



# **Wool International Privatisation Act 1999**

**No. 40, 1999 as amended**

**Compilation start date:** 29 June 2013

**Includes amendments up to:** Act No. 103, 2013

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### **This compilation**

This is a compilation of the *Wool International Privatisation Act 1999* as in force on 29 June 2013. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 20 September 2013.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

### **Uncommenced amendments**

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Modifications**

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

### **Provisions ceasing to have effect**

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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# **An Act to privatise Wool International, and for related purposes**

## **Part 1—Preliminary**

### **1 Short title**

This Act may be cited as the *Wool International Privatisation Act 1999*.

### **2 Commencement**

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Schedule 2 commences on a day to be fixed by Proclamation. However, if Schedule 2 does not commence by Proclamation within the period of 6 months beginning on the day on which this Act receives the Royal Assent, then Schedule 2 commences on the first day after the end of that period.

### **4 Crown to be bound**

This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.

### **5 External Territories**

This Act extends to all the external Territories.

### **6 Extraterritorial operation**

This Act extends to acts, omissions, matters and things outside Australia, whether or not in a foreign country.

## Part 2—Privatisation of Wool International

### Division 1—Interpretation

#### 7 Definitions

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

*1936 Tax Act* means the *Income Tax Assessment Act 1936*.

*1997 Tax Act* means the *Income Tax Assessment Act 1997*.

*ASIC* means the Australian Securities and Investments Commission.

*authorised trustee corporation* means each of the bodies corporate listed in Schedule 9 to the *Corporations Regulations* in force from time to time.

*commencing time* means the beginning of the day on which this Act receives the Royal Assent.

*conversion time* means the beginning of 1 July 1999.

*dividend* includes any distribution made in respect of shares.

*finalisation time* means the end of one month after the final distribution under Part 4B of the Wool International Act.

*income year* has the same meaning as in the 1997 Tax Act.

*instrument* means:

- (a) an Act or any instrument under an Act; or
- (b) any other document.

*person* includes a partnership.

*register* means the register of equity holders referred to in section 22B of the Wool International Act.

*tax loss* has the same meaning as in the 1997 Tax Act.

*TrusteeCo* means the company nominated by the Minister under section 9.

**unit** means a unit of equity in Wool International, allocated under the Wool International Act.

**Wool International Act** means the *Wool International Act 1993*.

**WoolStock Australia Limited** means Wool International, after it is registered under the Corporations Law as mentioned in section 14.

- (2) If an expression used in this Part is defined in the Wool International Act, then the expression has the meaning given by that Act.

## Division 2—Preliminary matters

### 8 Application for registration under Part 5B.1 of the Corporations Law

- (1) As soon as possible after the commencing time, Wool International must apply to ASIC under Part 5B.1 of the Corporations Law to register Wool International as a public company limited by shares.
- (2) Wool International is hereby authorised to make the application.
- (3) The application must be lodged with an office of ASIC in the Australian Capital Territory.
- (4) The application must be accompanied by a copy of Wool International's proposed constitution. The proposed constitution must first be approved in writing by the Minister.
- (5) The following provisions of the Corporations Law do not apply in relation to the application:
  - (a) paragraphs 601BC(2)(e) and (l);
  - (b) subsection 601BC(4);
  - (c) paragraphs 601BC(6)(a), (d) and (e);
  - (d) paragraphs 601BC(8)(a) and (f).

### 9 Nomination of TrusteeCo to hold shares, units etc. on behalf of other persons

- (1) Before the conversion time, the Minister must nominate a company (**TrusteeCo**) for the purposes of this section. The nomination must be in writing.
  - (2) TrusteeCo must be a company whose shares are all held by Wool International.
  - (3) After the conversion time, a reference in any instrument to the Chief Executive is to be treated as a reference to TrusteeCo, except where:
    - (a) the reference relates to matters occurring before the conversion time; or
    - (b) the context requires that the reference should continue to be treated as a reference to the Chief Executive.
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- (4) TrusteeCo must ensure that there is in force at all times between the conversion time and the finalisation time a deed under which:
  - (a) TrusteeCo authorises an authorised trustee corporation to exercise all rights, privileges and benefits vested in TrusteeCo by or under this Act or the Wool International Act; and
  - (b) TrusteeCo undertakes not to exercise those rights, privileges and benefits; and
  - (c) the authorised trustee corporation undertakes to perform all duties, liabilities and obligations (other than the obligation imposed by this subsection) vested in TrusteeCo by or under this Act or the Wool International Act.
- (5) A deed under subsection (4) may relieve the authorised trustee corporation from liability except in the case of fraud, wilful default or neglect.
- (6) All acts done by the authorised trustee corporation under the deed are taken to have been exercised or performed by TrusteeCo for the purposes of this Act (other than this section) and the Wool International Act.

## **10 Transfer of units etc. to TrusteeCo**

- (1) All units that are registered in the name of the Chief Executive immediately before the conversion time are taken to be registered, immediately before the conversion time, in the name of TrusteeCo. Wool International must accordingly change the entries in the register.
- (2) Any property (including money) that is held by the Chief Executive under the Wool International Act immediately before the conversion time is transferred to TrusteeCo at the conversion time by force of this subsection.
- (3) If, immediately before the conversion time, any units are shown in the register as being “unclaimed entitlements”, then those units are taken to be registered, immediately before the conversion time, in the name of TrusteeCo. Wool International must accordingly change the entries in the register.

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**11 Validation of number of units**

The number of units shown in the register immediately before the commencing time is to be taken to be correct.

**12 Certificates in respect of units continue to have effect**

- (1) Certificates that have been issued before the conversion time under section 22M of the Wool International Act continue to have effect after the conversion time.
- (2) This section is enacted for the avoidance of doubt.

**13 Share capital**

From immediately before the conversion time, Wool International is to have a share capital of \$349,403.18, divided into 349,403,180 shares.

### **Division 3—Conversion of Wool International into a company**

#### **14 Registration under Part 5B.1 of the Corporations Law**

- (1) At the conversion time, ASIC is taken to have registered Wool International under section 601BD of the Corporations Law:
  - (a) as a public company limited by shares; and
  - (b) with the name “WoolStock Australia Limited”.
- (2) ASIC must issue a certificate and ACN under section 601BD of the Corporations Law in respect of the registration. The date of registration is to be the day on which the conversion time occurred.

#### **15 Operation of the Corporations Act after conversion time**

Nothing in this Part prevents any of the following, after the conversion time:

- (a) a variation of the share capital of WoolStock Australia Limited;
- (b) a change in the name of WoolStock Australia Limited;
- (c) a change in the structure, constitution or membership of WoolStock Australia Limited.

## Division 4—Shares in Wool International

### 16 Issue of shares to registered equity holders

- (1) At the conversion time, one share in WoolStock Australia Limited is taken to be issued, as fully paid, in respect of each unit, as follows:
    - (a) if the unit is registered at the conversion time in the name of the person (other than TrusteeCo) who is entitled to be registered as the holder of the unit, then the share is taken to be issued to that person;
    - (b) if the unit is registered at the conversion time in the name of a partnership that is entitled to be registered as the holder of the unit, then the share is taken to be issued to the partners jointly;
    - (c) if the unit is registered at the conversion time in the name of TrusteeCo in respect of a putative equity holder, then the share is taken to be issued to TrusteeCo;
    - (d) if the unit is registered in the name of TrusteeCo by the operation of subsection 10(3), then the share is taken to be issued to TrusteeCo;
    - (e) in all other cases, the share is taken to be issued to TrusteeCo.
  - (2) A person to whom shares are taken to be issued under subsection (1):
    - (a) becomes a member of WoolStock Australia Limited, by force of this section, and is taken to have consented to become a member; and
    - (b) is entitled to the same rights, privileges and benefits in respect of that membership as if the person had become a member under the constitution of WoolStock Australia Limited; and
    - (c) is subject to the same duties, liabilities and obligations in respect of that membership as if the person had become a member under the constitution of WoolStock Australia Limited.
  - (3) The issue of shares to TrusteeCo under this section is not affected by section 259C of the Corporations Law.
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- (4) Subsection 259D(3) of the *Corporations Act 2001* does not prevent the exercise of voting rights by TrusteeCo in respect of shares issued to it under this section.

### **17 Charges on shares**

- (1) A share that is taken to be issued under section 16 in respect of a unit is subject to the same charges (if any) as the unit was subject to immediately before the conversion time.
- (2) The charge created by subsection (1):
- (a) is taken to be created at the conversion time; and
  - (b) extends to dividends in respect of the share, if the charge on the unit extends to distributions on the unit; and
  - (c) secures the same obligations as are secured by the charge on the unit.
- (3) If the unit was subject to more than one charge, then the charges on the share have the same priorities among themselves as the charges on the unit.
- (4) WoolStock Australia Limited must issue separate share certificates for:
- (a) shares that are subject to a charge because of this section; and
  - (b) shares that are not subject to such a charge.
- (5) If:
- (a) an amount (the *dividend amount*) becomes payable by WoolStock Australia Limited in respect of the shares in WoolStock Australia Limited that are held by a person who is a registered equity holder; and
  - (b) those shares are subject to one or more charges because of this section; and
  - (c) the registered equity holder has authorised WoolStock Australia Limited to make payments under subsection 22R(4) of the Wool International Act;
- then the following provisions apply:
- (d) if the shares are subject to only one charge—WoolStock Australia Limited must pay to the beneficiary under the charge so much of the dividend amount as does not exceed the amount of the debt secured by the charge;

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- (e) if the shares are subject to more than one charge—  
WoolStock Australia Limited must pay to the beneficiary under each charge so much of the dividend amount to meet the debt secured by that charge (having regard to the order of priority of the charges) as does not exceed the amount of the debt;
- (f) in either case—WoolStock Australia Limited must pay the balance of the dividend amount to the registered equity holder.

**18 Dealings by TrusteeCo with shares held for putative equity holders**

- (1) This section applies to shares that are held by TrusteeCo and were taken to be issued to TrusteeCo under paragraph 16(1)(c).
- (2) After the conversion time:
  - (a) Part 4C of the Wool International Act applies in relation to those shares in the same way as that Part applies in relation to units held by TrusteeCo; and
  - (b) subsection 22H(2) of the Wool International Act applies in relation to those shares in the same way as that subsection applies in relation to units.
- (3) After the conversion time, Part 4D of the Wool International Act applies in relation to money received by TrusteeCo in respect of those shares in the same way as that Part applies in relation to distributions received by TrusteeCo in respect of units held by TrusteeCo.

**19 Dealings by TrusteeCo with shares held in respect of unclaimed units or wrong-name units**

- (1) This section applies to shares that are held by TrusteeCo and were taken to be issued to TrusteeCo:
  - (a) under paragraph 16(1)(d) in respect of units (*unclaimed units*) shown in the register as “unclaimed entitlements”; or
  - (b) under paragraph 16(1)(e) in respect of other units (*wrong-name units*).
- (2) TrusteeCo holds the shares on trust until they are transferred in accordance with subsection (6).

- (3) TrusteeCo holds on trust any dividends that it receives in respect of the shares.
- (4) Section 22Y of the Wool International Act applies in relation to the dividends in the same way as it applies in relation to distributions received by TrusteeCo in respect of units.

Note: Section 22Y of the Wool International Act allows TrusteeCo to invest, and requires income from investment to be paid to WoolStock Australia Limited.

- (5) If, at the finalisation time, TrusteeCo holds any shares that are not required to be transferred in accordance with subsection (6), then:
  - (a) TrusteeCo must pay to WoolStock Australia Limited the amount of any dividends that TrusteeCo has received in respect of those shares; and
  - (b) those shares are cancelled at the finalisation time, by force of this subsection.
- (6) If the register is amended before the finalisation time so that:
  - (a) in the case of unclaimed units—the register shows the correct name of the person who is entitled to be registered in respect of the units and no longer shows the units as “unclaimed entitlements”; or
  - (b) in the case of wrong-name units—the register shows the correct name of the person who is entitled to be registered in respect of the units;then TrusteeCo must:
  - (c) transfer the shares to that person; and
  - (d) pay to that person the amount of any dividends received by TrusteeCo in respect of the shares.

## Division 5—Taxation

### 20 Operation of CGT rules

- (1) None of the following is to be treated as being a CGT event, or as giving rise to a CGT event, for the purposes of the 1997 Tax Act:
  - (a) any amendment of the Wool International Act made by this Act;
  - (b) the issue of a share under section 16;
  - (c) the creation of a charge over a share under section 17;
  - (d) the registration of a unit in the name of TrusteeCo under section 10;
  - (e) the transfer of any money or property to TrusteeCo under section 10.
- (2) Any units that were issued under section 22D of the Wool International Act in respect of wool tax paid by a person in the course of carrying on a business are to be treated as being:
  - (a) an asset of that business; and
  - (b) inherently connected with that business;for the purpose of applying Divisions 17A and 17B of Part IIIA of the 1936 Tax Act in relation to a time after the conversion time.

### 21 Distributions in respect of units

If units have been issued under section 22D of the Wool International Act in respect of wool tax paid by a person in the course of carrying on a business, then any distribution to that person after the conversion time under Part 4B of the Wool International Act:

- (a) is to be treated, for the purposes of the 1936 Tax Act, as being income derived from the carrying on by the person of a business of primary production in Australia; and
- (b) is to be treated, for the purposes of the 1936 Tax Act and the 1997 Tax Act, as income derived from, or resulting from, the carrying on by the person of a primary production business.

## **22 Tax treatment of stockpile activities**

- (1) Amounts derived by WoolStock Australia Limited from stockpile activities are exempt income for the purposes of the 1936 Tax Act and the 1997 Tax Act.
- (2) No deduction is allowable to WoolStock Australia Limited under the 1936 Tax Act or the 1997 Tax Act in respect of stockpile activities.
- (3) Subdivision 57-L of Schedule 2D to the 1936 Tax Act does not apply in relation to WoolStock Australia Limited.
- (4) In this section:

*eligible wool* means:

- (a) wool owned by WoolStock Australia Limited at or before the conversion time; and
- (b) wool acquired by WoolStock Australia Limited after the conversion time for the purpose of facilitating the disposal of wool owned by WoolStock Australia Limited at the conversion time.

*stockpile activities* means any of the following activities:

- (a) holding, managing or disposing of eligible wool;
- (b) distributing the proceeds of sale of eligible wool to registered equity holders or shareholders;
- (c) activities connected with, or incidental to, activities covered by paragraph (a) or (b), including the temporary investment of the proceeds of sale of eligible wool, pending the distribution of those proceeds to registered equity holders or shareholders.

## **23 Share capital**

For the purposes of section 160ARDM of the 1936 Tax Act, the creation of share capital by section 13 of this Act is not taken to be, or to result from, the transfer of an amount by WoolStock Australia Limited to its share capital account from another account.

## Division 6—Miscellaneous

### 24 WoolStock Australia Limited not to be an agency of the Commonwealth etc.

- (1) After the conversion time, WoolStock Australia Limited is not taken, for the purposes of a law, to be:
  - (a) a Commonwealth authority; or
  - (b) established for a public purpose or for a purpose of the Commonwealth; or
  - (c) a public authority or an agency or instrumentality of the Crown;(within the ordinary meaning of the expression concerned) unless a law expressly provides otherwise.
- (2) After the conversion time, WoolStock Australia Limited is not taken to be a prescribed Commonwealth authority for the purposes of section 128A of the *Safety, Rehabilitation and Compensation Act 1988*.
- (3) In this section:

*law* means:

  - (a) an Act of the Commonwealth or of a State or Territory; or
  - (b) regulations or any other instrument made under such an Act.

### 25 Compensation for acquisition of property

- (1) If:
  - (a) apart from this section, the operation of this Act would result in the acquisition of property from a person otherwise than on just terms; and
  - (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;the Commonwealth is liable to pay the person a reasonable amount of compensation in respect of the acquisition.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the

Commonwealth of such reasonable amount of compensation as the court determines.

(3) In this section:

*acquisition of property* has the same meaning as in paragraph 51(xxxi) of the Constitution.

*just terms* has the same meaning as in paragraph 51(xxxi) of the Constitution.

## **26 Limited continuation of Commonwealth guarantee**

After the conversion time, the due payment by WoolStock Australia Limited of an amount is, by force of this section, guaranteed by the Commonwealth if:

- (a) the amount is payable by WoolStock Australia Limited under an obligation incurred before the conversion time; and
- (b) that obligation has not been varied, after the conversion time, without the written consent of the Minister who administers the *Financial Management and Accountability Act 1997*; and
- (c) the repayment of the amount would have been guaranteed under subsection 53(7) of the Wool International Act if that subsection had not been repealed by this Act.

## **27 Limited continuation of the repealed section 22ZG**

Despite the repeal of section 22ZG of the Wool International Act at the conversion time, that section:

- (a) continues to have effect after the conversion time in respect of directions given by a relevant Minister before the conversion time; and
- (b) continues to have effect in respect of such directions as if references to Wool International were references to WoolStock Australia Limited.

## **28 Accounting records**

For the purposes of the *Corporations Act 2001*:

- (a) the accounting records kept by WoolStock Australia Limited before the conversion time under section 20 of the *Commonwealth Authorities and Companies Act 1997*, or

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under subsection 50(1) of the Wool International Act, are to be treated as financial records of WoolStock Australia Limited; and

- (b) an annual report and financial statements prepared in relation to a financial year by WoolStock Australia Limited under section 9 of the *Commonwealth Authorities and Companies Act 1997*, or under section 67 of the Wool International Act, are to be treated as a financial report of WoolStock Australia Limited for that financial year.

**29 Regulations**

- (1) The Governor-General may make regulations 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.
- (2) In particular, regulations may be made for matters of a transitional or saving nature arising from the amendments made by this Act.

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history
- Endnote 5—Uncommenced amendments
- Endnote 6—Modifications
- Endnote 7—Misdescribed amendments
- Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

### Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

### Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

## Endnotes

Endnote 1—About the endnotes

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### **Modifications—Endnote 6**

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

### **Misdescribed amendments—Endnote 7**

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

### **Miscellaneous—Endnote 8**

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

**Endnote 2—Abbreviation key**

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

## Endnotes

### Endnote 3—Legislation history

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#### Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Wool International Privatisation Act 1999	40, 1999	3 June 1999	Schedule 2: 1 July 1999 (see <i>Gazette</i> 1999, No. S250) Remainder: Royal Assent	
Corporations (Repeals, Consequential and Transitional) Act 2001	55, 2001	28 June 2001	s 4-14 and Schedule 3 (items 567, 568): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) (a)	s 4-14
Statute Law Revision Act 2013	103, 2013	29 June 2013	Schedule 4 (items 32-34): Royal Assent	—

- (a) The *Wool International Privatisation Act 1999* was amended by Schedule 3 (items 567 and 568) only of the *Corporations (Repeals, Consequential and Transitional) Act 2001*, subsection 2(3) of which provides as follows:
- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.

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**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
<b>Pt 1</b>	
s 3 .....	rep No 103, 2013
<b>Pt 2</b>	
<b>Div 1</b>	
s 7 .....	am No 103, 2013
<b>Div 3</b>	
hdg to s 15 .....	am No 55, 2001
<b>Div 4</b>	
s 16 .....	am No 55, 2001
<b>Div 6</b>	
s 28 .....	am No 55, 2001
Sch 1 .....	rep No 103, 2013
Sch 2 .....	rep No 103, 2013

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## Endnotes

Endnote 5—Uncommenced amendments [none]

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**Endnote 5—Uncommenced amendments [none]**

**Endnote 6—Modifications [none]**

**Endnote 7—Misdescribed amendments [none]**

**Endnote 8—Miscellaneous [none]**