts mentioned in that subsection, an amount equal to the deducted amount must be paid to the Corporation.
- (2) Amounts payable under subsection (1) are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

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47A Corporation may enter into agreements with persons collecting levy, charge or penalty

- (1) The Corporation may enter into an agreement, in writing, with any person who is responsible under:
 - (a) section 7 or 7A of the Levy Collection Act; or
 - (b) section 7 or 7A of the Export Charge Collection Act; or
 - (c) section 7 or 9 of the Levies and Charges Collection Act;for the collection of amounts for payment to the Commonwealth, providing for payment by the Corporation to that person in respect of the collection of so much of the amounts collected as are paid to the Corporation.
- (2) The Corporation may enter into an agreement in writing, with any person who has agreed, under:
 - (a) subsection 7B(1) of the Levy Collection Act; or
 - (b) subsection 7B(1) of the Export Charge Collection Act; or
 - (c) subsection 10(1) or 11(1) of the Levies and Charges Collection Act;to collect amounts on behalf of the Commonwealth, providing for payment by the Corporation to that person in respect of the collection of so much of the amounts collected as are paid to the Corporation.
- (3) The Corporation shall not, in exercising its powers under subsection (1) or (2):
 - (a) discriminate between States or parts of States within the meaning of paragraph 51(ii) of the Constitution; or
 - (b) give preference to one State or any part thereof over another State or any part thereof within the meaning of section 99 of the Constitution.

48 Expenditure of money of the Corporation

- (1) The money of the Corporation may be expended only:
 - (a) in payment or discharge of the expenses and liabilities incurred by:
 - (i) the Corporation; or
 - (ii) the Corporation Selection Committee on behalf of the Commonwealth; or

- (iii) a Product Board on behalf of the Corporation; and
 - (aa) in payment to the Commonwealth of amounts equal to the expenses incurred by the Commonwealth in relation to:
 - (i) the collection or recovery of amounts referred to in paragraph 47(1)(a), (aa) or (b) or (2)(a), (aa) or (b); or
 - (ii) the administration of section 47;
 - (b) in payment of remuneration and allowances payable under this Act; and
 - (c) in making any other payments that the Corporation is authorised or required to make by or under this Act or another Act.
- (2) The Corporation is liable to pay the expenses, and discharge the liabilities, incurred by the Corporation Selection Committee on behalf of the Commonwealth.

49 Separate accounts may be required in some circumstances

- (2) The regulations may require the Corporation to keep separate accounts in relation to specified classes of horticultural products, and may specify the amounts to be credited and debited to such an account and the manner in which such amounts are to be calculated.
- (3) Where the regulations require the Corporation to keep a separate account in relation to a class of horticultural products, the regulations may make provision in relation to the expenditure of money standing to the credit of the account, including the application of money standing to the credit of the account if, and when, the account ceases to exist.

52 Borrowing and raising of money

- (1) The Corporation may, with the written approval of the Minister:
 - (a) borrow money; or
 - (b) raise money otherwise than by borrowing;on terms and conditions that are specified in, or consistent with, the approval.

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- (2) Without limiting the generality of subsection (1), the Corporation may, under that subsection, borrow money, or raise money otherwise than by borrowing, by dealing with securities.
- (3) A borrowing of money, or a raising of money otherwise than by borrowing, under subsection (1) may be made, in whole or in part, in a currency other than Australian currency.
- (4) An approval may be given under subsection (1) in relation to a particular transaction or transactions in a class of transactions.
- (5) The Corporation may not borrow money, or raise money otherwise than by borrowing, except in accordance with this section.
- (6) For the purposes of this section:
 - (a) the issue by the Corporation of an instrument acknowledging a debt in consideration of:
 - (i) the payment or deposit of money; or
 - (ii) the provision of credit;otherwise than in relation to a transaction that is in the ordinary course of the day to day operations of the Corporation, shall be deemed to be a raising by the Corporation, otherwise than by borrowing, of an amount of money equal to the amount of the money paid or deposited or the value of the credit provided, as the case may be; and
 - (b) the obtaining of credit by the Corporation otherwise than in relation to a transaction that is in the ordinary course of the day to day operations of the Corporation shall be deemed to be a raising by the Corporation, otherwise than by borrowing, of an amount of money equal to the value of the credit so obtained.

53 Hedging in relation to borrowings and raisings

- (1) Subject to subsection (3), the Corporation may, for hedging purposes, enter into and deal with currency futures contracts, and interest rate futures contracts, at futures markets in relation to:
 - (a) a borrowing, or proposed borrowing, of money; or
 - (b) a raising, or proposed raising, of money otherwise than by borrowing.

- (2) A currency futures contract or interest rate futures contract shall, for the purposes of subsection (1), be taken to be entered into or dealt with for hedging purposes if, and only if, the contract is for the purpose of minimising the risks of adverse variations in the costs of the transaction in relation to which the contract is entered into or dealt with.
- (3) The Minister may give written guidelines to the Corporation for the exercise of its powers under subsection (1), and the Corporation shall comply with the guidelines.

54 Guarantee of borrowings and raisings

- (1) The Treasurer may, on behalf of the Commonwealth, enter into a contract:
 - (a) guaranteeing the repayment by the Corporation of money borrowed under paragraph 52(1)(a) and the payment by the Corporation of interest (including any interest on that interest) on money so borrowed; or
 - (b) guaranteeing the payment by the Corporation of such amounts (which may be interest) that the Corporation is liable to pay with respect to money raised under paragraph 52(1)(b) as are specified in the contract.
- (2) The Treasurer may, in writing, determine:
 - (a) that the repayment by the Corporation of money borrowed under paragraph 52(1)(a), and the payment by the Corporation of interest (including any interest on that interest) on money so borrowed, are guaranteed by the Commonwealth; or
 - (b) that the payment by the Corporation of such money (which may be interest) that the Corporation is liable to pay with respect to money raised under paragraph 52(1)(b) as is specified in the determination is guaranteed by the Commonwealth;and, where the Treasurer makes such a determination, the repayment of that money and the payment of that interest are, or the payment of that money is, by force of this subsection, guaranteed by the Commonwealth.

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- (3) A contract may be entered into under subsection (1), and a determination may be made under subsection (2), in relation to a particular transaction or a class of transactions.
- (4) A contract entered into under subsection (1) may include either or both of the following provisions:
 - (a) a provision agreeing that proceedings under the contract may be taken in the courts, or a specified court, of a country other than Australia;
 - (b) a provision waiving the immunity of the Commonwealth from suit in the courts, or a specified court, of a country other than Australia in relation to any proceedings that may be taken under the contract.

55 Corporation may give security

The Corporation may give security over the whole or any part of its land or other assets for:

- (a) the repayment of money borrowed under paragraph 52(1)(a) and the payment of interest (including any interest on that interest) on money so borrowed;
- (b) the payment of amounts (which may be interest) that it is liable to pay with respect to money raised under paragraph 52(1)(b); or
- (c) the payment to the Commonwealth of amounts equal to any amounts that the Commonwealth may become liable to pay under a contract entered into under subsection 54(1) or as a result of a determination made under subsection 54(2).

58 Liability to taxation

- (1) The Corporation is subject to taxation (other than income tax) under the laws of the Commonwealth.
- (2) Subject to subsections (3) and (4), the Corporation is not subject to taxation under a law of a State or Territory.
- (3) The regulations may provide that subsection (2) does not apply in relation to:
 - (a) a specified law of a State or Territory; or
 - (b) laws in a specified class of laws of a State or Territory.

- (4) Stamp duty under the law of a State or a Territory is payable by the Corporation in respect of transactions entered into by, and instruments and documents executed by or on behalf of, the Corporation.

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Division 9—Miscellaneous

73 General committees

- (1) The Corporation may establish committees under this subsection to assist it in the performance of its functions and the exercise of its powers.
- (2) A committee established under subsection (1) may be constituted wholly by members of the Corporation or partly by members of the Corporation and partly by other persons.
- (3) The Corporation may fix the number of members of the committee required to constitute a quorum at a meeting of the committee.
- (4) Section 20 applies in relation to a member of the committee who is not a member of the Corporation as if the member were a nominated member of the Corporation.
- (5) Section 21 of the *Commonwealth Authorities and Companies Act 1997* applies in relation to the committee as if the committee were a Commonwealth authority (as defined in that Act).

74 Delegation by Corporation

- (1) The Corporation may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate all or any of its powers under this Act (other than its powers under section 37 or 40 or this power of delegation) to:
 - (a) a committee of the Corporation;
 - (aa) a Board;
 - (b) a member of the Corporation; or
 - (c) an employee of the Corporation.
- (2) A power delegated under subsection (1) shall, when exercised by the delegate, be deemed to have been exercised by the Corporation.
- (3) The delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the Corporation.

- (4) The delegation of a power under subsection (1) does not prevent the exercise of the power by the Corporation.

75 Delegation by Managing Director

- (1) The Managing Director may, either generally or as otherwise provided by the instrument of delegation, by writing, delegate to an employee of the Corporation all or any of his or her powers under this Act, other than this power of delegation.
- (2) A power delegated under subsection (1) shall, when exercised by the delegate, be deemed to have been exercised by the Managing Director.
- (3) The delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the Managing Director.
- (4) The delegation of a power under subsection (1) does not prevent the exercise of the power by the Managing Director.

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**Part III—The Australian Horticultural
Corporation Selection Committee**

**Division 1—Establishment, function and powers of
Corporation Selection Committee**

76 Establishment

A committee by the name of the Australian Horticultural Corporation Selection Committee is established by this section.

77 Function

The function of the Corporation Selection Committee is to nominate, at the request of the Minister, persons to the Minister for appointment as nominated members of the Corporation.

78 Powers

The Corporation Selection Committee has power to do, on behalf of the Commonwealth, all things necessary or convenient to be done for, or in connection with, the performance of its function.

Division 2—Nominations for membership of Corporation

79 Minister may request nomination from Corporation Selection Committee

The Minister may, by notice in writing given to the Chairperson of the Corporation Selection Committee, request the Corporation Selection Committee to nominate to the Minister, within the period specified in the notice, a person for appointment as a nominated member of the Corporation.

80 Nominations

- (1) Where the Minister requests the Corporation Selection Committee to nominate a person for appointment as a nominated member of the Corporation, the Corporation Selection Committee shall, within the period specified in the request, nominate a person, in writing, to the Minister.
- (2) The nomination shall be accompanied by a statement setting out:
 - (a) details of the person's qualifications and experience; and
 - (b) such other information relating to the person as the Corporation Selection Committee considers will assist the Minister in considering whether or not to appoint the person.
- (3) The Corporation Selection Committee shall nominate only one person for each appointment.
- (4) The Corporation Selection Committee may nominate a person for appointment even though the Minister has previously rejected a nomination of that person for another appointment or the Corporation Selection Committee has previously decided not to nominate the person.

81 Selection of persons by Corporation Selection Committee

- (1) The Corporation Selection Committee shall not nominate a person unless the person appears to the Corporation Selection Committee to be suitably qualified for appointment by virtue of expertise in one or more of the following fields:

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- (a) the growing or harvesting of horticultural products;
 - (b) the exporting of horticultural products;
 - (c) the handling, storing, transporting, processing or marketing of horticultural products;
 - (d) business management;
 - (e) finance;
 - (f) marketing;
 - (g) product promotion.
- (2) The Corporation Selection Committee shall not nominate a person if:
 - (a) the person is a member of the Corporation Selection Committee; or
 - (b) the person was a member of the Corporation Selection Committee during the year immediately preceding the making of the nomination.
- (3) In selecting a person for nomination, the Corporation Selection Committee shall choose from the available candidates the person who will best ensure that the members of the Corporation collectively possess an appropriate balance of expertise.

82 Minister may request further information

Where the Minister considers the information contained in the statement accompanying a nomination by the Corporation Selection Committee to be inadequate, the Minister may, by notice in writing given to the Chairperson of the Corporation Selection Committee, request the Corporation Selection Committee, within the period specified in the notice, to provide the Minister with further specified information in relation to the person.

83 Minister may reject nomination

Where the Minister is not satisfied that a person nominated by the Corporation Selection Committee should be appointed as a member of the Corporation, the Minister may, by notice in writing given to the Chairperson of the Corporation Selection Committee, reject the nomination and request the nomination of another person.

Division 3—Constitution and meetings of Corporation Selection Committee

84 Constitution of Corporation Selection Committee

- (1) The Corporation Selection Committee consists of the following members:
 - (a) the Chairperson;
 - (b) 3, 4 or 5 other members.
- (2) The performance of the functions, and the exercise of the powers, of the Corporation Selection Committee are not affected by reason only of vacancies in the membership of the Corporation Selection Committee.

Note: For the manner in which the Chairperson may be referred to, see section 18B of the *Acts Interpretation Act 1901*.

86 Deputy Chairperson

- (1) The Minister shall appoint a nominated member of the Corporation Selection Committee to be the Deputy Chairperson of the Corporation Selection Committee.
- (2) The Minister shall, before appointing a person to be the Deputy Chairperson, consult with the Chairperson of the Corporation Selection Committee.
- (3) The Minister may at any time terminate an appointment made under subsection (1).
- (4) A person appointed as Deputy Chairperson ceases to hold the office if the person ceases to be a nominated member of the Corporation Selection Committee.
- (5) A person appointed as Deputy Chairperson may resign the office by writing signed by the person and delivered to the Minister.
- (6) During any period when:
 - (a) the office of Chairperson of the Corporation Selection Committee is vacant (whether or not an appointment has previously been made to the office); or

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- (b) the Chairperson of the Corporation Selection Committee is absent from Australia or is, for any reason, unable to perform the duties of the office;
the Deputy Chairperson shall act as Chairperson.
- (7) The Deputy Chairperson has, when acting as Chairperson, all the powers, duties, rights and entitlements of the Chairperson of the Corporation Selection Committee.
- (9) Anything done by or in relation to a person purporting to act as Chairperson under subsection (6) is not invalid because:
- (a) there was a defect or irregularity in connection with the appointment of the person as Deputy Chairperson;
 - (b) the appointment of the person as Deputy Chairperson had ceased to have effect; or
 - (c) the occasion for the person to act as Chairperson had not arisen or had ceased.

Note: For the manner in which the Deputy Chairperson may be referred to, see section 18B of the *Acts Interpretation Act 1901*.

87 Appointment of members

- (1) The members of the Corporation Selection Committee shall be appointed by the Minister.
- (2) The nominated members of the Corporation Selection Committee shall be appointed on the nomination, subject to and in accordance with the regulations, of eligible industry bodies.
- (3) Where the Minister is not satisfied that a person nominated for appointment as a nominated member of the Corporation Selection Committee should be appointed as such a member, the Minister may reject the nomination and request the nomination of another person.
- (4) The Minister shall not appoint a member of the Corporation as a member of the Corporation Selection Committee.
- (6) The appointment of a person as a member of the Corporation Selection Committee is not invalid because of a defect or irregularity in connection with the person's nomination or appointment.

88 Term of office of members

- (1) A member of the Corporation Selection Committee:
 - (a) shall be appointed with effect from the day specified in the instrument of appointment; and
 - (b) holds office, subject to this Act, for such term (not exceeding 3 years) as is specified in the instrument of appointment, but is eligible for re-appointment in accordance with this Act.
- (2) If the member ceases to hold office before the end of the term of appointment, another person may, in accordance with this Act, be appointed in the member's place until the end of the term.

89 Members to hold office on part time basis

The members of the Corporation Selection Committee hold office on a part time basis.

90 Remuneration and allowances

- (1) A member of the Corporation Selection Committee shall be paid such remuneration as is determined by the Remuneration Tribunal.
- (2) A member of the Corporation Selection Committee shall be paid such allowances as are prescribed.
- (3) Where:
 - (a) a person who is a member of the Corporation Selection Committee is also a member of, or a candidate for election to, the Parliament of a State; and
 - (b) under the law of the State, the person would not be eligible to remain, or to be elected, as a member of that Parliament if the person were entitled to remuneration or allowances under this Act;the person shall not be paid remuneration or allowances under this Act, but shall be reimbursed the expenses that the person reasonably incurs in performing duties under this Act.
- (4) Where a person who is a member of the Corporation Selection Committee:

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- (a) is a member of the Parliament of a State, but subsection (3) does not apply in relation to the person;
 - (b) is in the service or employment of a State, or an authority of a State, on a full time basis; or
 - (c) holds or performs the duties of an office or position established by or under a law of a State on a full time basis;
- it is a condition of the person's holding office under this Act that the person pay to the State, within one month of receiving an amount of remuneration under this Act, an amount equal to the amount of remuneration.
- (5) An amount payable under subsection (4) to a State by a person is a debt due to the State, and the State may recover the amount by action against the person in a court of competent jurisdiction.
 - (6) Subject to subsection (7), this section has effect subject to the *Remuneration Tribunal Act 1973*.
 - (7) Subsection 7(9) of the *Remuneration Tribunal Act 1973* does not apply in relation to a member of the Corporation Selection Committee.

91 Leave of absence

- (1) The Minister may grant leave of absence to the Chairperson of the Corporation Selection Committee on such terms and conditions as the Minister considers appropriate.
- (2) The Chairperson may grant leave of absence to another member of the Corporation Selection Committee on such terms and conditions as the Chairperson considers appropriate.

92 Resignation of members

A member of the Corporation Selection Committee may resign by writing signed and delivered to the Minister.

93 Disclosure of interests

- (1) Where:
 - (a) a member of the Corporation Selection Committee has a direct or indirect pecuniary interest in a matter being

considered, or about to be considered, by the Corporation Selection Committee; and

- (b) the interest could conflict with the proper performance of the member's duties in relation to the consideration of the matter;

the member shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Corporation Selection Committee.

- (2) A disclosure under subsection (1) shall be recorded in the minutes of the Corporation Selection Committee.

94 Termination of appointment

- (1) The Minister may terminate the appointment of a member of the Corporation Selection Committee for misbehaviour or physical or mental incapacity.
- (2) If:
 - (a) a member of the Corporation Selection Committee becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - (b) a member of the Corporation Selection Committee, without reasonable excuse, contravenes section 93;
 - (c) the Chairperson of the Corporation Selection Committee is absent, except with the leave of the Minister, from 3 consecutive meetings of the Corporation Selection Committee; or
 - (d) a member of the Corporation Selection Committee (other than the Chairperson) is absent, except with the leave of the Chairperson, from 3 consecutive meetings of the Corporation Selection Committee;the Minister shall terminate the member's appointment.
- (3) The Minister shall, at the request of the eligible industry bodies on whose nomination a nominated member of the Corporation Selection Committee was appointed, terminate the appointment of the member.

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95 Terms and conditions of appointment not provided for by Act

A member of the Corporation Selection Committee holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, in writing, by the Minister.

96 Meetings

- (1) Subject to subsection (2), meetings of the Corporation Selection Committee shall be held at such times and places as the Corporation Selection Committee from time to time determines.
- (2) The Chairperson of the Corporation Selection Committee may at any time convene a meeting of the Corporation Selection Committee.
- (3) The Chairperson of the Corporation Selection Committee shall preside at all meetings of the Corporation Selection Committee at which the Chairperson is present.
- (4) If the Chairperson and Deputy Chairperson of the Corporation Selection Committee are not present at a meeting of the Corporation Selection Committee, the members present shall appoint one of their number to preside at the meeting.
- (5) At a meeting of the Corporation Selection Committee:
 - (a) a majority of the members of the Committee constitutes a quorum; and
 - (b) a question shall be decided by a majority of the votes of the members present and voting; and
 - (c) the member presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (6) The Corporation Selection Committee shall keep minutes of its proceedings.
- (7) The Corporation Selection Committee may invite a person to attend a meeting for the purpose of advising or informing it on any matter.

Division 4—Employees and consultants

97 Employees

- (1) The Corporation Selection Committee may, on behalf of the Commonwealth, employ such persons as it considers necessary to perform administrative and clerical services in connection with the performance of its function and the exercise of its powers.
- (2) The terms and conditions of employment of persons employed under subsection (1) shall be determined by the Corporation Selection Committee.

98 Consultants

- (1) The Corporation Selection Committee may, on behalf of the Commonwealth, engage persons having suitable qualifications and experience as consultants to the Corporation Selection Committee.
- (2) The terms and conditions of engagement shall be determined by the Corporation Selection Committee.

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Division 5—Miscellaneous

99 Delegation

- (1) The Corporation Selection Committee may, by resolution, either generally or as otherwise provided by the resolution, delegate to a member of the Corporation Selection Committee or the person occupying an office in the Department all or any of its powers under Division 4.
- (2) A power delegated under subsection (1) shall, when exercised by the delegate, be deemed to have been exercised by the Corporation Selection Committee.
- (3) The delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the Corporation Selection Committee.
- (4) A delegation of a power under subsection (1):
 - (a) may be revoked by resolution of the Corporation Selection Committee (whether or not constituted by the persons who constituted the Corporation Selection Committee at the time the power was delegated);
 - (b) does not prevent the exercise of the power by the Corporation Selection Committee; and
 - (c) continues in force notwithstanding a change in the membership of the Corporation Selection Committee.
- (5) Section 34A of the *Acts Interpretation Act 1901* applies in relation to a delegation under subsection (1) as if the Corporation Selection Committee were a person.
- (6) A certificate signed by the Chairperson of the Corporation Selection Committee stating any matter with respect to a delegation of a power under subsection (1) is *prima facie* evidence of the matter.
- (7) A document purporting to be a certificate under subsection (6) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

Part IV—Product Boards

Division 1—Establishment, functions and powers of Product Boards

100 Establishment of Product Boards

- (1) Where the regulations declare the establishment of a Product Board in relation to a particular horticultural product or class of horticultural products and specify the name for the Board:
 - (a) a Board is established in respect of that horticultural product or class of horticultural products; and
 - (b) the Board has the name specified in the regulations.
- (2) Where a Board is established, the regulations may provide that, to the extent or in the cases specified in the regulations, references to the Corporation in any other Act, or in regulations under any Act, are to be read as references to the Board.

101 Board is body corporate etc.

- (1) Each Board:
 - (a) is a body corporate; and
 - (b) is to have a common seal; and
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue and be sued in its corporate name.

Note: The *Commonwealth Authorities and Companies Act 1997* applies to each Board. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (2) The common seal of a Board is to be kept in such custody as the Board directs, and is not to be used except as authorised by the Board.
- (3) All Courts, judges and persons acting judicially must:
 - (a) take judicial notice of the imprint of the common seal of a Board appearing on a document; and

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- (b) presume the imprint was duly affixed.

101A Modification of the *Commonwealth Authorities and Companies Act 1997*

Section 9 of the *Commonwealth Authorities and Companies Act 1997* applies in relation to a Board as if:

- (a) a reference to the responsible Minister were instead a reference to the Corporation; and
- (b) the reference to the 15th day of the 4th month after the end of the financial year were instead a reference to the next 31 August after the end of the financial year; and
- (c) subsection (3) were omitted.

102 Functions

- (1) Subject to subsection (2), the functions of a Board are:
 - (a) to encourage, assist, facilitate, promote and co-ordinate the export of its Australian Board products; and
 - (b) to improve:
 - (i) the efficiency and competitiveness of its Board industries; and
 - (ii) the quality of those Australian Board products; and
 - (iii) the producing of those Australian Board products, whether by growing, harvesting or processing such products; and
 - (iv) the handling, storing, transporting, processing or marketing of those Australian Board products; particularly with a view to enhancing the exportability of those Australian Board products; and
 - (c) to promote the consumption and sale, both in Australia and overseas, of those Australian Board products; and
 - (d) to encourage, assist, facilitate and promote the marketing in Australia of those Australian Board products, particularly between the States, between States and Territories, between Territories and in the Territories; and
 - (e) to co-operate with:
 - (i) persons and bodies representative of its Board industries; and

- (ii) Commonwealth, State and Territory authorities concerned with its Board industries or the export of its Australian Board products.
- (2) The regulations may exclude from the functions of a Board any of the functions mentioned in subsection (1).
- (3) Regulations made for the purposes of subsection (2) do not operate to prevent the fulfilment by a Board of contractual obligations incurred before the commencement of those regulations.

103 Powers

- (1) A Board has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions and, in particular, may:
 - (a) negotiate contracts for the carriage of its Australian Board products to be exported from Australia (including the carriage of such products within Australia); and
 - (b) negotiate insurance contracts in relation to those Australian Board products; and
 - (c) obtain and disseminate market intelligence in relation to its Board products; and
 - (d) collect and publish statistics in relation to its Australian Board products; and
 - (e) make charges for work done, services rendered, and goods and information supplied by it; and
 - (f) with the written approval of the Minister:
 - (i) form, and participate in the formation of, companies; and
 - (ii) subscribe for and purchase shares in, and debentures and other securities of, companies; and
 - (iii) enter into partnerships; and
 - (iv) participate in joint ventures and arrangements for the sharing of profits; and
 - (g) enter into contracts; and
 - (h) appoint agents and attorneys, and act as an agent for other persons; and

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- (j) accept gifts, grants, bequests and devises made to it, and act as trustee of money and other property vested in it on trust; and
 - (k) do anything incidental to any of its powers.
- (2) Before making an application to the Minister for an approval under paragraph (1)(f), a Board must consult the Corporation, and the application must be accompanied by any written comments of the Corporation.
- (3) An approval under paragraph (1)(f):
 - (a) may be of general or particular application; and
 - (b) may be given subject to specified conditions and restrictions.

104 Powers to be exercised in accordance with Corporation guidelines

In exercising its powers, a Board must have regard to any general guidelines issued by the Corporation.

105 Minister may give directions in exceptional circumstances

- (1) Subject to subsection (2), the Minister may give written directions to a Board in relation to the performance of its functions and the exercise of its powers, and the Board must comply with the directions.
- (2) The Minister must not give a direction to a Board under subsection (1) unless the Minister:
 - (a) has informed the Board, in writing, that the Minister is considering giving the direction; and
 - (b) has given the Chairperson of the Board an opportunity to discuss the need for the proposed direction with the Minister; and
 - (c) is satisfied that, because of the existence of exceptional circumstances, it is necessary to give the direction to the Board in order to ensure that the performance of the functions, or the exercise of the powers, of the Board does not conflict with major government policies.

- (3) Subject to subsection (4), where the Minister gives a direction to a Board under subsection (1):
 - (a) the Minister must cause a copy of the direction:
 - (i) to be published in the *Gazette* as soon as practicable after giving the direction; and
 - (ii) to be laid before each House of the Parliament within 15 sitting days of that House after giving the direction; and
 - (b) the annual reports of the Corporation applicable to periods in which the direction has effect must include:
 - (i) particulars of the direction; and
 - (ii) an assessment of the impact that the direction has had on the operations of the Board during the period.
- (4) Subsection (3) does not apply in relation to a particular direction if:
 - (a) the Minister, on the recommendation of the Board, determines, in writing, that compliance with the subsection would, or would be likely to, prejudice the commercial activities of the Board; or
 - (b) the Minister determines, in writing, that compliance with the subsection would be contrary to the public interest.

106 Corporation may require Chairperson to attend a Corporation meeting

- (1) The Corporation may request the Chairperson of a Board to attend a meeting of the Corporation and advise or inform the Corporation about the Board's activities.
- (2) The Chairperson must comply with such a request as far as practicable.

107 Consultations with industry representatives etc.

- (1) Without limiting the generality of subsection 103(1), a Board may make arrangements for consultations between it and:
 - (a) eligible industry bodies or members of eligible industry bodies; or
 - (b) Commonwealth, State and Territory authorities concerned with:
 - (i) its Board industries; or

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- (ii) the export of its Australian Board products.
- (2) Arrangements made by a Board under subsection (1) may provide for:
 - (a) the Board's agreeing to meet travel expenses reasonably incurred by a person in connection with consultations with the Board; and
 - (b) the Board's agreeing to meet expenses (other than travel expenses) reasonably incurred by an eligible industry body, or a member of an eligible industry body, in connection with consultations with the Board.
- (3) Where a Board makes arrangements for consultations under subsection (1), it may inform the Corporation and allow the Corporation the opportunity to participate in the consultations.

Division 2—Constitution of Boards

108 Constitution of Boards

- (1) A Board consists of:
 - (a) a Chairperson; and
 - (b) 5 other members, each representing a different one of the following fields of expertise:
 - (i) the growing or processing of the relevant Board products;
 - (ii) the exporting of such products;
 - (iii) the harvesting, handling, storing, transporting, processing or marketing of such products;
 - (iv) business management or finance;
 - (v) marketing or product promotion.
- (2) The performance of the functions and the exercise of the powers of a Board are not affected merely because of vacancies in the membership of the Board.

109 Appointment of members

- (1) The members of a Board are to be appointed in writing by the Corporation.
- (2) Before appointing the Chairperson of a Board, the Corporation must consult the eligible industry bodies of that Board.
- (3) Subject to subsection (4), the nominated members of a Board are to be appointed from persons nominated by eligible industry bodies under section 113.
- (4) If, in following the procedure in section 113, the Corporation receives no nomination within the time specified in subsection 113(2), the Corporation may appoint a person to the vacancy.
- (5) An appointment takes effect on the day specified in the appointment.

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- (6) The appointment of a person as a member of a Board is not invalid because of a defect or irregularity in or in connection with the person's nomination or appointment.

110 Acting Chairperson

- (1) The Corporation may appoint a member of the Board to act as the Chairperson of a Board:
 - (a) during a vacancy in the office of Chairperson of the Board (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Chairperson of the Board is absent from duty or from Australia or is, for any other reason, unable to perform the duties of the office;but a person appointed to act during a vacancy must not continue so to act for longer than 12 months.
- (2) Anything done by or in relation to a person purporting to act as Chairperson of a Board is not invalid because:
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in or in connection with the appointment; or
 - (c) the appointment had ceased to have effect; or
 - (d) the occasion for the person so to act had not arisen or had ceased.

111 Term of office

- (1) Subject to this Act, a member holds office for the term (not exceeding 3 years) specified in the appointment, but is eligible for re-appointment.
- (2) If a nominated member of a Board ceases to hold office before the end of the term of appointment, another person may be appointed, in accordance with this Act, in the member's place until the end of the term.
- (3) The Corporation must not appoint a person as a member of a Board for more than 3 consecutive terms.

112 Application of certain provisions to members of Boards

Sections 19 to 25 apply to a Board as if:

- (a) a reference to a member of the Corporation were a reference to a member of the Board (whether or not the member of the Board is also a member of the Corporation); and
- (b) a reference to the Minister were a reference to the Corporation; and
- (c) a reference to the Chairperson of the Corporation were a reference to the Chairperson of the Board; and
- (d) a reference to a nominated member of the Corporation were a reference to a nominated member of the Board; and
- (e) a reference to the Corporation were a reference to the Board; and
- (f) subsection 20(7) and the words (*other than the Managing Director*) (wherever occurring) were omitted.

113 Nominations for appointment

- (1) Where there is a vacancy among the nominated members of a Board, the Corporation must notify the Board's eligible industry bodies and request the bodies jointly to nominate to the Corporation a person for appointment to the Board as a nominated member.
- (2) The eligible industry bodies must, within 3 months after receiving a request, nominate a person qualified in the field of expertise in relation to which the vacancy occurred.
- (3) The nomination must be accompanied by a statement supporting the nomination and setting out details of the person's qualifications and experience.
- (4) Only one person may be nominated for each vacancy.
- (5) The eligible industry bodies may nominate a person for appointment even if the Corporation has previously rejected a nomination of that person for another appointment.
- (6) The Board may reimburse eligible industry bodies for reasonable costs incurred in nominating a person under this section.

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114 Corporation may request further information

Where the Corporation considers the information contained in the statement accompanying a nomination by eligible industry bodies to be inadequate, the Corporation may request them to provide the Corporation, within a specified period, with further specified information in relation to the person.

115 Corporation may reject nomination

Where the Corporation is not satisfied that a person nominated by eligible industry bodies should be appointed as a member of the Board, the Corporation may, by notice in writing, reject the nomination and may request the nomination of another person.

115A Meetings

- (1) Subject to subsection (2), a Board may hold such meetings as it determines from time to time.
- (2) The Chairperson of a Board may call a meeting of the Board at any time.
- (3) The Chairperson of a Board is to preside at all meetings of the Board at which he or she is present.
- (4) If the Chairperson and the Acting Chairperson of a Board are not present at a meeting of the Board, the members present are to appoint one of their number to preside.
- (5) At a meeting of a Board:
 - (a) 4 members constitutes a quorum; and
 - (b) a question is to be decided by a majority of the votes of the members present and voting; and
 - (c) the member presiding at a meeting has a deliberative vote and, if the votes are equal, also has a casting vote.
- (6) Each Board must keep minutes of its meetings.
- (7) A Board may invite a person to attend a meeting for the purpose of advising it or informing it on any matter.

Division 3—Corporate plan and annual operational plans for Boards

115B Corporate plan for a Board

- (1) A Board must, as soon as practicable after its establishment, prepare a corporate plan.
- (2) A Board must, before 1 March in each financial year to which its corporate plan relates (whether or not it prepared a corporate plan in that year under subsection (1)), review and revise the plan.
- (3) A Board:
 - (a) may revise its corporate plan at any time; and
 - (b) must revise its corporate plan if required to do so by the Corporation.
- (4) Before preparing or revising its corporate plan, a Board must consult the Corporation and the Board's eligible industry bodies.
- (5) A corporate plan as prepared under subsection (1) must include a statement of the objectives of the Board, and an assessment of the market and economic outlook for the relevant Board industries for:
 - (a) if the plan is prepared in the first 9 months of a financial year—that financial year and the next 4 financial years; or
 - (b) if the plan is prepared in the last 3 months of a financial year—the next 5 financial years.
- (6) A corporate plan, as revised under subsection (2), must include a statement of the objectives of the Board, and an assessment of the market and economic outlook for the relevant Board industries for the financial year immediately following the financial year in which the corporate plan is revised and for the next 4 financial years.
- (7) A corporate plan must also:
 - (a) outline the strategies and policies that the Board intends to adopt in order to achieve its objectives; and
 - (b) set out the Board's performance indicators identified under section 115E.

Section 115C

- (8) A corporate plan, or a revision of a corporate plan, must be submitted to the Corporation as soon as practicable after it is prepared, and, in the case of a revision under subsection (2), not later than 1 March of the financial year to which it relates.
- (9) A corporate plan, or a revision of a corporate plan, has no effect until approved by the Corporation.

115C Annual operational plans of a Board

- (1) When a Board is preparing its corporate plan under subsection 115B(1), or revising its corporate plan under subsection 115B(2), it must prepare an annual operational plan for the earliest financial year to which the corporate plan or the corporate plan as so revised, as the case may be, will relate.
- (2) An annual operational plan for a financial year must:
 - (a) contain an estimate of the Board's receipts and expenditure for the financial year; and
 - (b) specify:
 - (i) the programs that the Board proposes to carry out; and
 - (ii) the resources that the Board proposes to allocate to each such program;in giving effect to the corporate plan during the financial year.
- (3) A Board:
 - (a) may revise the annual operational plan at any time; and
 - (b) must revise the annual operational plan if the Corporation requires the Board to do so and gives written reasons for the requirement.
- (4) An annual operational plan, and a revision of an annual operational plan:
 - (a) must be submitted to the Corporation as soon as practicable after it is prepared; and
 - (b) has no effect until it is approved, in writing, by the Corporation.
- (5) The Corporation must approve an annual operational plan, or a revision of an annual operational plan, unless of the opinion that

the plan, or the plan as proposed to be revised, as the case may be, is inconsistent with the corporate plan of the relevant Board.

115D Board to comply with corporate plan and annual operational plans

To the extent that it is practicable to do so, a Board must ensure that the performance of its functions, and the exercise of its powers, is consistent with, and designed to give effect to, its corporate plan and the applicable annual operational plan.

Division 4—Accountability

115E Performance indicators

- (1) In developing strategies to achieve its objectives, a Board must identify, where practicable, performance indicators against which the success of the strategies and of their implementation by the Board may be measured.
- (2) Performance indicators may be revised by the relevant Board as appropriate.
- (3) Performance indicators must be identified and revised in consultation with the Board's eligible industry bodies.

115F Extra matters to be included in Product Board annual reports

- (2) The annual report on a Board under section 9 of the *Commonwealth Authorities and Companies Act 1997* must also include:
 - (a) an assessment of the Board's performance during the year as measured against any performance indicators set out in the corporate plan; and
 - (b) an assessment of the extent to which the Board's operations during the year have:
 - (i) achieved the objectives stated in the corporate plan; and
 - (ii) implemented the annual operational plan applicable to the year; and
 - (c) particulars of:
 - (i) significant capital works programs (if any) undertaken by the Board during the year; and
 - (ii) significant acquisitions and dispositions of real property by the Board during the year; and
 - (iii) companies formed by the Board, and companies in whose formation the Board participated, during the year; and
 - (iv) shares and securities subscribed for, purchased and disposed of by the Board during the year; and

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- (v) partnerships entered into by the Board during the year; and
- (vi) joint ventures, and arrangements for the sharing of profits, entered into by the Board during the year; and
- (vii) variations of the corporate plan, and of the applicable annual operational plan, approved by the Corporation during the year.

115FA Chairperson of Board to report to eligible industry body

As soon as practicable after an annual report on a Board has been given to the Corporation, the Chairperson of the Board must:

- (a) provide copies of the report to each of the Board's eligible industry bodies; and
- (b) make arrangements with each of the Board's eligible industry bodies to attend the next annual conference of the body, or a meeting of the executive of the body, for the purpose of enabling:
 - (i) the report to be considered; and
 - (ii) the Chairperson of the Board to deliver an address about:
 - (A) the activities of the Board in the period to which the report relates; and
 - (B) the intended activities of the Board in the financial year following the end of the period; and
 - (iii) the Chairperson of the Board to be questioned about those activities.

Division 5—Finance

115Q Payment of amounts of levy and charge to Board

- (1) Each Board is, immediately after the end of every prescribed period, to be paid an amount equal to the sum of such of the following amounts as were received by the Commonwealth during that prescribed period less the amount of the Corporation's administrative costs relating to the Board for that period:
 - (a) amounts of levy received by the Commonwealth under section 8A of the Levy Act, in relation to the relevant Board products;
 - (b) amounts of export charge received by the Commonwealth under section 8A of the Export Charge Act, in relation to the relevant Board products;
 - (c) amounts received by the Commonwealth by way of penalty under section 8 of the Levy Collection Act in relation to amounts of levy referred to in paragraph (a);
 - (d) amounts received by the Commonwealth by way of penalty under section 8 of the Export Charge Collection Act in relation to amounts of export charge referred to in paragraph (b).
- (2) For the purposes of subsection (1), the amount of the Corporation's administrative costs relating to a Board for a period is an amount prescribed in, or determined in accordance with, the regulations.
- (3) Amounts payable under subsection (1) are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.
- (4) The reference in paragraph (1)(a) to amounts of levy received by the Commonwealth under section 8A of the Levy Act includes a reference to:
 - (a) amounts received by the Commonwealth under paragraph 7(1)(a) of the Levy Collection Act, or under an agreement entered into under section 7B of that Act, in relation to such levy; and
 - (b) amounts received by the Commonwealth under subsection 7A(1) of the Levy Collection Act on account of such levy.

Section 115R

- (5) The reference in paragraph (1)(b) to amounts of charge received by the Commonwealth under section 8A of the Export Charge Act includes a reference to:
 - (a) amounts received by the Commonwealth under paragraph 7(1)(a) of the Export Charge Collection Act, or under an agreement entered into under section 7B of that Act, in relation to such charge; and
 - (b) amounts received by the Commonwealth under subsection 7A(1) of the Export Charge Collection Act on account of such charge.
- (6) The reference in paragraph (1)(c) to amounts received by the Commonwealth by way of penalty under section 8 of the Levy Collection Act includes a reference to:
 - (a) amounts received by the Commonwealth under paragraph 7(1)(b) of that Act; and
 - (b) amounts received by the Commonwealth under subsection 7A(1) of that Act, or under an agreement entered into under section 7B of that Act, in respect of penalty payable under that Act.
- (7) The reference in paragraph (1)(d) to amounts received by the Commonwealth by way of penalty under section 8 of the Export Charge Collection Act includes a reference to:
 - (a) amounts received by the Commonwealth under paragraph 7(1)(b) of that Act; and
 - (b) amounts received by the Commonwealth under subsection 7A(1) of that Act, or under an agreement entered into under section 7B of that Act, in respect of penalty payable under that Act.

115R Expenditure of money of a Board

- (1) The money of a Board may be expended only as follows:
 - (a) in payment or discharge of the expenses and liabilities incurred by the Board;
 - (b) in payment or discharge of any expenses and liabilities incurred by the Corporation on the Board's behalf;
 - (c) in payment of remuneration and allowances payable by the Board under this Act;

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- (d) in making payment to its eligible industry bodies for expenses reasonably incurred in the selection of members for nomination under section 113;
 - (e) in making payments to the Corporation for services provided to the Board by the Corporation;
 - (f) in making any other payments that the Board is authorised or required to make under this Act or another Act.
- (2) Where the Minister gives a Board written guidelines on payments to eligible industry bodies, the Board may make such payments only in accordance with the guidelines.

115S Application of certain provisions to Boards

- (1) Sections 47A, 49, 53, 55 and 58 apply in relation to a Board as if:
- (a) a reference to the Corporation were a reference to the Board; and
 - (b) a reference to the Minister were a reference to the Corporation; and
 - (c) paragraph 55(c) were omitted.
- (2) Section 52 applies in relation to a Board as if a reference to the Corporation were a reference to the Board.

Division 6—General Manager

115U General Manager

- (1) Each Board is to have a General Manager.
- (2) The General Manager is to conduct the affairs of the Board.
- (3) In conducting the affairs of a Board, its General Manager is to act in accordance with any policies determined by, and any directives given by, the Board.
- (4) All acts and things done in the name of, or on behalf of, a Board by its General Manager are to be taken to have been done by the Board.

115W Appointment

- (1) A General Manager of a Board is to be appointed by the Board.
- (2) The Chairperson or a nominated member of a Board must not be appointed as its General Manager.

115Y Application of certain provisions to General Managers of Boards

- (1) Sections 36 to 44 apply in relation to a General Manager of a Board as if:
 - (a) a reference to the Managing Director of the Corporation were a reference to the General Manager of the Board; and
 - (b) a reference to the Corporation were a reference to the Board; and
 - (c) a reference to the Minister were a reference to the Corporation.
- (2) The Corporation may not approve terms and conditions for the General Manager of a Board that are more favourable than those which apply to the Managing Director of the Corporation.

Division 7—Employees and Consultants

115Z Employees

- (1) A Board may engage such employees as it considers necessary for the performance of its functions and the exercise of its powers.
- (2) A Board is to determine the terms and conditions of employment of its employees.
- (3) A Board may not employ a person on terms and conditions more favourable than those applying to its General Manager.

115ZA Consultants

- (1) A Board may engage persons with suitable qualifications and experience as consultants to the Board.
- (2) A Board is to determine the terms and conditions of engagement of its consultants.

Division 8—Miscellaneous

115ZB General committees

- (1) A Board may establish committees under this subsection to assist it in the performance of its functions and the exercise of its powers.
- (2) A committee may be constituted wholly by members of the Board concerned or partly by members of that Board and partly by other persons.
- (3) A Board may fix the number of members of the committee required to constitute a quorum at a meeting of the committee.
- (4) Section 20 applies in relation to a member of a committee who is not a member of the Board as if the member were a nominated member of the Board.
- (5) Section 21 of the *Commonwealth Authorities and Companies Act 1997* applies in relation to a committee as if the committee were a Commonwealth authority (as defined in that Act).

115ZC Delegation by Board

- (1) A Board may, by writing under its common seal, delegate all or any of its powers and functions under this Act (except its powers under section 37 or 40 in their application in relation to the General Manager of the Board) to:
 - (a) the Corporation; or
 - (b) a committee of the Board; or
 - (c) a member of the Board; or
 - (d) an employee of the Board.
- (2) A delegate of a Board must exercise a delegated power or perform a delegated function in accordance with any directions of the Board.

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115ZD Delegation by General Manager

- (1) The General Manager of a Board may, by writing, delegate to an employee of the Board all or any of his or her powers or functions under this Act.
- (2) A delegate of the General Manager of a Board must exercise a delegated power or perform a delegated function in accordance with any directions of the General Manager.

Part V—Export controls

116 Object of Part

The object of this Part is to enable the Corporation and Product Boards to be given the powers necessary to ensure that Australian horticultural industries achieve their full potential in overseas markets.

117 Control of export of horticultural products by Corporation

- (1) The regulations may make provision for or in relation to empowering the Corporation to control the export from Australia of horticultural products (including Board products) and, in particular, may empower the Corporation to prohibit the export from Australia of horticultural products.
- (2) Regulations made for the purposes of subsection (1) may:
 - (a) empower the Corporation to prohibit the export of horticultural products absolutely;
 - (b) empower the Corporation to prohibit the export of horticultural products to a specified place;
 - (c) empower the Corporation to prohibit the export of horticultural products unless specified conditions or restrictions are complied with; or
 - (d) empower the Corporation to prohibit the export of horticultural products to a specified place unless specified conditions or restrictions are complied with.
- (3) Without limiting the generality of subsection (2), regulations made for the purposes of subsection (1):
 - (a) may provide that the export of horticultural products, or the export of horticultural products to a specified place, is prohibited unless a licence, permission, consent or approval to export the products has been granted by the Corporation as prescribed by the regulations; and
 - (b) may make provision for and in relation to:
 - (i) the assignment of licences and permissions;

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- (ii) the granting of a licence or permission to export horticultural products subject to compliance with conditions or restrictions, either before or after the export of the products, by the person to whom the licence or permission is granted or any person to whom the licence or permission is assigned;
 - (iii) the surrender of a licence or permission to export horticultural products and, in particular, without limiting the generality of the foregoing, the surrender of a licence or permission to export horticultural products in exchange for the granting to the holder of the surrendered licence or permission of another licence or permission; and
 - (iv) the revocation or suspension of a licence or permission, being a licence or permission that is granted subject to a condition or restriction to be complied with by a person, for contravention by the person of the condition or restriction, whether or not the person is charged with an offence in respect of the contravention.
- (4) Without limiting the generality of paragraphs (2)(c) and (d) and subparagraph (3)(b)(ii), conditions or restrictions imposed under those provisions:
 - (a) may require the purchaser of horticultural products, or a person to whom horticultural products are consigned as an agent or representative of the purchaser or exporter, to be a person approved by the Corporation;
 - (b) may relate to:
 - (i) the price of horticultural products;
 - (ii) the quality of horticultural products, including their colour, shape, size and other characteristics;
 - (iii) the packaging, labelling or description of, or documentation relating to, horticultural products;
 - (iv) the form of consignments of horticultural products;
 - (v) the commission and fees charged by exporters and others;
 - (vi) the carriage or insurance of horticultural products, including contracts for carriage or insurance; and

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- (c) may be required to be complied with in relation to matters or things not related to the horticultural products to which they apply.
- (5) Without limiting the generality of subsection (1), the regulations may empower the Corporation to charge such fees as it considers necessary to enable it to recover costs that it incurs in controlling the export from Australia of horticultural products.

117A Control of export of Board horticultural products by Board

- (1) The regulations may make provision for or in relation to empowering a Board to control the export from Australia of its Board products and, in particular, may empower the Board to prohibit the export from Australia of its Board products.
- (2) Regulations made for the purposes of subsection (1) may:
 - (a) empower a Board to prohibit the export of its Board products absolutely; or
 - (b) empower a Board to prohibit the export of its Board products to a specified place; or
 - (c) empower a Board to prohibit the export of its Board products unless specified conditions or restrictions are complied with; or
 - (d) empower a Board to prohibit the export of its Board products to a specified place unless specified conditions or restrictions are complied with.
- (3) Without limiting the generality of subsection (2), regulations made for the purposes of subsection (1) in respect of a Board:
 - (a) may provide that the export of Board products of that Board, or the export of such products to a specified place, is prohibited unless a licence, permission, consent or approval to export the products has been granted by the Board as prescribed by the regulations; and
 - (b) may make provision for and in relation to:
 - (i) the assignment of licences and permissions; and
 - (ii) the granting of a licence or permission to export such products subject to compliance with conditions or restrictions, either before or after the export of the products, by the person to whom the licence or

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- permission is granted or any person to whom the licence or permission is assigned; and
- (iii) the surrender of a licence or permission to export such products and, in particular, without limiting the generality of the foregoing, the surrender of a licence or permission to export such products in exchange for the granting to the holder of the surrendered licence or permission of another licence or permission; and
 - (iv) the revocation or suspension of a licence or permission, being a licence or permission that is granted subject to a condition or restriction to be complied with by a person, for contravention by the person of the condition or restriction, whether or not the person is charged with an offence in respect of the contravention.
- (4) Without limiting the generality of paragraphs (2)(c) and (d) and subparagraph (3)(b)(ii), conditions or restrictions imposed under those provisions:
- (a) may require the purchaser of Board products of the relevant Board, or a person to whom such products are consigned as an agent or representative of the purchaser or exporter, to be a person approved by the Board; or
 - (b) may relate to all or any of the following:
 - (i) the price of such products;
 - (ii) the quality of such products, including their colour, shape, size and other characteristics;
 - (iii) the packaging, labelling or description of, or documentation relating to, such products;
 - (iv) the form of consignments of such products;
 - (v) the commission and fees charged by exporters and others;
 - (vi) the carriage or insurance of such products, including contracts for carriage or insurance; or
 - (c) may be required to be complied with in relation to matters or things not related to the products to which they apply.
- (5) Without limiting the generality of subsection (1), the regulations may empower a Board to charge such fees as it considers necessary to enable it to recover costs that it incurs in controlling the export from Australia of its Board products.

118 Export of horticultural products without required licence etc.

- (1) Where:
 - (a) the regulations provide that the export of horticultural products, or the export of horticultural products to a specified place, is prohibited unless a licence, permission, consent or approval to export the products has been granted by the Corporation or a Board as prescribed by the regulations; and
 - (b) a person contravenes that prohibition;the person is guilty of an offence.
- (2) The holder of a licence, permission, consent or approval granted by the Corporation or a Board under the regulations to export horticultural products (whether or not to a specified place) who, without reasonable excuse, contravenes a condition or restriction to which the licence, permission, consent or approval is subject is guilty of an offence.

Penalty: \$10,000.

119 Certificates for exported horticultural products

- (1) Subject to the regulations, where:
 - (a) the Corporation is requested to certify as to any matter in connection with Australian horticultural products that have been, or are proposed to be, exported from Australia; and
 - (b) the Corporation is satisfied as to the matter;the Corporation may issue a certificate accordingly.
- (2) Subject to the regulations, where:
 - (a) a Board is requested to certify any matter in connection with its Board horticultural products that have been, or are proposed to be, exported from Australia; and
 - (b) the board is satisfied as to the matter;the Board may issue a certificate accordingly.

Part VI—Miscellaneous

120 Conduct of directors, servants and agents

- (1) Where it is necessary to establish, for the purposes of this Act, the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:
 - (a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; and
 - (b) that the director, servant or agent had the state of mind.
- (2) Any conduct engaged in on behalf of a body corporate by:
 - (a) a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; or
 - (b) any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the body corporate, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent;shall be deemed, for the purposes of this Act, to have been engaged in also by the body corporate.
- (3) Where it is necessary to establish, for the purposes of this Act, the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show:
 - (a) that the conduct was engaged in by a servant or agent of the person within the scope of his or her actual or apparent authority; and
 - (b) that the servant or agent had the state of mind.
- (4) Any conduct engaged in on behalf of a person other than a body corporate by:
 - (a) a servant or agent of the person within the scope of his or her actual or apparent authority; or
 - (b) any other person at the direction or with the consent or agreement (whether express or implied) of a servant or agent of the first-mentioned person, where the giving of the

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direction, consent or agreement is within the scope of the actual or apparent authority of the servant or agent; shall be deemed, for the purposes of this Act, to have been engaged in also by the first-mentioned person.

- (5) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:
- (a) the knowledge, intention, opinion, belief or purpose of the person; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.

121 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular:

- (c) requiring exporters of horticultural products, and such other persons as are prescribed, to make and keep accounts, accounting records and other records in relation to horticultural products;
- (d) requiring exporters of horticultural products, and such other persons as are prescribed, to give returns or information for the purposes of this Act;
- (e) providing for the registration of premises and other places for the purposes of this Act, and imposing fees in relation to the registration of premises and other places; and
- (f) prescribing penalties not exceeding, in the case of a natural person, a fine of \$1,000 and, in the case of a body corporate, a fine of \$5,000 for offences against the regulations.

122 Orders

- (1) Subject to subsection (2), the regulations may make provision for or in relation to empowering the Minister to make orders, not inconsistent with this Act, with respect to any matter for or in relation to which provision may be made by the regulations.

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- (2) An order shall not be made prescribing any penalty.
- (3) Sections 48, 48A, 48B, 49, 49A and 50 of the *Acts Interpretation Act 1901* apply in relation to orders as if references to regulations were references to orders and references to an Act were references to regulations.
- (4) An order shall not be taken to be a statutory rule within the meaning of the *Statutory Rules Publication Act 1903*, but subsections 5(3) to (3C) (inclusive) of that Act apply in relation to an order in like manner as they apply in relation to a statutory rule.
- (5) For the purposes of the application of subsection 5(3B) of the *Statutory Rules Publication Act 1903* in accordance with subsection (4), the reference in the first-mentioned subsection to the Minister specified in that subsection shall be read as a reference to a Minister administering this Act.
- (6) An order shall be deemed to be an enactment for the purposes of the *Administrative Appeals Tribunal Act 1975*.

Part VII—Abolition of the Australian Apple and Pear Corporation

123 Repeals

The following Acts are repealed:

Australian Apple and Pear Corporation Act 1973

Australian Apple and Pear Corporation Amendment Act 1976

Australian Apple and Pear Corporation Amendment Act 1978

Australian Apple and Pear Corporation Amendment Act 1981

Australian Apple and Pear Corporation Amendment Act (No. 2) 1981

Australian Apple and Pear Corporation Amendment Act 1986.

Note Table of Acts

Note

1. The *Australian Horticultural Corporation Act 1987* as shown in this reprint comprises Act No. 164, 1987 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian Horticultural Corporation Act 1987</i>	164, 1987	26 Dec 1987	Part II (ss. 6–75), Parts IV and V (ss. 100–119) and Part VII (s. 123): 1 Aug 1988 (<i>see Gazette</i> 1988, No. S216) Remainder: Royal Assent	
<i>Primary Industries (Recovery of Levy Collection Expenses) Act 1988</i>	51, 1988	15 June 1988	S. 3: (a)	—
<i>Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988</i>	99, 1988	2 Dec 1988	2 Dec 1988	—
<i>Horticultural Legislation Amendment Act 1989</i>	46, 1989	8 June 1989	Ss. 3, 5 and 6: Royal Assent (b) S. 4: 1 Aug 1989 (<i>see Gazette</i> 1989, No. S313) (b)	—
<i>Primary Industries Levies and Charges Collection (Consequential Provisions) Act 1991</i>	26, 1991	1 Mar 1991	1 July 1991 (<i>see</i> s. 2)	S. 5
<i>Australian Horticultural Corporation Amendment Act 1991</i>	42, 1991	27 Mar 1991	Parts 3 and 4 (ss. 23–29): 1 July 1991 Remainder: Royal Assent	Ss. 24–27 S. 23 (am. by 94, 1993, s. 74) S. 25A (ad. by 125, 1991, s. 4)
as amended by				
<i>Primary Industries Legislation Amendment Act (No. 2) 1991</i>	125, 1991	27 Aug 1991	S. 6: (c) Remainder: Royal Assent	—
<i>Primary Industries and Energy Legislation Amendment Act 1993</i>	94, 1993	16 Dec 1993	(<i>see</i> 94, 1993 below)	—

Note

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Honey Legislation (Repeal and Amendment) Act 1992</i>	122, 1992	17 Oct 1992	1 Jan 1993	Ss. 3–11
<i>Primary Industries and Energy Legislation Amendment Act 1993</i>	94, 1993	16 Dec 1993	Part 11 (ss. 47–57) and Part 12 (ss. 58–65): 1 Jan 1994 S. 69(1)(b): 1 July 1989 Remainder: Royal Assent	—
<i>Primary Industries and Energy Legislation Amendment Act (No. 1) 1995</i>	36, 1995	12 Apr 1995	Schedule (items 12–14, 17, 19): Royal Assent (d) Schedule (items 15, 16, 18): 1 July 1994 (d)	S. 3 (items 14 and 19)
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 4 (items 24–26): Royal Assent (e)	—
<i>Primary Industries and Energy Legislation Amendment Act (No. 2) 1997</i>	94, 1997	30 June 1997	Schedule 1: 1 Aug 1997 (f)	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 258–289): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (g)	—
<i>Primary Industries and Energy Legislation Amendment Act (No. 1) 1998</i>	102, 1998	30 July 1998	30 July 1998	—

- (a) The *Australian Horticultural Corporation Act 1987* was amended by section 3 only of the *Primary Industries (Recovery of Levy Collection Expenses) Act 1988*, subsection 2(2) of which provides as follows:
- “(2) The amendment of the *Australian Horticultural Corporation Act 1987* made by this Act commences immediately after section 48 of that Act commences.”.
- Section 48 commenced on 1 August 1988 (see *Gazette* 1988, No. S216).
- (b) The *Australian Horticultural Corporation Act 1987* was amended by sections 3-6 only of the *Horticultural Legislation Amendment Act 1989*, subsections 2(1) and (4) of which provide as follows:
- “(1) Sections 1, 2, 3, 5, 6, 7 and 8, paragraphs 10(a) and (b), sections 19 and 20, paragraphs 22(a) and (b) and sections 31, 33 and 34 commence on the day on which this Act receives the Royal Assent.
- “(4) Subject to subsection (5), the remaining provisions of this Act also commence on a day or days to be fixed by Proclamation.”.
- (c) Subsection 2(2) of the *Primary Industries Legislation Amendment Act (No. 2) 1991* provides as follows:
- “(2) Section 6 is taken to have commenced immediately after the commencement of the *Australian Wool Corporation Act 1991*.”.
- The *Australian Wool Corporation Act 1991* came into operation on 1 July 1991.
- (d) The *Australian Horticultural Corporation Act 1987* was amended by the Schedule (items 12–19) only of the *Primary Industries and Energy Legislation Amendment Act (No. 1) 1995*, subsections 2(1) and (3) of which provide as follows:
- “(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- “(2) Items 15, 16 and 18 of the Schedule are taken to have commenced on 1 July 1994.”.
- (e) The *Australian Horticultural Corporation Act 1987* was amended by Schedule 4 (items 24–26) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
- “(1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.”.
- (f) The *Australian Horticultural Corporation Act 1987* was amended by Schedule 1 only of the *Primary Industries and Energy Legislation Amendment Act (No. 2) 1997*, subsection 2(2) of which provides as follows:
- “(2) Schedule 1 commences on 1 August 1997.”.
- (g) The *Australian Horticultural Corporation Act 1987* was amended by Schedule 2 (items 258–289) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- “(2) Schedules 1, 2 and 3 commence on the same day as the *Financial Management and Accountability Act 1997*.”.

Note Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Title	am. No. 42, 1991
S. 3	am. No. 46, 1989; Nos. 26 and 42, 1991; No. 122, 1992; No. 36, 1995; No. 152, 1997
S. 8	am. No. 42, 1991
S. 10	rep. No. 102, 1998
S. 11	am. No. 42, 1991
Note to s. 12 (1).....	ad. No. 152, 1997
S. 13	am. No. 94, 1997
Note to s. 13.....	ad. No. 152, 1997
S. 14	rep. No. 152, 1997
S. 15	am. No. 152, 1997
Note to s. 15.....	ad. No. 152, 1997
S. 16	am. No. 94, 1993
S. 18	am. No. 94, 1993
S. 23	rep. No. 152, 1997
S. 24	am. No. 152, 1997
S. 26	am. No. 94, 1997
S. 27	am. No. 42, 1991
Heading to s. 30	rs. No. 152, 1997
S. 30	am. No. 42, 1991; No. 152, 1997
S. 30A	ad. No. 152, 1997
S. 31	am. No. 42, 1991; No. 36, 1995
Ss. 35, 36.....	am. No. 94, 1993
S. 37	am. No. 102, 1998
S. 38	am. No. 43, 1996
S. 40	am. No. 102, 1998
S. 43	am. No. 102, 1998
S. 47	am. No. 46, 1989; No. 26, 1991; No. 122, 1992
S. 47AA.....	ad. No. 42, 1991
S. 47A	ad. No. 46, 1989 am. No. 26, 1991
S. 48	am. No. 51, 1988; Nos. 26 and 42, 1991
Heading to s. 49	rs. No. 152, 1997
S. 49	am. No. 152, 1997
Ss. 50, 51.....	rep. No. 152, 1997
S. 56	am. No. 42, 1991 rep. No. 152, 1997
S. 57	rep. No. 152, 1997
Div. 8 of Part II	rep. No. 42, 1991
(ss. 59–72)	
Ss. 59–72.....	rep. No. 42, 1991

Note

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted	
S. 73	am. No. 42, 1991; No. 152, 1997
S. 74	am. No. 42, 1991; No. 102, 1998
S. 84	am. No. 102, 1998
Note to s. 84.....	ad. No. 152, 1997
S. 85	rep. No. 152, 1997
S. 86	am. No. 152, 1997
Note to s. 86.....	ad. No. 152, 1997
Ss. 87, 88.....	am. No. 94, 1993
S. 90	am. No. 43, 1996
S. 96	am. No. 102, 1998
Part IV	rep. No. 42, 1991
(ss. 100–115)	
Part IV	ad. No. 42, 1991
(ss. 100–115, 115A–115Z, 115ZA–115ZD)	
S. 100.....	rs. No. 42, 1991
S. 101.....	rs. No. 42, 1991
Note to s. 101.....	ad. No. 152, 1997
S. 101A	ad. No. 152, 1997
Ss. 102–115.....	rs. No. 42, 1991
Ss. 115A–115E	ad. No. 42, 1991
Heading to s. 115F.....	rs. No. 152, 1997
S. 115F	ad. No. 42, 1991
	am. No. 152, 1997
S. 115FA.....	ad. No. 36, 1995
	am. No. 152, 1997
Ss. 115G	ad. No. 42, 1991
	rep. No. 36, 1995
S. 115H.....	ad. No. 42, 1991
	am. No. 94, 1993
	rep. No. 36, 1995
Ss. 115J–115P.....	ad. No. 42, 1991
	rep. No. 36, 1995
Ss. 115Q, 115R.....	ad. No. 42, 1991
S. 115S	ad. No. 42, 1991
	am. No. 152, 1997
S. 115T	ad. No. 42, 1991
	rep. No. 152, 1997
Ss. 115U–115X.....	ad. No. 42, 1991
S. 115Y	ad. No. 42, 1991
	am. No. 102, 1998
S. 115Z	ad. No. 42, 1991
S. 115ZA.....	ad. No. 42, 1991
S. 115ZB.....	ad. No. 42, 1991
	am. No. 152, 1997

Note Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted	
S. 115ZC.....	ad. No. 42, 1991 am. No. 102, 1998
S. 115ZD.....	ad. No. 42, 1991
Ss. 116, 117.....	am. No. 42, 1991
S. 117A.....	ad. No. 42, 1991
Ss. 118, 119.....	am. No. 42, 1991
S. 122.....	am. No. 99, 1988

