

# AUSTRALIAN WOOL INDUSTRY COUNCIL ACT 1991

No. 97 of 1991

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## LONG TITLE

An Act to provide for the establishment of an industry council for the wool industry, and for related purposes

## PART 1 - PRELIMINARY

### Short title

(Assented to 27 June 1991)

1. This Act may be cited as the Australian Wool Industry Council Act 1991. (Minister's second reading speech made in-Senate on 17 June 1991 House of Representatives on 21 June 1991)

### Commencement

2. This Act commences on 1 July 1991.

### Object of Act

3. The object of this Act is to provide for the establishment of an industry council for the wool industry in order to facilitate the development by the Commonwealth Government of sound, consistent and comprehensive policies concerning the wool industry, through the active and co-ordinated involvement of that industry in the process of policy formulation.

### Interpretation

4. In this Act, unless the contrary intention appears:

"appointed member" means a member appointed by the Minister under subsection 15(1);

"Chairperson" means the chairperson of the Council;

"Council" means the Australian Wool Industry Council established by section 5;

"Deputy Chairperson" means the deputy chairperson of the Council;

"member" means a member of the Council and includes the Chairperson and Deputy Chairperson;

"Parliament" means:

(a) in relation to the Australian Capital Territory - the Legislative Assembly for 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;

"regulations" includes orders;

"report" means a report of the Council and includes a part of a report;

"State" includes the Australian Capital Territory and the Northern Territory.

## PART 2 - ESTABLISHMENT, FUNCTIONS AND POWERS OF COUNCIL

### Establishment of Council

5. A council is established to be called the Australian Wool Industry Council.

### Functions

6. The functions of the Council are as follows:

- (a) to keep under review, and report to the Minister on, the strategic direction of the wool industry;
- (b) to inquire into, and report to the Minister on, matters affecting the wool industry which the Council thinks require investigation or action;
- (c) to inquire into, and report to the Minister on, matters affecting the wool industry referred to the Council by the Minister;
- (d) to convene industry review conferences;
- (e) to consult and co-operate with such persons, organisations and bodies as the Council thinks fit in relation to matters affecting the wool industry;
- (f) such other functions as are conferred on the Council by this Act or the regulations or by another Act.

### Powers

7. The Council has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

### Performance of functions etc. not affected by vacancy in membership of Council

8. The performance of the functions, and the exercise of the powers, of the Council are not affected merely because there is a vacancy in the membership of the Council.

### Reports on strategic direction

9. (1) The Council may give the Minister a written report on the strategic direction of the wool industry whenever it thinks it necessary or desirable to do so.

(2) The Council must give such a report to the Minister when requested to do so by the Minister in writing.

#### Industry review conferences

10. (1) The Council may convene industry review conferences.
- (2) If the regulations so require, the Council must convene such conferences.
- (3) Where the regulations require the Council to convene industry review conferences, such conferences are to be convened at least as often as required by the regulations.
- (4) An industry review conference is a conference of:
- (a) such participants in the wool industry as the Council thinks fit; and
  - (b) such representatives (if any) as the Council thinks fit of participants in related industries.
- (5) The purpose of an industry review conference is to consider the strategic direction of the wool industry or other matters relating to that industry or related industries.
- (6) At an industry review conference the Chairperson has the same standing as if he or she were a participant in the wool industry.
- (7) The Council may give directions regarding the manner in which an industry review conference is to be conducted, including directions in relation to:
- (a) the person who is to preside at the conference; and
  - (b) the agenda of the conference.

#### Conferences of chairpersons of wool industry statutory bodies

11. (1) The Chairperson may convene conferences of the chairpersons of bodies established by other Acts and having functions in relation to the wool industry.
- (2) If the regulations so require, the Chairperson must convene such conferences.
- (3) Where the regulations require the Chairperson to convene conferences under this section, the conferences are to be convened at least as often as required by the regulations.
- (4) At a conference under this section:
- (a) the Chairperson has the same standing as if he or she were a chairperson of a body referred to in subsection (1); and
  - (b) the Chairperson is to preside.
- (5) The Chairperson may give directions regarding the manner in which a conference under this section is to be conducted, including directions in relation to the agenda of the conference.

Publication of reports etc.

12. (1) The Minister may cause a report of the Council to be made public in any way the Minister thinks fit.

(2) The Council, a member or a deputy of a member must not make public a report that has not been made public by the Minister.

Disagreement as to contents of a report

13. Where a member disagrees with a finding or recommendation to be included in a report of the Council, the report must:

- (a) identify the member; and
- (b) include a summary of the member's views in relation to the finding or recommendation.

### PART 3 - CONSTITUTION AND MEETINGS OF COUNCIL

Constitution of Council

14. The Council consists of the following members:

- (a) a chairperson;
- (b) the Chairperson of the Australian Wool Corporation;
- (c) the Chairperson of the Australian Wool Realisation Commission;
- (d) the Chairperson of the Wool Research and Development Corporation;
- (e) the President of the Australian Council of Wool Exporters;
- (f) the Federal President of the Federal Council of Private Treaty Wool Merchants;
- (g) the President of the National Council of Wool Selling Brokers of Australia;
- (h) the President of the Australian Wool Processors Council;
- (i) the President of, and one other person nominated by, the Wool Council of Australia;
- (j) a representative of the Commonwealth;
- (k) a woolgrower;
- (l) any person nominated by a prescribed organisation in accordance with the regulations.

Appointment to Council

15. (1) The following members:

- (a) the Chairperson;
- (b) the person nominated by the Wool Council of Australia under paragraph 14(1)(i);
- (c) a member referred to in paragraph 14(1)(j), (k) or (l); are appointed by the Minister.

(2) The appointment of a person as a member is not ineffective because of a defect or irregularity in connection with the person's nomination or appointment.

(3) An appointed member 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.

#### Deputy Chairperson

16. (1) The Minister must appoint a member as the Deputy Chairperson.

(2) The Minister may, before appointing the Deputy Chairperson, consult with the Chairperson.

(3) The Minister may at any time terminate the appointment of the Deputy Chairperson.

(4) A person appointed as Deputy Chairperson ceases to hold the office if the person ceases to be a member.

(5) A person appointed as Deputy Chairperson may resign the office by giving a written notice of resignation to the Minister.

(6) During any period when:

- (a) the office of Chairperson is vacant; or
- (b) the Chairperson is absent from Australia or is, for any reason, unable to perform the duties of the office; the Deputy Chairperson may act as Chairperson.

(7) The Deputy Chairperson has, when acting as Chairperson, all the powers, duties, rights and entitlements of the Chairperson.

(8) Anything done by or in relation to a person purporting to act as Chairperson under subsection (6) is not ineffective because:

- (a) there was a defect or irregularity in connection with the appointment of the person as Deputy Chairperson; or
- (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.

#### Term of office

17. Subject to section 23, an appointed member holds office for such period, not exceeding 3 years, as is specified in the member's instrument of appointment, and is eligible for reappointment.

### Part-time appointment only

18. Each members holds office on a part-time basis.

### Remuneration and allowances

19. (1) The Chairperson is to be paid such remuneration as is determined by the Remuneration Tribunal.
- (2) A member is to be paid such travel allowance as is prescribed.
- (3) Where:
- (a) a person who is a member of the Council 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 is not to be paid remuneration or allowances under this Act, but is to be reimbursed the expenses that the person reasonably incurs in performing duties under this Act.
- (4) If a person appointed as Chairperson:
- (a) is a member of the Parliament of a State, but subsection (3) does not apply in relation to the person; or
- (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 as Chairperson 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 Tribunal Act 1973.

### Leave of absence

20. (1) The Minister may grant leave of absence to the Chairperson on such terms and conditions as the Minister thinks appropriate.
- (2) The Chairperson may grant leave of absence to any other member of the council on such terms and conditions as the Chairperson thinks appropriate.

## Resignation

21. An appointed member may resign by giving written notice of resignation to the Minister.

## Disclosure of interests

22. (1) This section applies where, in relation to a matter being considered or about to be considered by the Council, a member has a direct or indirect pecuniary interest in the matter.

(2) If the interest could conflict with the proper performance of the member's duties in relation to the consideration of the matter, the member must, as soon as practicable after the relevant facts come to the member's knowledge, disclose the nature of the interest at a meeting of the Council.

(3) The disclosure is to be recorded in the minutes of the meeting.

(4) Unless the Council otherwise determines, the member must not:

(a) be present during any deliberation of the Council in relation to the matter; or

(b) take part in any decision of the Council in relation to the matter.

(5) For the purposes of a determination being made under subsection (4), the member must not:

(a) be present during any deliberation of the Council for the purpose of making the determination; or

(b) take part in the making of the determination.

(6) This section does not apply to a pecuniary interest that a member has only because the member is a participant in the wool industry and that the member has in common with other participants in that industry.

## Termination of appointment

23. (1) The Minister may terminate the appointment of an appointed member:

(a) for misbehaviour or physical or mental incapacity; or

(b) if the member:

(i) becomes bankrupt; or

(ii) applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or

(iii) compounds with his or her creditors; or

(iv) makes an assignment of his or her remuneration for the benefit of such creditors; or

- (c) if the member, without reasonable excuse, contravenes section 22; or
- (d) in the case of the Chairperson - if the Chairperson is absent without the leave of the Minister from 3 consecutive meetings; or
- (e) in the case of any other member - if the member is absent, without the leave of the Chairperson, from 3 consecutive meetings.

(2) Where a member was appointed on the nomination under paragraph 14(1)(I) or (I) of an organisation, the Minister must terminate the member's appointment if the organisation so requests in writing.

#### Deputies of members

24. (1) An organisation that nominated under paragraph 14(1)(i) or (I) a person for appointment as a member may request the Minister to appoint a deputy of that member.

(2) The Minister may appoint a deputy as requested.

(3) Subject to section 23, a person appointed as the deputy of a member continues as that member's deputy until the appointment of the member expires or otherwise ceases to have effect.

(4) During any period when the member is unable, for any reason, to attend meetings of the Council, the deputy may act as a member.

(5) When acting as a member, the deputy has all the powers, duties, rights and entitlements of a member, including a right to be paid travel allowance.

(6) When a deputy is acting as a member, section 13, subsections 19(2) and (3), sections 20 and 22, and section 23 (except for paragraph (1)(e)) apply to the deputy as if references in those sections to a member or an appointed member were references to a deputy.

(7) Section 21 applies to a deputy of a member as if the reference in that section to an appointed member were a reference to a deputy.

(8) Anything done by or in relation to a person purporting to act as a member under subsection (4) is not ineffective because:

- (a) there was a defect or irregularity in connection with the appointment of the person as the deputy of a member; or
- (b) the appointment of the person as the deputy of a member had ceased to have effect; or
- (c) the occasion for the person to act as a member had not arisen or had ceased.

#### Meetings

25. (1) Subject to subsection (2), the Council may hold such meetings as it thinks fit.

(2) The Chairperson:

- (a) may convene a meeting of the Council at any time; and
  - (b) must convene a meeting of the Council on receipt of a written request signed by the prescribed number of members.
- (3) If the regulations prescribe the frequency with which meetings of the Council are to be convened, the Chairperson must convene a meeting of the Council at least as often as the regulations require.
- (4) The Chairperson is to preside at all meetings of the Council at which he or she is present.
- (5) If the Chairperson and Deputy Chairperson are not present at a meeting of the Council, the members present are to appoint one of their number to preside.
- (6) At a meeting of the Council:
- (a) a question is to be decided by a majority of votes of the members present and voting; and
  - (b) the member presiding has a deliberative vote and, if the votes are equal, also has a casting vote.
- (7) The quorum for a meeting of the Council is 8 members.
- (8) The Council must keep minutes of its meetings.
- (9) The Council may invite a person to attend a meeting for the purpose of advising it or informing it on any matter.

#### PART 4 - COMMITTEES AND WORKING PARTIES

##### Committees and working parties

26. (1) The Council may establish such committees and working parties as the Council thinks fit to assist it in the performance of its functions and the exercise of its powers.
- (2) Where the Council establishes a working party, it must specify a day by which the working party must complete its work.
- (3) The Council may vary the day by which a working party must complete its work.

##### Constitution of committees and working parties

27. (1) Where the Council establishes an executive committee, the committee must be constituted wholly by members of the Council.
- (2) Any other committee may be constituted wholly by members of the Council or partly by members of the Council and partly by other persons.
- (3) A working party may be constituted:
- (a) wholly by members of the Council; or

- (b) partly by members of the Council and partly by other persons; or
- (c) wholly by persons who are not members of the Council.

#### Chairpersons of committees

28. The Council must appoint one of the members of a committee to be the chairperson of the committee.

#### Meetings of committees

29. (1) The Council may determine:
- (a) the procedure to be followed by a committee, including the procedure for:
    - (i) the convening of meetings of the committee; and
    - (ii) the selection of the member of the committee who will preside at a meeting of the committee in the absence of the chairperson of the committee; and
    - (iii) the procedure to be followed at meetings of the committee; and
  - (b) the quorum for meetings of the committee; and
  - (c) the circumstances in which, and the conditions subject to which, persons other than members of the committee may attend meetings of the committee.
- (2) Except in relation to matters determined by the Council, a committee may determine the procedure to be followed at or in relation to its meetings.

#### Reports of committees

30. Where a member of a committee disagrees with a finding or recommendation to be included in a report of the committee, the report must:
- (a) identify the member; and
  - (b) include a summary of the views of the member in relation to the finding or recommendation.

#### Disclosure of interests by members of committees

31. In relation to committees and members of committees, section 22 applies as if:
- (a) a reference in that section to the Council were a reference to a committee; and
  - (b) a reference in that section to a member were a reference to a member of the committee (whether or not the member of the committee is also a member of the Council).

#### Application of Part to working parties

32. Except for sections 26 and 27, this Part applies to a working party and its members as if the working party were a committee.

#### Allowances of members of committees and working parties

33. Subsections 19(2) and (3) apply to a person who is a member of a committee or working party as if the person were a member of the Council.

### PART 5 - MISCELLANEOUS

#### Staff

34. (1) The Council may arrange with the Secretary to the Department for the services of officers or employees of the Department to be made available to the Council.

(2) A person performing services for the Council under an arrangement under subsection (1):

(a) is subject to the direction of the Council; and

(b) is to be taken to be an employee of the Council for the purposes of section 36.

(3) The Council has no power:

(a) to employ persons; or

(b) except under subsection (1), to obtain the services of persons as staff of the Council.

#### Consultants

35. (1) The Council may engage persons having suitable qualifications and experience as consultants to the Council.

(2) The terms and conditions of engagement are to be determined by the Council.

#### Delegation by Council

36. (1) The Council may delegate all or any of its powers under this Act to:

(a) a committee; or

(b) a member of the Council; or

(c) an employee of the Council.

(2) The delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the Council.

(3) A delegation under subsection (1):

- (a) may be revoked by resolution of the Council; and
- (b) continues in force notwithstanding a change in the membership of the Council.

(4) A certificate signed by the Chairperson of the Council stating any matter in relation to a delegation under subsection (1) by the Council is prima facie evidence of the matter.

(5) A document purporting to be a certificate under subsection (4), unless the contrary is established, is to be taken to be such a certificate.

#### Annual report

37. (1) The Council must, as soon as practicable after the end of each financial year, give to the Minister a written report of its operations during that year.

(2) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

#### Orders

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

(2) An order must not be made prescribing any penalty.

(3) Sections 48, 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 is not to 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 the same way 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 is to be read as a reference to a Minister administering this Act.

#### Regulations

39. 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.