

## RURAL INDUSTRIES RESEARCH ACT 1985

\*1\* The as shown in this reprint comprises  
Act No. 102, 1985 amended as indicated in the Tables below.

Table of Acts		
Act Number and year	Date of Assent	Date of commencement
Rural Industries Research Act 1985 102, 1985	3 Oct 1985	3 Oct 1985
Wool Industry Amendment Act 1986 19, 1986	13 May 1986	Ss. 1, 2 and 26 (1), (3): - 30 June 1986 Remainder: 1 July 1986
Dairy Legislation (Transitional Provisions and Consequential Amendments) Act 1986 59, 1986	24 June 1986	s. 1, 2, 5, 9, 10 and S. 2 (2) 28: Royal Assent Remainder: 1 July 1986 (see s. 2 (3))
Wheat Marketing Amendment Act 1986 82, 1986	24 June 1986	Ss. 1, 2 and 46: Royal - Assent S. 30: 25 Oct 1984 Ss. 35-43: 1 Apr 1986 Remainder: 1 Aug 1986 (see Gazette 1986, No. S369)
Primary Industries (Recovery of Levy Collection Expenses) Act 1988 51, 1988	15 June 1988	15 June 1988 S. 2 (2)-(4)
Primary Industries and Energy Legislation Amendment Act 1988 111, 1988	12 Dec 1988	Ss. 5, 6 (2) and 8-15: S. 2 (3) 1 Jan 1989 Ss. 6 (1) and 7: 1 Dec 1988 Remainder: Royal Assent
Rural Industries Research Amendment Act 1988 114, 1988	12 Dec 1988	
Primary Industries and Energy Legislation Amendment Act 1990 134, 1990	28 Dec 1990	(see 134, 1990 below) -
Exotic Animal Disease Control Act 1989 (a) 130, 1989	7 Nov 1989	7 Nov 1989 -
Primary Industries and Energy Legislation Amendment Act (No. 3) 1989 16, 1990	17 Jan 1990	. 29 (3): 1 July 1989 (b) -
Primary Industries and Energy Research and Development Act 1989 17, 1990	17 Jan 1990	
Primary Industries and Energy Legislation Amendment Act 1990 134, 1990	28 Dec 1990	
Primary Industries Legislation Amendment Act 1991 39, 1991	27 Mar	

Prime Minister and Cabinet Legislation Amendment Act 1991 199, 1991	18 Dec 1991	18 Dec 1991	-
Primary Industries and Energy Legislation Amendment Act (No. 2) 1994 129, 1994	21 Oct 1994	S. 3: Royal Assent (c)	-
Primary Industries and Energy Legislation Amendment Act (No. 1) 1996 18, 1996	28 June 1996		
Statute Law Revision Act 43, 1996	25 Oct		

(a) Section 30 of the Exotic Animal Disease Control Act 1989 provides as follows:

"30. (1) The provisions of this Act (other than sections 1, 3, 21, 23, 24 and 27 and subsection (2) of this section), unless sooner repealed, cease to have effect at the end of 30 June 1995.

"(2) Sections 1, 3, 23, 24 and 27 and this subsection, unless sooner repealed, cease to have effect at the end of 31 December 1995."

(b) The was amended by section 29 (3) only of the Primary Industries and Energy Legislation Amendment Act (No. 3) 1989, subsection 2 (7) of which provides as follows:

"(7) Subsection 29 (3) and Part 3 of the Schedule are to be taken to have commenced on 1 July 1989."

(c) The was amended by section 3 only of the Primary Industries and Energy Legislation Amendment Act (No. 2) 1994, subsection 2 (1) of which provides as follows:

"(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent."

(d) The was amended by the Primary Industries and Energy Legislation Amendment Act (No. 1) 1996, subsection 2 (3) of which provides as follows:

"(3) Schedules 3, 4 and 8 commence on the day on which a notice is published in the Gazette under subsection 6(6) of the Poultry Industry Assistance Act 1965." (See Note 2)

(e) The was amended by Schedule 4 (items 128, 129) 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."

#### Table of Amendments

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

Provision affected	How affected
S. 3	am. No. 114, 1988
S. 4	am. No. 82, 1986; No. 114, 1988; No. 17, 1990; No. 129, 1994
S. 5	am. No. 114, 1988; No. 17, 1990
Ss. 5A-5E	ad. No. 114, 1988
S. 6	am. No. 114, 1988
S. 7	am. Nos. 51 and 114, 1988
S. 7A	ad. No. 114, 1988
S. 8	am. No. 114, 1988
S. 9	am. Nos. 51 and 114, 1988
Heading to Part IIA	ad. No. 114, 1988
S. 10	am. No. 114, 1988; No. 17, 1990
S. 11	am. No. 114, 1988
S. 12	am. No. 82, 1986; No. 114, 1988; No. 16, 1990
Heading to Div. 2 of Part III	am. No. 114, 1988

S. 14	am. No. 114, 1988; No. 17, 1990
Ss. 15-18	am. No. 114, 1988
S. 19	am. No. 114, 1988; No. 43, 1996
Ss. 20, 21	am. No. 114, 1988
S. 22	am. No. 114, 1988; No. 17, 1990
Ss. 23-25	am. No. 114, 1988
Ss. 24A, 24B	ad. No. 114, 1988
S. 24C	ad. No. 114, 1988
	am. No. 17, 1990
S. 25	am. No. 114, 1988
S. 26	rs. No. 114, 1988
S. 27	rs. No. 114, 1988
	am. No. 17, 1990
S. 28	am. No. 114, 1988
S. 29	am. No. 114, 1988; No. 199, 1991
Ss. 30, 31	am. No. 114, 1988; No. 17, 1990
Part IV (ss. 32-34, 34A, 35, 36)	rep. No. 17, 1990
S. 32	rep. No. 17, 1990
Ss. 33, 34	am. No. 114, 1988
	rep. No. 17, 1990
S. 34A	ad. No. 114, 1988
	rep. No. 17, 1990
Ss. 35, 36	am. No. 114, 1988
	rep. No. 17, 1990
S. 37	am. No. 114, 1988
	rep. No. 114, 1988
Ss. 38, 39	rep. No. 114, 1988
Part IVA (ss. 39A-39D)	ad. No. 114, 1988
S. 39A	ad. No. 114, 1988
	am. No. 17, 1990
S. 39B	ad. No. 114, 1988
Ss. 39C, 39D	ad. No. 114, 1988
	am. No. 17, 1990
Part IVB (ss. 39E-39R)	ad. No. 114, 1988
S. 39E	ad. No. 114, 1988
S. 39F	ad. No. 114, 1988
	rep. No. 17, 1990
S. 39G	ad. No. 114, 1988
Ss. 39H-39M	ad. No. 114, 1988
	am. No. 17, 1990
S. 39N	ad. No. 114, 1988
S. 39P	ad. No. 114, 1988
	am. No. 17, 1990
Ss. 39Q, 39R	ad. No. 114, 1988
S. 41	am. No. 134, 1990
S. 43	am. No. 129, 1994
S. 44	am. No. 114, 1988; No. 17, 1990
S. 45	am. No. 114, 1988
S. 46	am. No. 114, 1988; No. 17, 1990
S. 50	am. No. 114, 1988; No. 17, 1990
S. 55	am. No. 43, 1996
S. 56	am. No. 114, 1988
S. 58	am. No. 114, 1988
S. 59	am. No. 114, 1988; No. 199, 1991

S. 61	am. No. 19, 1986; Nos. 111 and 114, 1988;
	No. 39, 1991
Schedule 1	am. Nos. 59 and 82, 1986; No. 114, 1988; No. 130, 1989; No. 16, 1990
Schedule 2	am. No. 82, 1986; No. 16, 1990
#ADD 20:8:1996	

- TABLE OF PROVISIONS

TABLE

Section	TABLE OF PROVISIONS
	PART I-PRELIMINARY
1.	Short title
2.	Commencement
3.	Objects
4.	Interpretation
5.	Declarations about levies
5A.	Levies attached to a Fund or Council
5B.	Redirecting a levy
5C.	Annual research and development program in force when payment made
5D.	Relevant industry organisations
5E.	Research and development activities included in an annual research and development program
	PART II-RESEARCH FUNDS
6.	Establishment of Research Funds
7.	Money to be paid into Research Funds
7A.	Separate accounts to be kept: Research Funds generally
8.	Separate accounts to be kept: Barley and Wheat Research Trust Funds
9.	Application of money in Research Funds
	PART IIA-AGREEMENTS ABOUT RESEARCH AND DEVELOPMENT FUNDING
10.	Agreements
	PART III-ADMINISTRATION OF RESEARCH AND DEVELOPMENT
	Division 1-Establishment, functions and powers of Research Councils and State Research Committees
11.	Establishment and functions of Research Councils
12.	Establishment and functions of State Research Committees
13.	Powers of Research Councils and State Research Committees
	Division 2-Constitution and meetings of Councils and State Research Committees
14.	Constitution of Councils and State Research Committees
15.	Acting Chairpersons of Councils or State Research Committees
16.	Leave of absence in respect of members of Councils or State Research Committees
17.	Removal and resignation of members of Research Councils or State Research Committees
18.	Disclosure of interests of members of Councils or State Research Committees
19.	Remuneration and allowances of members of Councils and State Research Committees
20.	Appointment of members to sub-committees

21. Meetings of Councils or State Research Committees
  - Division 3-Research and Development Plans and Annual Research and Development Programs
22. Research and development plans
23. Approval of research and development plans
24. Variation of research and development plans by Councils or State Research Committees
- 24A. Approval for varied plan to run for 4 years from next 1 July: Councils generally
- 24B. Approval for varied plans to run for 4 years from next 1 July: Barley and Wheat Research Councils and Committees
- 24C. Pre-conditions for approval under section 24A or 24B
25. Variation of research and development plans at request of Minister
26. When variations of research and development plans take effect
27. Annual research and development programs
28. Approval of annual research and development programs
  - Division 4-Staff and Consultants
29. Staff and consultants
  - Division 5-Accountability
30. Annual reports of Councils
31. Accountability to industry
- PART IVA-CERTAIN PAYMENTS INTO, AND OUT OF, FUNDS
- 39A. Matching amounts not to exceed levy revenue
- 39B. Matching amounts not to exceed certain proportion of value of production of relevant kind of goods
- 39C. Commonwealth may recover levy collection expenses from Fund
- 39D. Account from which levy reimbursement to be paid
- PART IVB-RE-ORGANISATIONS OF FUNDS AND COUNCILS
- 39E. Additional levies attached to a Research Fund and Research Council
- 39G. Change of name of Research Fund, Research Council or State Research Committee
- 39H. Transfer of money between Funds where levies redirected
- 39J. Treatment of unmatched amounts where levies redirected
- 39K. Transfer of liabilities where levies redirected
- 39L. Treatment of amounts received, after levies redirected from Fund, as a result of earlier expenditure from Fund
- 39M. Variation of research and development plans because of attachment of levies
- 39N. Consequential variation of annual research and development programs
- 39P. Effect of redirecting levies: agreements under section 10
- 39Q. Effect of redirecting levies: staff and consultants
- 39R. Winding up Research Funds and Councils to which no levy is attached
- PART V-RESEARCH COUNCILS SELECTION COMMITTEE
- Division 1-Establishment, functions and powers of Selection Committee
40. Establishment of Research Councils Selection Committee
41. Functions of Selection Committee
42. Powers of Selection Committee
- Division 2-Constitution and meetings of Selection Committee
43. Constitution of Selection Committee otherwise than for performance of function referred to in paragraph 41 (b) or (c)
44. Constitution of Selection Committee for performance of functions

under paragraphs 41 (b) and (c)

45. Minister may request nominations
  46. Selecting persons for nomination
  47. Nominations
  48. Minister may reject nominations
  49. Acting Chairperson of Selection Committee
  50. Deputies of Selection Committee members
  51. Casual vacancies
  52. Leave of absence in respect of members of Selection Committee
  53. Removal and resignation of members of Selection Committee
  54. Disclosure of interests of members of Selection Committee
  55. Remuneration and allowances of members of Selection Committee
  56. Meetings of Selection Committee
  57. Resolutions without formal meetings of Selection Committee
  58. Selection Committee to notify costs to each Council
    - Division 3-Staff and Consultants
  59. Staff and consultants
    - Division 4-Accountability
  60. Annual reports of Selection Committee
- PART VI-MISCELLANEOUS
61. Co-ordination meetings
  62. Regulations

#### SCHEDULE 1

NAMES OF RESEARCH FUNDS AND RESEARCH COUNCILS ESTABLISHED IN  
RESPECT OF CERTAIN GOODS

#### SCHEDULE 2

NAMES OF STATE RESEARCH COMMITTEES ESTABLISHED IN RESPECT  
OF CERTAIN GOODS

- LONG TITLE

An Act to provide for the undertaking of research and development in relation to certain goods, and for related purposes

- PART I PART I-PRELIMINARY

1 Short title

1. This Act may be cited as the Rural Industries Research Act 1985.\*1\*  
SEE NOTES TO FIRST ARTICLE OF THIS CHAPTER .

2 Commencement

2. This Act shall come into operation on the day on which it receives the  
Royal Assent.\*1\*  
SEE NOTES TO FIRST ARTICLE OF THIS CHAPTER .

3 Objects

3. The objects of this Act are:  
(a) to make provision for the funding and administration of research and  
development, in respect of goods of kinds that are subject to levies in  
relation to which the regulations declare as mentioned in subsection 5 (1),  
(2), (3) or (4), with a view to:  
(i) increasing the commercial returns to members of the industry

concerned with goods of those kinds and to the community in general by improving the production, processing, storage, transport or marketing of goods of those kinds;

(ii) making more effective use of the resources and skills of the community in general and of the scientific community in particular; and

(iii) improving accountability for expenditure upon research and development activities in respect of goods of those kinds; and

(b) to make provision, additional to the provision referred to in paragraph (a) but with a view to achieving purposes similar to the purposes set out in subparagraphs (a) (i), (ii) and (iii), for the funding and administration of research and development in respect of goods in circumstances where that research and development:

(i) is in the national interest;

(ii) relates solely to goods of kinds not referred to in paragraph (a); or

(iii) relates to goods of kinds referred to in paragraph (a) and also to other goods.

#### 4 Interpretation

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

"acting Chairperson" means:

(a) in relation to a Council or State Research Committee-a person acting as Chairperson of the Council or Research Committee under subsection 15 (1); and

(b) in relation to the Selection Committee-a person acting as Chairperson of the Selection Committee under subsection 49 (1);

"animal" means any member, alive or dead, of the animal kingdom, other than man;

"annual research and development program" means a program required by section 27 to be developed by a Council or State Research Committee;

"appoint" includes re-appoint;

"appropriate Minister", in relation to a State, means the Minister of the Crown of the State who has primary responsibility for agricultural matters and includes a Minister of the Crown of the State acting on behalf of that Minister;

"ARMCANZ" means:

(a) subject to paragraph (b), Agriculture and Resource Management Council of Australia and New Zealand, whether known by that name or any other name; or

(b) if another body is prescribed by the regulations for the purposes of this definition-that other body;

"attached" has the meaning given by section 5A;

"authorised representative", in relation to a Council, means the Council's Chairperson or a person who is a member of the Council or an officer of the Australian Public Service and is authorised in writing by the Chairperson to act under subsection 10 (1);

"Chairperson" means:

(a) in relation to a Council or State Research Committee-the Chairperson of the Council or Research Committee; and

(b) in relation to the Selection Committee-the Chairperson of the Selection Committee;

"Collection Act", in relation to a levy, means the legislation providing for the collection of that levy;

"Council" means:

(a) except in relation to a Fund-a Research Council; and

(b) in relation to a Fund to which a levy is attached-the Research Council

to which that levy is attached;

"Fund" means:

(a) except in relation to a Council or State Research Committee-a Research Fund;

(b) in relation to a Research Council to which a levy is attached-the Research Fund to which that levy is attached; and

(c) in relation to a State Research Committee-the Research Fund established in respect of goods of the kind or kinds in respect of which the Research Committee was established;

"goods" means:

(a) an animal or a plant, or a part of an animal or a plant; or

(b) an article or a substance derived from an animal or a plant, whether or not in combination with any other article or substance;

"government member", in relation to a Council, means the person holding office under section 14 as the Council's government member;

"in", in relation to an account kept under section 7A, 8 or 35, means standing to the credit of;

"included", in relation to an annual research and development program, has a meaning affected by section 5E;

"matching amount", in relation to a levy or class of levies, means an amount that, by virtue of paragraph 7 (1) (b), was or is paid at a particular time (whether before, at or after the commencement of this definition) into:

(a) a Fund to which the levy or class is or was attached at that time; and

(b) an account kept under subsection 7A (2) or paragraph 8 (2) (a) in relation to the relevant kind of goods in relation to the levy or class;

"modifications" includes additions, omissions and substitutions;

"plant" means any member, alive or dead, of the plant kingdom;

"program year", in relation to a Council or State Research Committee, means:

(a) the period beginning at the start of the period to which the first research and development plan prepared (whether before or after the commencement of this definition) by the Council or Research Committee related or relates and ending on the next 30 June after the start of that period; or

(b) a financial year beginning after that 30 June;

"redirected" has the meaning given by section 5B;

"relevant industry organisation", in relation to goods of a particular kind, means an organisation in relation to which a declaration under subsection 5D (2) is in force in relation to goods of that kind;

"relevant kind" means:

(a) in relation to a levy-unless the levy is in a class of levies attached to a Fund, the kind of goods in respect of which the levy is imposed;

(b) in relation to levies or a class of levies-the kind of goods that the regulations declare to be the general kind of goods in relation to those levies; and

(c) in relation to a Fund or Council:

(i) a kind of goods in respect of which there is imposed a levy that is attached to the Fund or Council, other than a levy in a class of levies that is so attached; or

(ii) a kind of goods that the regulations declare to be the general kind of goods in relation to a class of levies that is attached to the Fund or Council;

"research and development", in respect of goods generally or goods of a particular kind or kinds, means, subject to subsections (4A) and (5), systematic experimentation or analysis in any field of science, technology or economics carried out with the object of:



(a) acquiring knowledge that may be of use for the purpose of improving any aspect of the production, processing, storage, transport or marketing of goods generally or goods of that kind or those kinds; or

(b) applying knowledge for the purpose referred to in paragraph (a);

"research and development activity", in respect of goods generally or goods of a particular kind or kinds, means, subject to subsections (4A) and (5):

(a) a research and development project in respect of goods generally or goods of that kind or those kinds;

(b) the training of persons to carry out research and development in respect of goods generally or goods of that kind or those kinds;

(c) the dissemination of information, or the provision of advice and assistance, to persons who, or organizations that, are engaged in any aspect of the production, processing, storage, transport or marketing of goods generally or goods of that kind or those kinds for the purpose of encouraging those persons or organizations to follow practices, or to adopt technical developments, designed or adapted to improve the operation or efficiency of that aspect of production, processing, storage, transport or marketing;

(d) the publication of reports, periodicals, books or papers containing information that is related to research and development in respect of goods generally or goods of that kind or those kinds; or

(e) an activity incidental to an activity referred to in paragraph (a), (b), (c) or (d);

"research and development plan" means:

(a) a plan developed by a Council or State Research Committee under section 22 and approved by the Minister under section 23; or

(b) such a plan as varied at least once under section 24, 25 or 39M;

"research and development project", in respect of goods generally or goods of a particular kind or kinds, means, subject to subsections (4A) and (5), a project for research and development in respect of goods generally or goods of that kind or those kinds;

"research component", in relation to a levy, means so much of the levy as:

(a) if the regulations declare the whole or a part of the levy to be the research component of the levy-the regulations declare to be the research component of the levy; or

(b) if paragraph (a) does not apply and the levy is referred to in column 1 of a Part of Schedule 1-is described in column 2 of that Part opposite that reference;

"Research Council" means a council that has been established by section 11 and has not been dissolved under regulations made under section 39R;

"Research Fund" means a research fund that has been established by section 6 and has not been abolished under regulations made under section 39R;

"Selection Committee" means the Research Councils Selection Committee established by this Act;

"State Research Committee" means a research committee established for a State by subsection 12 (1) or (2).

(1A) For the purposes of this Act, a tax imposed under the Wheat Tax (Permit) Act 1984 on a permit issued by the Australian Wheat Board shall be deemed to be a tax imposed on the wheat authorised by that permit to be purchased.

(2) For the purposes of this Act:

(a) where the Chairperson of a Research Council or State Research Committee or of the Selection Committee is a man, he may be referred to as the Chairman of the Council or Committee of which he is the Chairperson; and

(b) where the Chairperson of a Research Council or State Research Committee or of the Selection Committee is a woman, she may be referred to as the Chairwoman of the Council or Committee of which she is the Chairperson.

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

(a) a reference to an aspect of the marketing of goods generally or of goods of a particular kind or kinds shall be construed as not including the promotion of goods generally or of goods of that kind or those kinds, as the case may be; and

(b) a reference to a levy shall be construed as a reference to any tax, whether that tax is designated as a levy, a tax or a charge, that is imposed by an Act.

(4A) Except so far as the contrary intention appears, a reference in this Act to research and development, a research and development activity, or a research and development project, in respect of goods of a kind or kinds (whether or not the kind or kinds is or are specified in a particular way) includes a reference to research and development, a research and development activity, or a research and development project, as the case may be, in respect of goods of kinds that include the first-mentioned kind or kinds.

(5) Where goods of a particular kind, being goods in respect of which a levy is imposed, are grown, reared or maintained, either wholly or partly, to enable the production of goods of another kind, a reference in this Act, either by express words or by implication, to research and development, to a research and development activity, or to a research and development project, in respect of goods of that kind, shall be construed as including a reference to research and development, to a research and development activity, or to a research and development project, in respect of goods of that other kind, as the case requires.

## 5 Declarations about levies

5. (1) The regulations may, for the purposes of this Act, declare a levy specified in the regulations, being a levy imposed in respect of goods of a particular kind, to be, with effect from a day specified in the regulations, being a day not earlier than 1 January 1986, a prescribed levy.

(2) The regulations may, for the purposes of this Act, declare levies specified in the regulations, being levies imposed in respect of goods of particular kinds, to be, with effect from a day specified in the regulations, being a day not earlier than 1 January 1986, a prescribed class of levies.

(3) The regulations may, for the purposes of this Act, declare a specified levy imposed in respect of goods of a particular kind to be an additional levy attached to a specified Research Fund and a specified Research Council with effect from a specified day not earlier than the day of commencement of this subsection.

(4) The regulations may, for the purposes of this Act, declare specified levies imposed in respect of goods of particular kinds to be a class of additional levies attached to a specified Research Fund and a specified Research Council with effect from a specified day not earlier than the day of commencement of this subsection.

(5) The regulations may, in relation to a levy or levies, declare as mentioned in subsection (1) or (3), or in subsection (2) or (4), as the case may be, even if the regulations have so declared in relation to the levy or levies at least once before.

(6) Where, in relation to particular levies, the regulations declare as mentioned in subsection (2) or (4), the regulations shall, for the purposes of this Act, declare a specified kind of goods to be the general kind of goods in relation to those levies.

(7) Neither of subsections (3) and (4) applies in relation to:

- (a) the Barley Research Trust Fund or the Wheat Research Trust Fund;
- (b) the levy imposed by the Barley Research Levy Act 1980; or
- (c) any of the levies referred to in column 1 of Part V of Schedule 1.

#### 5A Levies attached to a Fund or Council

5A. For the purposes of this Act, a levy or class of levies is attached to a Fund or Council if, and only if, the levy or class:

- (a) has become attached to the Fund or Council by virtue of section 6, 11, 39E or 39F; and
- (b) has not since ceased, by virtue of section 5B, to be attached to the Fund or Council.

#### 5B Redirecting a levy

5B. (1) Where:

- (a) at a particular time, a levy or class of levies becomes attached to a Fund and a Council; and
  - (b) immediately before that time, the levy or class was attached to another Fund and another Council;
- then, for the purposes of this Act, the levy or class:

- (c) is redirected at that time:
  - (i) from the other Fund to the first-mentioned Fund; and
  - (ii) from the other Council to the first-mentioned Council; and
- (d) ceases at that time to be attached to the other Fund and the other Council.

#### 5C Annual research and development program in force when payment made

5C. A reference in this Act to an annual research and development program prepared by a Council and in force at the time when a payment is made with the Council's approval includes a reference to such a program, prepared by the Council and in force at that time, that had not yet been prepared, or was not yet in force, when the approval was given.

#### 5D Relevant industry organisations

5D. (1) This section has effect where:

- (a) regulations take effect that declare, in relation to a particular levy or particular levies, as mentioned in subsection 5 (1) or (3), or in subsection 5 (2) or (4), as the case may be; and
- (b) immediately before the regulations take effect, no regulations are in effect that so declare in relation to the levy or levies.

(2) The Minister shall, by notice published in the Gazette, declare a specified organisation that, or specified organisations each of which, is concerned with the production, processing, storage, transport or marketing of goods of the relevant kind in relation to the levy or levies to be, with effect from the day specified in the declaration referred to in paragraph (1) (a), a relevant industry organisation, or relevant industry organisations, in relation to goods of that kind.

(3) The Minister may, by notice published in the Gazette, vary, with effect from a specified day, a declaration under subsection (2) (including such a declaration that has been varied at least once before) by doing either or both of the following:

- (a) declaring an organisation that, or organisations each of which, is so concerned, to be;
- (b) declaring an organisation or organisations no longer to be; such a relevant industry organisation or such relevant industry organisations.

#### 5E Research and development activities included in an annual research and development program

5E. For the purposes of this Act, a research and development activity (in this section called the "activity") in respect of goods generally or goods of a particular kind or kinds is included in an annual research and development program in force at a particular time if, and only if:

(a) the activity is within a broad grouping of such research and development activities that is described in the program; and

(b) when:

- (i) if the program has been varied before that time-the program as last so varied came into force; or
  - (ii) otherwise-the program came into force;
- the Council or State Research Committee that prepared the program proposed to fund the activity or was prepared, subject to its examination of specified proposals, to fund the activity.

#### - PART II PART II-RESEARCH FUNDS

##### 6 Establishment of Research Funds

6. (1) Where the regulations declare a levy that is imposed in respect of goods of a particular kind, being a levy referred to in column 1 of Part I of Schedule 1, to be, with effect from a day that is specified in the regulations, a prescribed levy, then, for the purposes of this Act:

(a) a Research Fund is established on that day in respect of goods of that kind;

(b) that Fund shall be known by the name that is set out in column 3 of that Part opposite to the reference that is set out in column 1 of that Part to the levy; and

(c) the levy shall be taken to have become attached to that Fund at the beginning of that day.

(2) Where the regulations declare levies that are imposed in respect of goods of particular kinds, being the levies referred to in column 1 of Part II, III, IV or V of Schedule 1, to be, with effect from a day that is specified in the regulations, a prescribed class of levies, then, for the purposes of this Act:

(a) a Research Fund is established on that day in respect of goods of those kinds;

(b) that Fund shall be known by the name that is set out in column 3 of that Part opposite to the reference in column 1 of that Part to the levies that are included in that prescribed class of levies; and

(c) that class of levies, and each levy in that class, shall be taken to have become attached to that Fund at the beginning of that day.

(3) Where the regulations declare a levy that is imposed in respect of goods of a particular kind, to be, with effect from a day that is specified in the regulations, a prescribed levy, then, for the purposes of this Act:

(a) a Research Fund is established on that day in respect of goods of that kind;

(b) that Fund shall be known by the name that is specified in the regulations; and

(c) the levy shall be taken to have become, or becomes, as the case requires, attached to that Fund at the beginning of that day.

(4) Where the regulations declare levies imposed in respect of goods of particular kinds to be, with effect from a day that is specified in the regulations, a prescribed class of levies, then, for the purposes of this Act:

(a) a Research Fund is established on that day in respect of goods of those kinds;

(b) that Research Fund shall be known by the name that is specified in the regulations; and

(c) that class of levies, and each levy in that class, shall be taken to have become, or becomes, as the case requires, attached to that Fund at the beginning of that day.

(5) Each Research Fund is a Trust Account for the purposes of section 62A of the Audit Act 1901.

## 7 Money to be paid into Research Funds

7. (1) There shall be paid into a Research Fund amounts equal to:

(a) the amounts from time to time received by the Commonwealth, under the Collection Act for each levy attached to the Fund, as:

(i) the research component of that levy;

(ii) amounts (if any) paid on behalf of a person liable to pay that levy, by a person other than that person, in respect of the research component of that levy; and

(iii) amounts of penalty for non-payment of that levy, to the extent that the penalty is attributable to non-payment of the research component of that levy;

(b) subject to sections 39A and 39B, amounts equal to one-half of the amounts from time to time required to be paid out of the Fund in accordance with section 9 (other than subsection 9 (3A));

(c) amounts paid to the Commonwealth for the purposes of the Research Fund;

(d) subject to section 39L, amounts received by the Commonwealth:

(i) from the sale of any property paid for with money from the Research Fund;

(ii) from the sale of any property produced, or from dealing with patents in respect of inventions made, in the course of carrying out any research and development activity, or research and development activities, in

respect of goods of a kind or kinds, paid for with money from the Research Fund; or

(iii) in respect of any work paid for with money from the Research Fund; and

(e) amounts received by the Commonwealth as interest from the investment of money standing to the credit of the Research Fund.

(4) Amounts payable into a Research Fund by virtue of paragraph (1) (a) or (b) are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

#### 7A Separate accounts to be kept: Research Funds generally

7A. (1) This section applies in relation to a Research Fund (in this section called the "Fund") other than the Barley Research Trust Fund or the Wheat Research Trust Fund.

(2) A separate account shall be kept, in relation to each relevant kind of goods in relation to a levy or class of levies attached to the Fund, of the money in the Fund representing the amounts paid into the Fund (whether before, at or after the commencement of this section):

(a) by virtue of subparagraphs 7 (1) (a) (i) and (ii) as applying in relation to that levy or those levies; and

(b) by virtue of paragraph 7 (1) (b) because of the amounts required to be paid, in accordance with section 9, out of:

(i) the first-mentioned account; and

(ii) the account kept under subsection (3) in relation to that kind of goods.

(3) A separate account shall be kept, in relation to each relevant kind of goods in relation to a levy or class of levies attached to the Fund, of the money in the Fund representing the amounts paid into the Fund (whether before, at or after the commencement of this section) by virtue of subparagraph 7 (1) (a) (iii) as applying in relation to that levy or those levies.

(4) If there are 2 or more relevant kinds of goods in relation to the Fund, the amounts required by virtue of paragraphs 7 (1) (c), (d) and (e) to be paid into the Fund shall be credited, in such proportions as the Council for the Fund determines to be appropriate, to the various separate accounts kept under subsection (3) of this section in relation to those kinds of goods.

(5) Otherwise, the amounts required by virtue of paragraphs 7 (1) (c), (d) and (e) to be paid into the Fund shall be credited to the account kept under subsection (3).

#### 8 Separate accounts to be kept: Barley and Wheat Research Trust Funds

8. (1) An account kept under subsection (2) in relation to a Research Fund shall be taken for the purposes of this Act to be kept in relation to the relevant kind of goods in relation to the levy or class of levies attached to the Fund.

(2) So far as the Barley Research Trust Fund or the Wheat Research Trust Fund is concerned:

(a) a separate account shall be kept of such of the money in that Research

Fund as represents:

- (i) amounts referred to in subparagraph 7 (1) (a) (iii);
  - (ii) amounts referred to in paragraph 7 (1) (b); and
  - (iii) amounts referred to in paragraph 7 (1) (c), not being amounts to which paragraph (b) of this subsection applies; and
- (b) a separate account shall be kept, in relation to each State, of such of the money in that Research Fund as represents:
- (i) the parts of the amounts referred to in subparagraphs 7 (1) (a) (i) and (ii) that are received by the Commonwealth in respect of goods of the kind or kinds in respect of which that Research Fund was established, being goods that are produced in the State; and
  - (ii) amounts referred to in paragraph 7 (1) (c), being amounts that are paid to the Commonwealth for the purposes of that Research Fund on condition that those amounts be expended in the State.

(3) So far as the Barley Research Trust Fund or the Wheat Research Trust Fund is concerned, the amounts required to be paid into that Research Fund that are referred to in paragraph 7 (1) (d) shall be credited to the various separate accounts kept in accordance with subsection (2) in such proportions as the Barley Research Council or the Wheat Research Council, as the case requires, determines to be appropriate.

(4) So far as the Barley Research Trust Fund or the Wheat Research Trust Fund is concerned, the amounts required to be paid into that Research Fund that are referred to in paragraph 7 (1) (e) shall be credited to the various separate accounts kept in accordance with subsection (2) in the same proportions as funds have been contributed from those various separate accounts for the purposes of making the investments referred to in that paragraph.

## 9 Application of money in Research Funds

9. (1) The money that is in a Research Fund and in an account kept under subsection 7A (2) or (3) in relation to a particular kind of goods may, with the approval of the Council for the Fund, be paid out of that account:

- (a) for the purposes of research and development activities in respect of goods of that kind that are included in an annual research and development program prepared by the Council and in force when the payment is made;
- (b) in payment of expenses incurred by the Council in performing its functions, to the extent that the expenses were incurred in connection with research and development activities (in this subsection called "eligible activities") in respect of goods of that kind;
- (c) in payment to the Commonwealth of amounts equal to the expenses the Commonwealth incurs in managing the investment of money that is in the Fund and in an account kept under subsection 7A (2) or (3) in relation to that kind of goods;
- (d) in payment of remuneration and allowances:
  - (i) payable under section 19 to the Council's members; and
  - (ii) payable to persons engaged under subsection 29 (2) by the Council's Chairperson;
 to the extent that the remuneration and allowances are payable in respect of work done by those members and persons, respectively, in respect of eligible activities; and
- (e) in payment to the Commonwealth of amounts equal to the amounts specified in notices the Selection Committee gives to the Council under section 58 in

respect of the Committee's activities in relation to the selection of members of the Council.

(1A) Where, if this subsection had not been enacted, an amount required to be paid out of a Research Fund in accordance with subsection (1) would be permitted to be paid, with the approval of the Council for the Fund, out of any one of 2 or more accounts kept under section 7A in relation to the Fund, the amount may instead be paid, with that approval, out of any 2 or more of those accounts in such proportions as the Council determines to be appropriate.

(1B) To the extent that:

(a) an expense incurred by a Research Council in performing its functions is incurred otherwise than in connection with; or

(b) remuneration or allowances:

(i) payable under section 19 to a member of a Research Council; or

(ii) payable to a person engaged under subsection 29 (2) by a Research Council's Chairperson;

is or are payable in respect of work done by the member or person otherwise than in respect of;

research and development activities in respect of goods of a kind or kinds, an amount may, with the Council's approval, be paid, in payment of the expense, remuneration or allowances, as the case may be:

(c) out of any one of the accounts kept under section 7A in relation to the Council's Fund; or

(d) out of any 2 or more of those accounts in such proportions as the Council considers to be appropriate.

(1C) The money that is in the Barley Research Trust Fund or the Wheat Research Trust Fund and in an account kept under paragraph 8 (2) (a) may, with the approval of the Council for the Fund, be paid out of that account:

(a) for the purposes of research and development activities in respect of goods of the relevant kind in relation to the Fund that are included in an annual research and development program prepared by the Council and in force when the payment is made;

(b) in payment of expenses incurred by the Council in performing its functions;

(c) in payment to the Commonwealth of amounts equal to the expenses the Commonwealth incurs in managing the investment of money in the Fund;

(d) in payment of remuneration and allowances:

(i) payable under section 19 to the Council's members; and

(ii) payable to persons engaged under subsection 29 (2) by the Council's Chairperson; and

(e) in payment to the Commonwealth of amounts equal to the amounts specified in notices the Selection Committee gives to the Council under section 58 in respect of the Committee's activities in relation to the selection of members of the Council.

(2) The money that is in the Barley Research Trust Fund or the Wheat Research Trust Fund and in an account kept under paragraph 8 (2) (b) in relation to a State other than Tasmania may, with the approval of the Research Committee established for that State in respect of goods of the kind or kinds in respect of which that Fund was established, be paid out of that account:

(a) for the purposes of research and development activities in respect of goods of the relevant kind in relation to the Fund that are included in an



annual research and development program prepared by the Committee and in force when the payment is made;

(b) in payment of expenses incurred by the Committee in performing its functions; and

(c) in payment of remuneration and allowances:

(i) payable under section 19 to the Committee's members; and

(ii) payable to persons engaged under subsection 29 (2) by the Committee's Chairperson.

(3) The money in the Barley Research Trust Fund or the Wheat Research Trust Fund and in an account kept under paragraph 8 (2) (b) in relation to Tasmania may, with the approval of the appropriate Minister of Tasmania, be paid out of that account for the purposes of undertaking such research and development activities in respect of goods of the relevant kind in relation to the Fund as that Minister determines to be of special significance for Tasmania.

(3A) Money may also be paid out of a Research Fund in accordance with section 39C or 39D.

(4) A reference in paragraph (1) (b), (1B) (a), (1C) (b) or (2) (b) to an expense incurred by a Council or State Research Committee in performing its functions includes a reference to an expense incurred by the Council or Committee in respect of the provision to it of administrative and clerical services if, and only if, those services are provided:

(a) by a person engaged under subsection 29 (1) by the Chairperson of the Council or Committee; or

(b) under an arrangement entered into by the Council or Committee under subsection (5) or (6), as the case may be, of this section.

(5) A Research Council may enter into an arrangement:

(a) with the Minister, on behalf of the Commonwealth; or

(b) with the approval of the Minister, with any other person or organization;

for the provision of administrative and clerical services to that Research Council by the Commonwealth or that person or organization, as the case requires, and, where such an arrangement is entered into, any fee paid by that Research Council under that arrangement for the provision of those services shall be taken, for the purposes of this Act, to be an expense incurred by that Research Council in the performance of its functions.

(6) A State Research Committee may enter into an arrangement:

(a) with the Minister, on behalf of the Commonwealth; or

(b) with the approval of the Minister:

(i) with the appropriate Minister of the State in respect of which that State Research Committee has been established, on behalf of that State; or

(ii) with any other person or organization; for the provision of administrative and clerical services to that State Research Committee by the Commonwealth, that State, or that person or organization, as the case requires, and, where such an arrangement is entered into, any fee paid by the State Research Committee under that arrangement for the provision of those services shall be taken, for the purposes of this Act, to be an expense incurred by that State Research Committee in the performance of its functions.

## PART IIA-AGREEMENTS ABOUT RESEARCH AND DEVELOPMENT FUNDING

## 10 Agreements

10. (1) An authorised representative of a Council may, on the Commonwealth's behalf, make an agreement with a person, authority or organisation for the purposes of, or for purposes in connection with, funding a research and development activity, in respect of goods of a relevant kind or relevant kinds in relation to the Council, that is included in an annual research and development program prepared by the Council and in force when the agreement is made.

(2) Where the Barley Research Trust Fund or the Wheat Research Trust Fund has been established, the Chairperson of the Research Committee established for a State in respect of goods of the kind or kinds in respect of which that Research Fund was established or another person, being another member of that State Research Committee who is authorized by the Chairperson of that State Research Committee, in writing, to act under this subsection, may, on behalf of the Commonwealth, make an agreement with a person, an authority or an organization for the purposes of, or for purposes in connection with, the funding of a research and development activity in respect of goods of that kind or those kinds, being an activity that has been included in an annual research and development program prepared by that State Research Committee in respect of goods of that kind or those kinds and in force at the time when the agreement is made.

(3) Where the Barley Research Trust Fund or the Wheat Research Trust Fund has been established, the appropriate Minister in relation to the State of Tasmania or another person, being an officer of the Australian Public Service who is authorized by that Minister, in writing, to act under this subsection, may, on behalf of the Commonwealth, make an agreement with a person, an authority or an organization for the purposes of, or for purposes in connection with, the undertaking of any research and development activity in respect of goods of the kind or kinds in respect of which the Research Fund was established, being an activity that that Minister determines, for the purposes of subsection 9 (3), to be of special significance for the State of Tasmania.

(4) Without limiting the generality of subsection (1), (2) or (3), an agreement made:

- (a) under subsection (1) by an authorised representative of a Council;
  - (b) under subsection (2) by the Chairperson of a State Research Committee or by a person authorized by the Chairperson of a State Research Committee to act under that subsection; or
  - (c) under subsection (3) by the appropriate Minister of the State of Tasmania or by a person authorized by that Minister to act under that subsection;
- with a person, an authority or an organization in relation to money to be provided out of a Fund may:
- (d) provide for:
    - (i) the money provided under the agreement, and any property acquired with that money or with money that includes that money, to be used only for the purposes specified in the agreement; and
    - (ii) the payment by the person, authority or organisation to the Commonwealth, for the purposes of the Fund, of an amount equal to the whole,

or such part as that Council, State Research Committee or appropriate Minister determines, of the money provided under the agreement if money so provided or property of the kind referred to in subparagraph (i) is used for a purpose not specified in the agreement;

(e) provide for the payment by the person, authority or organization to the Commonwealth, for the purposes of the Fund, of an amount equal to the whole, or such part as that Council, State Research Committee or appropriate Minister determines, of any net income derived by the person, authority or organization from:

(i) property acquired with money provided under the agreement or with money that includes that money; or

(ii) interests in, rights to apply for patents in respect of, or patents in respect of, inventions made, or any other property acquired, in the course of undertaking a research and development activity to which the agreement relates or doing any other act or thing with that money or with money that includes that money;

(f) provide for the assignment by the person, authority or organization to the Commonwealth of any property referred to in subparagraph (e) (i) or of any interests, rights, patents or other property referred to in subparagraph (e) (ii); and

(g) provide for the payment by the person, authority or organization to the Commonwealth for the purposes of the Fund, in the event of the disposal, otherwise than to the Commonwealth, of any property of a kind referred to in paragraph (e), of an amount equal to the whole, or such part as that Council, State Research Committee or appropriate Minister determines:

(i) in the case of a disposal by way of sale or assignment for value-of the net proceeds of the sale or assignment; and

(ii) in any other case-of the value of the property as determined by that Research Council, State Research Committee or appropriate Minister.

### PART III-ADMINISTRATION OF RESEARCH AND DEVELOPMENT

#### - DIVISION 1

#### 1-Establishment, functions and powers of Research Councils and State Research Committees

##### 11 Establishment and functions of Research Councils

11. (1) Where the regulations declare a levy that is imposed in respect of goods of a particular kind, being a levy referred to in column 1 of Part I of Schedule 1, to be, with effect from a day specified in the regulations, a prescribed levy, then, for the purposes of this Act:

(a) a Research Council is established on that day in respect of goods of that kind;

(b) that Research Council shall be known by the name set out in column 4 of that Part opposite to the reference to the levy in column 1 of that Part; and

(c) the levy shall be taken to have become attached to that Council at the beginning of that day.

(2) Where the regulations declare levies that are imposed in respect of goods of particular kinds, being the levies referred to in column 1 of Part II, III, IV or V of Schedule 1, to be, with effect from a day specified in the regulations, a prescribed class of levies, then, for the purposes of this Act:

(a) a Research Council is established on that day in respect of goods of those kinds;

(b) that Research Council shall be known by the name set out in column 4 of that Part opposite to the reference to the levies included in the prescribed class of levies in column 1 of that Part; and

(c) that class of levies and each levy in it shall be taken to have become attached to that Council at the beginning of that day.

(3) Where the regulations declare a levy imposed in respect of goods of a particular kind to be, with effect from a day specified in the regulations, a prescribed levy, then, for the purposes of this Act:

(a) a Research Council is established on that day in respect of goods of that kind;

(b) that Research Council shall be known by the name specified in the regulations; and

(c) the levy shall be taken to have become, or becomes, as the case requires, attached to that Council at the beginning of that day.

(4) Where the regulations declare levies imposed in respect of goods of particular kinds to be, with effect from a day specified in the regulations, a prescribed class of levies, then, for the purposes of this Act:

(a) a Research Council is established on that day in respect of goods of those kinds;

(b) that Research Council shall be known by the name specified in the regulations; and

(c) that class of levies and each levy in it shall be taken to have become, or becomes, as the case requires, attached to that Council at the beginning of that day.

(5) The functions of a Research Council are:

(a) to investigate and evaluate the requirements for research and development in respect of goods of the relevant kind or relevant kinds generally and, on the basis of that investigation and evaluation, to develop research and development plans in accordance with section 22;

(b) to develop annual research and development programs in accordance with section 27;

(c) to approve, in accordance with section 9, the payment of money from the Council's Fund;

(d) to monitor, and report to the Parliament and to each relevant industry organisation in relation to each relevant kind of goods about, the research and development activities, in respect of goods of the relevant kind or relevant kinds, that are funded, wholly or partly, from money in that Fund;

(e) to participate, as required, in co-ordination meetings convened pursuant to section 61; and

(f) such other functions as are conferred on that Research Council by this Act or any other Act.

## 12 Establishment and functions of State Research Committees

12. (1) Where the regulations declare the levy imposed on goods by the Barley Research Levy Act 1980 to be, with effect from a day that is specified in the regulations, a prescribed levy, there is established, in relation to each State that is referred to in column 2 of Part I of Schedule 2 opposite to the reference to the levy in column 1 of that Part, on that day, a Research Committee for that State in respect of goods of that kind having the name specified in column 3 of that Part opposite to the reference to that State.

(2) Where the regulations declare the levies imposed on goods by the Wheat Tax Act 1957, the Wheat Tax Act 1979, the Wheat Tax (Permit) Act 1984 and the Wheat Industry Fund Levy Act 1989 to be, with effect from a day that is specified in the regulations, a prescribed class of levies, there is established, in relation to each State that is referred to in column 2 of Part II of Schedule 2 opposite to the reference to those levies in column 1 of that Part, on that day, a Research Committee for that State in respect of goods of those kinds having the name specified in column 3 of that Part opposite to the reference to that State.

(3) The functions of a Research Committee established for a State in respect of goods of a particular kind or kinds are:

(a) to investigate and evaluate the requirement for research and development in respect of goods of that kind or those kinds with particular emphasis upon the research and development requirements of that State and, on the basis of that investigation and evaluation, to develop research and development plans for that State in accordance with section 22;

(b) to develop annual research and development programs for that State in accordance with section 27;

(c) to approve, in accordance with subsection 9 (2), the payment of money from the Research Fund established in respect of goods of that kind or those kinds, being money standing to the credit of an account kept in accordance with paragraph 8 (2) (b) in relation to that State;

(d) to monitor, and to report to the Research Council established in respect of goods of that kind or those kinds on, the research and development activities, in respect of goods of that kind or those kinds, that are funded, in whole or in part, from money standing to the credit of that Research Fund; and

(e) such other functions as are conferred on that State Research Committee by this Act or any other Act.

### 13 Powers of Research Councils and State Research Committees

13. (1) A Research Council or State Research Committee has power to do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions.

(2) To the extent that it is practicable to do so, a Research Council or State Research Committee shall endeavour to ensure that the exercise, at any time, of the powers conferred on it by this Act is consistent with, and designed to give effect to the provisions of, any research and development plan, and of any annual research and development program, prepared by it and in force at that time.

## - DIVISION 2

### 2-Constitution and meetings of Councils and State Research Committees

#### 14 Constitution of Councils and State Research Committees

14. (1) A Council shall be constituted by the following members, namely:

(a) a Chairperson;

(b) a government member; and

(c) such number of other members, being a number that is not fewer than 3 nor more than 7, as the Minister determines, in writing, to be appropriate in relation to that Council.

(2) A State Research Committee shall be constituted by the following members, namely:

- (a) a Chairperson; and
- (b) such number of other members, being a number that is not fewer than 4 nor more than 8, as the Minister determines, in writing, to be appropriate in relation to that State Research Committee.

(3) The Minister shall not make a determination under paragraph (1) (c) in relation to a Council until he or she has consulted each relevant industry organisation in relation to each relevant kind of goods in relation to the Council and has had regard to the views (if any) expressed by the organisation or organisations.

(4) The Minister shall not determine the number of members referred to in paragraph (2) (b) in relation to a State Research Committee until he or she has consulted the appropriate Minister of the State concerned with respect to the matter and has had regard to the views expressed by the appropriate Minister.

(5) All members of a Council or State Research Committee shall hold office as part-time members.

(6) A member of a Council or State Research Committee shall be appointed by the Minister with effect from such day as the Minister specifies in the instrument of appointment of the member.

(7) A member of a Council, other than the government member, or a member of a State Research Committee holds office, subject to this Act, for such period, not exceeding 3 years, as the Minister specifies in the instrument of appointment of the member but is eligible for re-appointment.

(8) The government member of a Council holds office, subject to this Act, during the Minister's pleasure.

(9) A person who has attained the age of 65 years shall not be appointed as a member of a Council or of a State Research Committee.

(10) A person shall not be appointed as a member, other than the government member, of a Council or as a member of a State Research Committee for a period that extends beyond the day on which the person will attain the age of 65 years.

(11) A person holding office as the government member of a Council shall cease to hold office on the day on which the person will attain the age of 65 years.

(12) The Minister shall not appoint a person to be the government member unless the Minister is satisfied that that person has a knowledge of, and experience in, the formulation of government policy and in public administration.

(13) The members of a Council, other than the Chairperson and the government member, shall be appointed from persons nominated by the Selection Committee in accordance with section 46.

(14) The Chairperson and the other members of a State Research Committee shall be appointed from persons nominated for the purpose by the appropriate Minister of the State concerned.

(15) The members of a Council or State Research Committee hold office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined, in writing, by the Minister.

(16) The exercise of a power or the performance of a function by a Research Council or State Research Committee is not affected by reason only of there being a vacancy or vacancies in the membership of that Council or State Research Committee.

### 15 Acting Chairpersons of Councils or State Research Committees

15. (1) The Minister may appoint a person to act as Chairperson of a Council or State Research Committee:

(a) during a vacancy in the office of Chairperson of that Council or State Research Committee, 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 that Council or State Research Committee is absent from duty or from Australia, or is, for any other reason, unable to perform the functions of the office of Chairperson of that Council or State Research Committee; but a person appointed to act during a vacancy shall not continue so to act after the expiration of 12 months commencing on the date on which the vacancy occurred.

(2) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) The Minister may:

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as Chairperson of a Council or State Research Committee; and

(b) terminate such an appointment at any time.

(4) Where a person is acting as Chairperson of a Council or a State Research Committee in accordance with paragraph (1) (b) and the office of Chairperson of that Council or State Research Committee becomes vacant while that person is so acting, then, subject to subsection (2), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months commencing on the day on which the vacancy occurred expires, whichever first happens.

(5) The appointment of a person to act as Chairperson ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Minister.

(6) While a person is acting as Chairperson of a Council, or of a State Research Committee, the person has, and may exercise, all the powers, and shall perform all the functions, of the Chairperson of that Council or State Research Committee under this Act.

(7) The validity of anything done by, or in relation to, a person purporting to act as the Chairperson of a Council or of a State Research Committee under subsection (1) shall not be called in question on the ground that the occasion for the person's appointment had not arisen, that there is a defect or irregularity in or in connection with the person's appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

#### 16 Leave of absence in respect of members of Councils or State Research Committees

16. (1) The Minister may grant leave of absence to the Chairperson of a Council or State Research Committee upon such terms and conditions as the Minister thinks fit.

(2) The Chairperson of a Council or State Research Committee may grant leave of absence to another member of that Council or State Research Committee upon such terms and conditions as the Chairperson of that Council or State Research Committee thinks fit.

#### 17 Removal and resignation of members of Research Councils or State Research Committees

17. (1) The Minister may terminate the appointment of a member of a Council or State Research Committee for misbehaviour or physical or mental incapacity.

(2) If:

(a) a member of a Council or State Research Committee becomes bankrupt, applies to take the benefit of any 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 a Council or State Research Committee fails, without reasonable excuse, to comply with the member's obligations under section 18;

(c) the Chairperson of a Council or State Research Committee is absent, except with leave of the Minister, from 3 consecutive meetings of that Council or State Research Committee; or

(d) a member of a Council or State Research Committee other than the Chairperson of that Council or Committee is absent, except with the leave of the Chairperson, from 3 consecutive meetings of that Council or State Research Committee;

the Minister shall terminate the appointment of the member concerned.

(3) A member of a Council or State Research Committee may resign from office by writing signed by the member and delivered to the Minister.

#### 18 Disclosure of interests of members of Councils or State Research Committees

18. (1) A member of a Council or State Research Committee who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by that Council or State Research Committee, being an interest that could conflict with the proper performance of that member's functions in relation to the consideration of the matter, shall, as soon as practicable after the relevant facts have come to the knowledge of that member, disclose the nature of that interest at a meeting of that Council or State Research Committee.



(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Council or State Research Committee concerned.

#### 19 Remuneration and allowances of members of Councils and State Research Committees

19. (1) Each member of a Council or State Research Committee shall be paid such remuneration as is determined by the Remuneration Tribunal.

(2) Each member of a Council or State Research Committee shall be paid such allowances as are prescribed.

(3) This section has effect subject to the Remuneration Tribunal Act 1973 other than subsections 7 (9) and (13) of that Act.

#### 20 Appointment of members to sub-committees

20. (1) A Council may appoint members of that Council to be a sub-committee of that Council for the purpose of advising that Research Council in relation to the performance of its functions.

(2) A State Research Committee may appoint members of that State Research Committee to be a sub-committee of that State Research Committee for the purpose of advising that State Research Committee in relation to the performance of its functions.

(3) For the purpose of determining the remuneration and allowances, or expenses, payable to a person who is a member of a Council or State Research Committee in respect of his or her performance of duties as a member of a sub-committee of that Council or State Research Committee, any act or thing done by the person in his or her capacity as a member of that sub-committee shall be treated as if it were done by the person in his or her capacity as a member of that Council or State Research Committee.

#### 21 Meetings of Councils or State Research Committees

21. (1) The Chairperson of a Council or State Research Committee may convene such meetings of that Council or State Research Committee as the Chairperson considers necessary for the performance of its functions.

(2) Meetings of a Council or State Research Committee shall be held at such places and at such times as the Chairperson of that Council or State Research Committee determines.

(3) The Chairperson of a Council or State Research Committee shall preside at all meetings of the Council or State Research Committee at which the Chairperson is present.

(4) If, at a meeting of a Council or State Research Committee, the Chairperson of that Council or State Research Committee is not present, the members of that Council or State Research Committee who are present shall elect one of their number to preside at the meeting.

(5) A quorum at a meeting of a Council or State Research Committee is constituted by a majority of the members of that Council or State Research Committee.

(6) At a meeting of a Council or State Research Committee:

- (a) all questions shall be determined by a majority of the votes of the members of the Council or State Research Committee present and voting; and
- (b) the person presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(7) A Council or State Research Committee shall keep a record of its proceedings.

- DIVISION 3 –Research and Development Plans and Annual Research and Development Programs

22 Research and development plans

22. (1) A Council shall, for each successive period determined in accordance with subsection (5), develop, and prepare in written form, a research and development plan defining the Council's principal objectives during that period in relation to research and development in respect of goods of a particular kind or kinds, being the relevant kind or kinds in relation to the Council during that period, and giving a broad outline of the strategies the Council is to follow in achieving those objectives.

(2) Each State Research Committee shall develop, and prepare in written form, for each successive period determined in accordance with subsection (5), a research and development plan defining the principal objectives of that State Research Committee during that period in relation to research and development in respect of goods of the particular kind or kinds in respect of which that State Research Committee was established with particular emphasis upon research and development requirements of the State in respect of which that State Research Committee was established and giving a broad outline of the strategies to be pursued by that State Research Committee in achieving those objectives.

(3) A Council or State Research Committee shall not prepare a research and development plan for the purposes of subsection (1) or (2) until the Council or State Research Committee has consulted:

- (a) in the case of a Council-each relevant industry organisation in relation to each relevant kind of goods in relation to the Council;
  - (c) in the case of a State Research Committee-each relevant industry organisation in relation to the relevant kind of goods in relation to the Research Council established in respect of goods of the kind or kinds in respect of which the State Research Committee was established; and
  - (d) in any case-such other Departments and agencies as the Council or State Research Committee considers appropriate;
- and has had regard to the views (if any) expressed as a result of those consultations.

(4) A research and development plan shall not be prepared for the purposes of subsection (2) by a State Research Committee established in respect of goods of a particular kind or kinds unless that State Research Committee has consulted with the Research Council established in respect of goods of that kind or those kinds concerning the matters proposed for inclusion in that plan with a view to minimizing or avoiding the inclusion in that plan of matters included in plans that have been prepared, or to be included in plans that are being prepared, by that Research Council and by each other State Research

Committee established in respect of goods of that kind or those kinds.

(5) The first research and development plan prepared by a Council in accordance with subsection (1) or by a State Research Committee in accordance with subsection (2) shall be expressed to relate to the period of 5 years commencing on the 1 July next following the day on which that Council or State Research Committee is established, or to such lesser period, not being a period of less than 4 years, ending on the day on which that first-mentioned period ends, as the Minister approves for the purposes of this subsection, and each subsequent plan shall be expressed to relate to the period of 5 years commencing at the end of the period to which the immediately preceding plan relates.

(6) The Minister shall determine, in writing, the form of, and, subject to the other requirements of this section, the matters to be dealt with by, each research and development plan that is required to be prepared in accordance with subsection (1) or (2) and may, from time to time, vary any determination so made.

(6A) A plan prepared under this section shall be prepared in accordance with the determination in force under subsection (6) when the plan is prepared.

(7) The Minister:

(a) shall not make a determination under subsection (6) or vary any determination so made unless the Minister has consulted with the persons attending a co-ordination meeting convened under section 61 concerning the proposed determination or the proposed variation and has had regard to the views expressed at that meeting in relation to that determination or variation; and

(b) shall notify, in writing, any determination or variation so made to the Chairperson of each Council or State Research Committee as soon as practicable after that determination or variation is made.

### 23 Approval of research and development plans

23. (1) A research and development plan prepared by a Council or State Research Committee in accordance with section 22 shall be submitted to the Minister for approval not less than 3 months, or such lesser period as the Minister, in special circumstances, allows, before the intended day of commencement of the period to which the plan relates and shall not come into force until:

(a) the day on which it is approved by the Minister; or  
 (b) the day of commencement of the period to which it relates;  
 whichever is the later.

(2) Where a research and development plan is submitted to the Minister by a Council or State Research Committee in accordance with subsection (1) and the Minister is of the opinion that the plan should be revised in some respect, the Minister may request that Council or State Research Committee to revise the plan appropriately and shall include in such a request a statement setting out his or her reasons for making the request.

(3) If a Council or a State Research Committee receives a request under subsection (2), it shall consider the request and statement of reasons and shall make such revision of the research and development plan to which the

request relates as it considers to be appropriate and shall then submit the plan, as so revised, to the Minister for approval.

#### 24 Variation of research and development plans by Councils or State Research Committees

24. (1) A Council or State Research Committee that prepared a research and development plan shall, as soon as practicable after the 30 June next following the day on which the plan comes into force and as soon as practicable after each subsequent 30 June occurring before the day of expiration of the plan, review the plan and consider whether a variation of the plan is necessary.

(2) A Council or State Research Committee that prepared a research and development plan may, at any time other than the times referred to in subsection (1), whether or not the plan has come into force, review the plan and consider whether a variation to the plan is necessary.

(3) Where a Council or State Research Committee that prepared a research and development plan considers that a variation to the plan is necessary, it may, with the approval of the Minister, vary the plan.

(4) When requesting the Minister's approval for a variation of a research and development plan, a Council or State Research Committee shall provide the Minister with a statement of its reasons for making the request and shall provide the Minister with such other information as the Minister requests.

(5) The Minister may, after considering the request and statement of reasons and such other information (if any) as has been provided at his or her request, approve or reject the requested variation or may approve such other variation as he or she thinks fit.

#### 24A Approval for varied plan to run for 4 years from next 1 July: Councils generally

24A. (1) When requesting the Minister's approval for a variation under section 24 or 39M of a research and development plan that is in force, a Council (other than the Council for the Barley Research Trust Fund or the Wheat Research Trust Fund) may also request the Minister's approval for the plan as varied to be in force until the end of 4 years beginning on the next 1 July after the day on which the variation takes effect.

(2) Where:

(a) a request is made under subsection (1);  
 (b) subsection 24 (5) or 39M (5), as the case may be, empowers the Minister to approve the variation; and

(c) the Minister is satisfied that the conditions prescribed by section 24C have been satisfied;

the Minister may, by notice in writing given to the Council:

(d) approve the variation or instead approve such other variation as he or she thinks fit; and

(e) give his or her approval for the plan as varied to be in force as mentioned in subsection (1) of this section.

#### 24B Approval for varied plans to run for 4 years from next 1 July: Barley and Wheat Research Councils and Committees

24B. (1) When requesting the Minister's approval for variations under section 24 of the respective research and development plans that were prepared by them and are in force, the Research Council and State Research Committees established in respect of goods of the kind or kinds in respect of which the Barley Research Trust Fund or the Wheat Research Trust Fund was established may jointly request the Minister's approval for the plans as varied to be in force until the end of 4 years beginning on the next 1 July after the day on which the variations take effect.

(2) Where:

(a) a request is made under subsection (1);

(b) subsection 24 (5) empowers the Minister to approve each of the variations; and

(c) the Minister is satisfied that the conditions prescribed by section 24C have been satisfied;

the Minister may, by notice in writing given to the Council and each of those Research Committees:

(d) in relation to each of the variations:

(i) approve the variation; or

(ii) instead approve such other variation as he or she thinks fit; and

(e) give his or her approval for the plans as varied to be in force as mentioned in subsection (1) of this section;

and if the Minister does so, he or she shall be taken to have approved the variations on the day when the notice is given to the Council.

#### 24C Pre-conditions for approval under section 24A or 24B

24C. (1) The first condition is that the plan, or each of the plans, as the case may be, as varied:

(a) will be expressed to relate to the period beginning on the day when the variation of that plan takes effect and ending at the end of 4 years beginning on the next 1 July after that day; and

(b) would comply with subsection 22 (1) or (2), as the case requires, and with subsection 22 (6A), if:

(i) that plan as varied were a plan prepared under section 22 on the day on which the request under section 24A or 24B, as the case may be, was made; and

(ii) the period referred to in paragraph (a) of this subsection were a period determined in accordance with subsection 22 (5).

(2) The next condition is that the Council has, or the Council and those Research Committees have each, as the case may be:

(a) consulted:

(i) each relevant industry organisation in relation to each relevant kind of goods in relation to the Council; and

(iii) such other Departments and agencies as the Council or Research Committee, as the case may be, considers appropriate;

about:

(iv) the variation of the plan prepared by the Council or Research Committee, as the case may be; and

(v) whether or not the plan as varied should be in force as mentioned in subsection 24A (1) or 24B (1), as the case may be; and

(b) had regard to the views (if any) expressed as a result of those consultations.

(3) In the case of a request under section 24B, the next condition is that each of those Research Committees has consulted with the Council, about the variation of the plan prepared by that Research Committee, with a view to minimising or avoiding the inclusion in that plan as varied of matters included in any other of the plans as varied.

(4) In the case of a request under section 24A, the next conditions are:

(a) that, when making the request, the Council gave the Minister a statement of its reasons for making the request; and

(b) that the Council has since given the Minister such information as he or she has asked for for the purposes of considering the request.

(5) In the case of a request under section 24B, the next conditions are:

(a) that, when making the request, the Council and those Research Committees gave the Minister a statement of their reasons for making the request; and

(b) that the Council and those Research Committees have since given the Minister such information as he or she has asked for for the purposes of considering the request.

(6) The order in which this section prescribes conditions does not indicate that the conditions must be satisfied in a particular order.

## 25 Variation of research and development plans at request of Minister

25. (1) A research and development plan, whether or not it has come into force, may be varied by the Council or State Research Committee that prepared the plan at the request, and with the approval, of the Minister.

(2) When requesting a Council or State Research Committee to vary a research and development plan, the Minister shall include in the request a statement setting out the reasons for making the request.

(3) If a Council or State Research Committee receives a request under subsection (2) to vary a research and development plan, it shall consider the request and statement of reasons to which the request relates and shall make, and submit to the Minister for his or her approval, such variation of the plan as it considers to be appropriate.

## 26 When variations of research and development plans take effect

26. (1) This section applies where the Minister approves a variation under section 24, 25 or 39M of a research and development plan.

(2) If the plan has come into force and:

(a) the variation is under section 24 and the Minister also gives his or her approval under subsection 24A (2) or 24B (2) for the plan as varied, or research and development plans including the plan as varied, to be in force as mentioned in subsection 24A (1) or 24B (1); or

(b) the variation is under section 39M;  
the variation shall take effect on:

(c) if the Minister, when approving the variation, or approving under subsection 24B (2) variations including the variation, determines that it or they shall take effect on a specified day not earlier than the day of the approval-the specified day; or

(d) otherwise-the next 1 July after the day of approval of the variation.

(3) Otherwise, the variation shall take effect on the day of approval of the variation and, if the plan has come into force, the plan as varied shall continue in force, on and after that day, as if the Minister had originally approved the plan as varied.

## 27 Annual research and development programs

27. (1) In this section:

"eligible activities", in relation to a Council or State Research Committee, in relation to a program year, means research and development activities in respect of:

- (a) in the case of a Council—goods of a particular kind or kinds, being the relevant kind or kinds in relation to the Council during the program year; or
- (b) in the case of a State Research Committee—goods of the kind or kinds in respect of which the Research Committee was established.

(2) A Council or State Research Committee shall, for each program year, develop, and prepare in written form, an annual research and development program that is expressed to relate to the program year and complies with this section.

(3) The program shall describe in general terms:

- (a) the broad groupings of the eligible activities that the Council or Research Committee proposes to fund, during the program year, wholly or partly from money provided from its Fund; and
- (b) to what extent, and how, so funding those eligible activities will:
  - (i) give effect to the research and development plan prepared by the Council or Research Committee and in force during the program year; and
  - (ii) in particular, pursue the strategies outlined in the plan and help to achieve the objectives defined in the plan.

(4) For each broad grouping of eligible activities that is described in it, the program shall provide an estimate of what is likely to be the total of the amounts that will be paid from the Fund, during the program year, in respect of the eligible activities within that broad grouping.

(5) The program shall provide an estimate of what is likely to be the total of all amounts (in this section called the "administrative expenses") that will be paid from the Fund, during the program year, by virtue of subsection 9 (1), (1C) or (2), as the case requires, other than paragraph (a) of that subsection, and section 39C.

(6) The program shall provide an estimate of what is likely to be the total of:

- (a) all amounts that will be paid from the Fund, during the program year, in respect of the eligible activities referred to in paragraph (3) (a); and
- (b) the administrative expenses.

(7) A reference in this section to eligible activities that a Council or State Research Committee proposes to fund includes a reference to eligible activities that the Council or State Research Committee is prepared, subject to its examination of specific proposals, to fund.

## 28 Approval of annual research and development programs

28. (1) An annual research and development program prepared by a Council or State Research Committee in accordance with section 27 shall be submitted to the Minister by that Council or State Research Committee for approval not less than 2 months, or such lesser period as the Minister, in special circumstances, allows, before the intended day of commencement of the period to which the program relates and shall not come into force until:

- (a) the day on which it is approved by the Minister; or
  - (b) the day of commencement of the period to which it relates;
- whichever is the later.

(2) Where an annual research and development program is submitted to the Minister by a Council or State Research Committee in accordance with subsection (1) and the Minister is of the opinion that the program is inconsistent with the provisions of the research and development plan prepared by that Council or State Research Committee that relates, or the intended research and development plan prepared by that Council or State Research Committee that will relate, to a period that includes, or will include, the period to which the program will relate, the Minister may request that Council or State Research Committee to revise the program appropriately and shall include in the request a statement setting out his or her reasons for making the request.

(3) If a Council or a State Research Committee receives a request under subsection (2), it shall consider the request and statement of reasons and shall make such revision of the annual research and development program to which the request relates as it considers to be appropriate and shall then submit the program, as so revised, to the Minister for approval.

(4) Where, if a proposed variation of a research and development plan developed by a Council or State Research Committee were to be approved by the Minister, an annual research and development program developed by that Council or Committee, being a program that relates to a period that is included in the period to which the plan relates, would not be consistent with the provisions of the plan, that Council or State Research Committee shall when submitting to the Minister for his or her approval the variation of the plan, also submit to the Minister for his or her approval such variation of the program as it considers to be appropriate.

(5) The Minister shall approve an annual research and development program submitted to the Minister by a Council or State Research Committee under subsection (1) or (3), or a variation of such a program submitted to the Minister by a Council or State Research Committee under subsection (4), unless the Minister is of the opinion that it is inconsistent with the provisions of the research and development plan prepared by that Council or State Research Committee that relates, or the intended research and development plan prepared by that Council or State Research Committee that will relate, to a period that includes or will include the period to which the program or the program as so varied, relates.

(6) Where a variation of an annual research and development program is approved by the Minister in accordance with subsection (5) after the program has come into force, the program as so varied shall continue in force on and after the date on which the variation is so approved as if the program had originally been approved by the Minister as so varied.



- DIVISION 4 -Staff and  
Consultants

29 Staff and consultants

29. (1) The Chairperson of a Council or of a State Research Committee may, subject to subsection (3), on behalf of the Commonwealth, engage persons to perform administrative and clerical services in connection with the performance of its functions.

(2) The Chairperson of a Council, or of a State Research Committee, may, on the Commonwealth's behalf, engage, under written agreements, as consultants to, or to perform services of a professional nature for, the Council or Research Committee in connection with the performance of any of its functions, persons having suitable qualifications and experience.

(3) A person shall not be engaged for the performance of a service referred to in subsection (1) unless the Minister has approved that engagement or the engagement of persons to perform services of that kind.

(4) A person engaged under subsection (1) by the Chairperson of a Council or of a State Research Committee shall be engaged on such terms and conditions as are determined by that Council or State Research Committee.

(5) A person engaged under subsection (2) by the Chairperson of a Council or of a State Research Committee shall be engaged on such terms and conditions as are determined by that Council or State Research Committee.

- DIVISION 5 -Accountability

30 Annual reports of Councils

30. (1) A Research Council shall, as soon as practicable after 30 June in each year, prepare and give to the Minister a report of the operation of Parts II, IIA, III, IVA, IVB and VI, during the year that ended on that 30 June, in relation to goods of the relevant kind or kinds in relation to the Council during that year.

(2) Where regulations made for the purposes of section 12 have declared a levy imposed on goods of a particular kind to be a prescribed levy or levies imposed on goods of particular kinds to be a prescribed class of levies, each State Research Committee established in respect of goods of that kind or those kinds shall, as soon as practicable after 30 June, but not later than 31 August, in each year, give to the Research Council established in respect of goods of that kind or those kinds:

(a) a report of its operations during the year ending on that 30 June for inclusion in the annual report required to be prepared by the Research Council under subsection (1); and

(b) particulars of its intended activities during the year next following that year.

(3) Where regulations made for the purposes of section 12 have declared a levy imposed on goods of a particular kind to be a prescribed levy or levies imposed on goods of particular kinds to be a prescribed class of levies, the

appropriate Minister in relation to the State of Tasmania shall, as soon as practicable after 30 June, but not later than 31 August, in each year, give to the Research Council established in respect of goods of that kind or those kinds:

(a) a report setting out particulars of any agreement made under subsection 10 (3) by that Minister, or by a person authorized by that Minister to act under that subsection, in respect of the undertaking of any research and development activity in respect of goods of that kind or those kinds during the year ending on that 30 June for inclusion in the annual report required to be prepared by that Research Council under subsection (1); and

(b) particulars of any research and development activities in respect of goods of that kind or those kinds that that Minister proposes to fund during the year next following that year.

(4) A report prepared by a Council under subsection (1) or by a State Research Committee under subsection (2) shall include an assessment of the extent to which the operations of that Council or State Research Committee during the year to which the report relates:

(a) have contributed to the objectives set out in the research and development plan that was prepared by that Council or State Research Committee, as the case may be, and that relates to a period that includes that year; and

(b) have given effect to the annual research and development program that was prepared by that Council or State Research Committee, as the case may be, in respect of that year.

(5) The Minister shall cause a copy of the report given to the Minister under subsection (1) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

(6) Where a Research Council or a State Research Committee is established on a day other than 1 July in any year, this section has effect, for the purpose of its application in relation to that Research Council or State Research Committee, as if the period beginning on the day on which that Research Council or State Research Committee is established and ending on the 30 June first occurring after that day were a period of one year.

### 31 Accountability to industry

31. As soon as practicable after a Council's annual report is given to the Minister, the Council's Chairperson shall arrange with each relevant industry organisation in relation to each relevant kind of goods in relation to the Council for the Council's Chairperson to attend a meeting of the executive of the organisation concerned, or a meeting of a committee of that executive nominated by the executive, for the purpose of enabling members of that executive or committee:

(a) to consider the annual report of the Council;

(b) to receive an address by the Chairperson of the Council:

(i) with respect to the performance of the Council in the period to which the annual report relates and with respect to the intended activities of the Council in the year next following the end of that period; and

(ii) where State Research Committees have been established in respect of goods of the kind or kinds in respect of which the Council was established-with respect to the performance of those State Research Committees

in the period to which the annual report relates and with respect to the intended activities of those State Research Committees in the year next following the end of that period; and

(c) to question the Chairperson concerning:

(i) any aspect of the Council's activities during the period to which the annual report relates and any aspect of the intended activities of the Council; and

(ii) where State Research Committees have been established in respect of goods of the kind or kinds in respect of which the Council was established-any aspect of the activities of those State Research Committees during the period to which the annual report relates and any aspect of the intended activities of those State Research Committees.

#### - PART IVA –CERTAIN PAYMENTS INTO, AND OUT OF, FUNDS

##### 39A Matching amounts not to exceed levy revenue

39A. (1) The sum of the matching amounts in relation to a levy or class of levies shall not exceed the sum of the Fund credits in relation to the levy or levies less the sum of the refunds in relation to the levy or levies.

(2) In this section:

"Fund credit", in relation to a levy, means an amount that, by virtue of subparagraph 7 (1) (a) (i) or (ii) as applying in relation to the levy, was or is paid (whether before, at or after the commencement of this section) into a Fund;

"refund", in relation to a levy, means the amount of a refund required to be paid from a Fund in respect of a Fund credit in relation to the levy, whether the refund was or is so paid before, at or after the commencement of this section.

##### 39B Matching amounts not to exceed certain proportion of value of production of relevant kind of goods

39B. The sum of such of the matching amounts in relation to a levy or class of levies as are paid in a particular financial year (whenever beginning) shall not exceed an amount equal to:

(a) in the case of the levies referred to in column 1 of Part IV of Schedule 1-3.5 cents per kilogram of the tobacco leaf in respect of which those levies are imposed in that financial year; or

(b) otherwise-0.5% of the amount that the Minister determines, in accordance with a method specified in the regulations, to be the gross value of production, for that financial year, of goods of the relevant kind in relation to the levy or class.

##### 39C Commonwealth may recover levy collection expenses from Fund

39C. Money that is in a Fund and in an account kept under subsection 7A (2) or (3) or 8 (2) in relation to the relevant kind of goods in relation to a levy or class of levies attached to the Fund may be paid out of that account in payment to the Commonwealth of amounts equal to the expenses incurred by the Commonwealth in relation to:

(a) the collection or recovery of amounts of the kind referred to in paragraph 7 (1) (a) that are receivable by the Commonwealth under the Collection Act for that levy or the Collection Acts for the levies in that

class; and

(b) the administration of paragraph 7 (1) (a) in respect of that levy or those levies.

#### 39D Account from which levy reimbursement to be paid

39D. (1) This section applies where there is required to be paid from a Fund (in this section called the "current Fund") an amount (in this section called the "reimbursement"), being a refund payable, or being an amount equal to the amount of a refund paid, in respect of an amount (in this section called the "Fund credit") paid into a Fund by virtue of:

- (a) subparagraph 7 (1) (a) (i) or (ii); or
  - (b) subparagraph 7 (1) (a) (iii);
- as applying in relation to a levy.

(2) If the current Fund is the Barley Research Trust Fund or the Wheat Research Trust Fund, the reimbursement shall be paid:

(a) if the Fund credit was paid into 2 or more accounts-out of those accounts in the respective proportions in which the Fund credit was paid into those accounts; or

(b) otherwise-the account into which the Fund credit was paid.

(3) Otherwise, the reimbursement shall be paid out of the account kept under:

- (a) if paragraph (1) (a) applies-subsection 7A (2);
  - (b) if paragraph (1) (b) of this section applies-subsection 7A (3);
- in relation to the relevant kind of goods in relation to:
- (c) if the levy is not in a class of levies attached to the current Fund-the levy; or
  - (d) if the levy is in a class of levies attached to the current Fund-that class.

#### - PART IVB-RE-ORGANISATIONS OF FUNDS AND COUNCILS

#### 39E Additional levies attached to a Research Fund and Research Council

39E. Where the regulations declare a levy or levies to be, with effect from a specified day, an additional levy, or a class of additional levies, as the case may be, attached to a specified Research Fund and a specified Research Council, then, for the purposes of this Act, the levy, or the class and each levy in it, becomes attached to that Fund and Council at the beginning of that day.

#### 39G Change of name of Research Fund, Research Council or State Research Committee

39G. (1) The regulations may amend:

- (a) column 3 or 4 of a Part of Schedule 1; or
- (b) column 3 of a Part of Schedule 2.

(2) Where a Research Fund's name is changed by virtue of:

- (a) regulations made under subsection (1); or
  - (b) an amendment of regulations made for the purposes of paragraph 6 (3) (b) or (4) (b);
- subsection 25B (1) of the Acts Interpretation Act 1901 applies in relation to the change of name as if a reference in subsection 25B (1) of that Act to an

office included a reference to a Research Fund.

### 39H Transfer of money between Funds where levies redirected

39H. (1) This section applies where a levy or class of levies is redirected from a Fund (in this section called the "old Fund") to another Fund (in this section called the "new Fund").

(2) If the old Fund is a Research Fund, the money that is in the old Fund and in an account kept under subsection 7A (2) or (3) in relation to the relevant kind of goods in relation to the levy or class shall be paid out of that account and into the new Fund, and the account of the new Fund that is kept under subsection 7A (2) or (3), as the case may be, in relation to those kinds of goods.

### 39J Treatment of unmatched amounts where levies redirected

39J. (1) This section applies where:

(a) by virtue of paragraph 7 (1) (b), an amount (in this section called the "matching amount") becomes, or but for either or both of sections 39A and 39B would become, required to be paid into a Fund (in this section called the "old Fund") because of an amount (in this section called the "matchable amount") required to be paid, in accordance with section 9, out of an account kept under subsection 7A (2) or (3) in relation to the relevant kind of goods in relation to a levy or class of levies attached to the old Fund; and

(b) before the matching amount is paid into the old Fund, the levy or class is redirected from the old Fund to another Fund.

(2) After the redirection, paragraphs 7 (1) (b) and 7A (2) (b) apply as if the matchable amount:

(a) were not an amount required to be paid, in accordance with section 9, as the case may be, out of the old Fund out of the account referred to in paragraph (1) (a) of this section; and

(b) were an amount required to be paid, in accordance with section 9 (other than subsection 9 (3A)) out of the other Fund out of the account kept under subsection 7A (2) or (3) as the case requires, in relation to the relevant kind of goods in relation to the levy or class.

### 39K Transfer of liabilities where levies redirected

39K. (1) This section applies where:

(a) subsection 39H (2) or (3) has been complied with by paying money out of a Fund (in this section called the "old Fund") out of accounts (in this section called the "old accounts") into another Fund (in this section called the "new Fund") into other accounts (in this section called the "new accounts"); and

(b) an amount would, if that money had not been so paid, be permitted to be paid, with the approval of the Council for the old Fund:

- (i) out of either of the old accounts and out of no other accounts; or
- (ii) out of any one of 3 or more accounts including the old accounts.

(2) With the approval of the Council for the old Fund or of the Minister:

(a) if subparagraph (1) (b) (i) applies-the amount; or

(b) if subparagraph (1) (b) (ii) applies-so much of the amount as:

- (i) the respective Councils for the old Fund and the new Fund jointly

determine to be appropriate; or

(ii) the Minister determines to be appropriate;  
may be paid out of:

(c) whichever one of the new accounts the Council for the new Fund, or the Minister, determines; or

(d) the new accounts in such proportions as the Council for the new Fund determines.

(3) For the purposes of paragraphs 7 (1) (b) and 7A (2) (b), so much of the amount as is paid out of an account or accounts under subsection (2) of this section shall be taken to be an amount required to be paid, in accordance with section 9 (other than subsection 9 (3A)), out of the new Fund out of that account or those accounts.

(4) If subparagraph (1) (b) (ii) applies, the remainder (if any) of the amount referred to in paragraph (1) (b) shall be taken, for the purposes of this Act, to be an amount that is permitted to be paid out of any one of the accounts referred to in that subparagraph, other than the old accounts.

39L Treatment of amounts received, after levies redirected from Fund, as a result of earlier expenditure from Fund

39L. (1) This section applies where:

(a) the Commonwealth receives an amount:

(i) from the sale of property paid for;

(ii) from the sale of property produced, or from dealing with patents in respect of inventions made, in the course of carrying out a research and development activity, or research and development activities, in respect of goods of a kind or kinds, paid for; or

(iii) in respect of work paid for;

wholly or partly with money paid out of a Fund out of an account kept under subsection 7A (2) or (3) in relation to the relevant kind of goods in relation to a levy or class of levies; and

(b) when the Commonwealth receives the amount, the levy or class is no longer attached to the Fund.

(2) An amount (in this section called the "resulting amount") equal to so much of the amount referred to in subsection (1) as the Minister determines to be appropriate shall be paid:

(a) into the Fund to which the levy or class is attached when the resulting amount is paid; and

(b) into the account kept under subsection 7A (3), as the case requires, in relation to that kind of goods.

39M Variation of research and development plans because of attachment of levies

39M. (1) This section applies where a regulation declaring a levy or levies to be, with effect from a specified day (in this section called the "attachment day"), an additional levy, or a class of additional levies, as the case may be, attached to a specified Research Council, takes effect on a particular day (in this section called the "declaration day").

(2) If, as at the declaration day, the Minister has approved in accordance with section 23 a research and development plan that was prepared by the Council and will be in force on the attachment day, the Council shall, as soon

as practicable after the declaration day:

- (a) review the plan;
- (b) consider what variation (if any) of the plan is necessary having regard to the fact that on and after the attachment day the relevant kind of goods in relation to the levy or class will be a relevant kind of goods in relation to the Council; and
- (c) with the Minister's approval, make whatever variation (if any) of the plan the Council considers necessary having regard to that fact.

(3) The Council shall not vary the plan under subsection (2) until the Council:

- (a) has consulted:
  - (i) each relevant industry organisation in relation to that kind of goods; and
  - (ii) such other Departments and agencies as the Council considers appropriate; about the proposed variation; and
- (b) has had regard to the views (if any) expressed as a result of those consultations.

(4) If, as at the declaration day:

- (a) the levy or class is attached to another Council;
- (b) the Minister has approved in accordance with section 23 a research and development plan that was prepared by the other Council and will be in force on the attachment day; and
- (c) the other Council has reason to expect that, at the end of the attachment day, at least one other levy will be attached to the other Council;

the other Council shall, as soon as practicable after the declaration day:

- (d) review the plan;
- (e) consider what variation (if any) of the plan is necessary having regard to the fact that on and after the attachment day that kind of goods will no longer be a relevant kind of goods in relation to the other Council; and
- (f) with the Minister's approval, make whatever variation (if any) of the plan the other Council considers necessary having regard to that fact.

(5) Subsections 24 (4) and (5) apply in relation to a variation, under subsection (2) or (4) of this section, of a research and development plan.

(6) A variation approved under subsection 24 (5) as applying by virtue of subsection (5) of this section shall be taken to have been approved under this section.

### 39N Consequential variation of annual research and development programs

39N. (1) This section applies where, as at the time when a Council submits to the Minister for his or her approval a proposed variation under section 39M of a research and development plan, the Minister has approved in accordance with section 28 an annual research and development program that was prepared by the Council.

(2) If:

- (a) at that or a later time, the Council has reason to expect that, if a variation of the plan is approved under section 39M, the program will be in force when the variation takes effect; or

(b) the program is in force when a variation of the plan, being a variation approved under section 39M, takes effect; the Council shall submit to the Minister for his or her approval such proposed variation (if any) of the program as the Council considers appropriate having regard to the variation referred to in paragraph (a) or (b) of this subsection.

(3) The Minister shall approve the variation of the program unless he or she is of the opinion that the program as varied would be inconsistent with the plan as in force when the program as varied would come into force.

(4) If the Minister approves under subsection (3) the variation of the program, the program as varied shall come into force on:

(a) if the Minister, when approving the variation, determines that it shall take effect on a specified day not earlier than the day of the approval-the specified day; or

(b) otherwise-the day of the approval.

(5) Subsection 28 (4) does not apply in relation to the variation referred to in subsection (1) of this section.

#### 39P Effect of redirecting levies: agreements under section 10

39P. (1) This section applies where, at the time (in this section called the "redirection") when a levy or class of levies is redirected from a Council (in this section called the "old Council") to another Council (in this section called the "new Council"), there is in force an agreement made under subsection 10 (1) by an authorised representative of the old Council in relation to funding a research and development activity in respect of:

(a) goods of the relevant kind in relation to the levy or class; or

(b) goods of particular kinds that include both the relevant kind in relation to the levy or class and at least one kind of goods that is not, immediately after the redirection, a relevant kind in relation to the new Council.

(2) If paragraph (1) (a) applies, then, after the redirection, the agreement has effect, with such modifications as the circumstances require, as if the Chairperson of the new Council were substituted for the authorised representative of the old Council as a party to the agreement and, except in relation to a time before the redirection:

(a) a reference in the agreement to the old Council were a reference to the new Council; and

(b) a reference in the agreement to the old Council's Fund were a reference to the new Council's Fund.

(3) If paragraph (1) (b) applies, the regulations may provide that, after the redirection, the agreement has effect, with such modifications as the circumstances require, as if specified authorised representatives of specified Councils each of which has functions in relation to research and development in respect of goods of at least one kind included in the kinds referred to in paragraph (1) (b) were jointly substituted for the authorised representative of the old Council as a party to the agreement and specified modifications of the agreement that are necessary or convenient having regard to that substitution, but do not affect the agreement's operation before the redirection, were made.



(4) Regulations in force under subsection (3) have effect accordingly.

#### 39Q Effect of redirecting levies: staff and consultants

39Q. (1) Within 2 months, or such longer period as the Minister directs in writing, after a levy or class of levies is redirected from a Council (in this section called the "old Council") to another Council (in this section called the "new Council"), the Chairpersons of the old Council and the new Council may jointly determine, or the Minister may determine, that persons specified in the determination who were engaged under subsection 29 (1) or (2) by the old Council's Chairperson and are still so engaged immediately before a day that is so specified shall be taken to be engaged at the beginning of that day, under that subsection, by the new Council's Chairperson, on the respective terms and conditions on which those persons were engaged by the old Council's Chairperson immediately before that day.

(2) A determination under subsection (1) has effect accordingly but does not prevent the new Council from varying, on or after the specified day and in accordance with subsection 29 (4) or (5), the terms and conditions of engagement of any of the specified persons.

#### 39R Winding up Research Funds and Councils to which no levy is attached

39R. The regulations may provide for:

- (a) winding up the affairs of, and abolishing or dissolving, Research Funds, and Research Councils, to which no levy is attached; and
- (b) matters for which it is necessary or convenient to provide in connection with winding up the affairs of, or abolishing or dissolving, such a Research Fund or Research Council.

### - PART V-RESEARCH COUNCILS SELECTION COMMITTEE

#### - DIVISION 1 -Establishment, functions and powers of Selection Committee

#### 40 Establishment of Research Councils Selection Committee

40. There is established by this Act an authority by the name of the Research Councils Selection Committee.

#### 41 Functions of Selection Committee

41. The functions of the Selection Committee are:

- (a) to develop standard procedures for the identification of persons likely to meet the requirements of selection criteria formulated by the Selection Committee in the performance of the function referred to in paragraph (b);
- (b) to formulate criteria for the selection of persons as members of Councils; and
- (c) to select persons to be nominated for appointment as members of Councils and to nominate persons so selected to the Minister for appointment as such members.

#### 42 Powers of Selection Committee

42. The Selection Committee has power to do all things that are necessary or

convenient to be done for, or in connection with, the performance of its functions.

- DIVISION 2-Constitution and meetings of Selection Committee

43 Constitution of Selection Committee otherwise than for performance of function referred to in paragraph 41 (b) or (c)

43. (1) Subject to section 44, the Selection Committee shall consist of the following members, namely:

- (a) a Chairperson;
- (b) a member appointed for the purpose of this paragraph;
- (c) a member appointed on the nomination of ARMCANZ; and
- (d) a member appointed on the nomination of the National Farmers' Federation.

(2) All members shall be appointed as part-time members.

(3) A member of the Selection Committee as constituted under this section:

- (a) shall be appointed by the Minister with effect from such day as the Minister specifies in the instrument of appointment of the member; and
- (b) holds office, subject to this Act, for such period, not exceeding 3 years, as the Minister specifies in that instrument of appointment, but is eligible for re-appointment.

(4) The Minister shall not appoint a person for the purposes of paragraph (1) (b) unless the Minister is satisfied that the person has a knowledge of, and experience in, scientific matters, research development or marketing.

(5) If the Minister is not satisfied as to the suitability of a person nominated for appointment to the Selection Committee by a body referred to in paragraph (1) (c) or (d), the Minister may request that body to make a further nomination.

(6) If a body on the nomination of which a member was appointed to the Selection Committee requests the Minister to terminate the appointment, the Minister shall terminate the appointment accordingly.

(7) The exercise of a power or the performance of a function by the Selection Committee is not affected by reason of there being a vacancy or vacancies in the membership of the Selection Committee.

(8) A person who has resigned, or whose appointment is terminated pursuant to subsection (6), is eligible for re-appointment.

44 Constitution of Selection Committee for performance of functions under paragraphs 41 (b) and (c)

44. (1) For the purposes of performing functions under paragraphs 41 (b) and (c) in respect of a particular Council, the Selection Committee as constituted under section 43 shall be augmented by the appointment to it, by the Minister, of:

- (a) if the Council is a Research Council and each relevant industry organisation in relation to each relevant kind of goods in relation to the Council requests that fewer than 3 further members be appointed-such number of

further members, being fewer than 3, as that organisation requests, or all those organisations request, as the case requires; or

(b) otherwise-3 further members.

(2) The Minister shall not appoint a person to be a further member of the Selection Committee for the purpose of the performance of the functions of the Selection Committee referred to in paragraphs 41 (b) and (c) in respect of a particular Research Council unless that further member has been nominated by each relevant industry organisation in relation to each relevant kind of goods in relation to the Research Council.

(3) A member appointed under subsection (1):

(a) shall be appointed with effect from such day as the Minister specifies in the instrument of appointment of the member; and

(b) holds office, subject to this Act, for such period, not exceeding 3 years, as the Minister specifies in the instrument of appointment, but is eligible for re-appointment.

(4) If the Minister is not satisfied that a person nominated for appointment to the Selection Committee by a relevant industry organization or relevant industry organizations in accordance with subsection (2) is suitable for appointment, the Minister may request that organization or those organizations to make a further nomination.

(5) Where:

(a) a member was appointed to the Selection Committee under subsection (1) on the nomination of a relevant industry organization or relevant industry organizations; and

(b) that relevant industry organization or any of those relevant industry organizations requests the Minister to terminate the appointment; the Minister shall terminate the appointment accordingly.

(6) Subsections 43 (2) and (7) apply in relation to a member appointed to the Selection Committee pursuant to subsection (1) of this section in like manner as they apply to a member appointed to the Selection Committee under section 43.

(7) A person who has resigned or whose appointment is terminated pursuant to subsection (5) is eligible for re-appointment.

#### 45 Minister may request nominations

45. The Minister may:

(a) for the purpose of appointing the members of a Council; or

(b) for the purpose of filling a vacancy caused by the resignation of, or termination of the appointment of, any of the members of a Council; by notice in writing given to the Chairperson of the Selection Committee, request the Selection Committee, as augmented in accordance with section 44, to give to the Minister, within such period as is specified in the notice, the names of persons, or of a person, as the case requires, considered by the Selection Committee as so augmented to be suitable for appointment as such members or as such a member.

#### 46 Selecting persons for nomination

46. (1) A person is not entitled to be nominated by the Selection Committee for appointment as a member of a Council unless that person possesses qualifications relevant to, or has expertise in, one or more of the following fields of activity:

- (a) commodity production;
- (b) commodity processing;
- (c) commodity marketing;
- (d) science;
- (e) technology, and technology transfer;
- (f) economics;
- (g) administration of research and development in respect of any goods;
- (h) finance;
- (j) business management.

(2) For the purpose of enabling it to nominate a person or persons for appointment to a Council, the Selection Committee:

- (a) shall invite the nomination of persons for consideration by the Selection Committee:
  - (i) by advertisements placed in a newspaper that circulates throughout Australia; and
  - (ii) by notice in writing given to each relevant industry organisation in relation to each relevant kind of goods in relation to the Council; and
- (b) may invite the nomination of persons for consideration by the Selection Committee in any other manner it considers appropriate.

(3) In selecting, pursuant to subsection (1), persons for nomination for appointment as members of a Council, the Selection Committee shall choose from the available candidates such persons as will best ensure that that Council collectively possesses qualifications and experience in as many as possible of the fields of activity referred to in paragraphs (1) (a) to (j) (inclusive).

(4) A person is eligible for nomination for appointment to a Council even if either or both of the following has or have happened at least once before:

- (a) a proposal for a nomination for his or her appointment to that or another Council has been rejected at a meeting of the Selection Committee;
- (b) the Minister has rejected such a nomination.

(5) A person who is a member of the Selection Committee is not eligible for nomination for appointment to a Council and a person who has been a member of the Selection Committee is not eligible for nomination to a Council until a period of one year has elapsed after the person ceased or last ceased to be a member.

#### 47 Nominations

47. (1) The Selection Committee shall, by the day specified by the Minister in a notice requesting the nomination of a person or persons for appointment to a Council, inform the Minister, by notice in writing, of the name or names of the person or persons whom the Selection Committee considers suitable for appointment.

(2) Subject to subsection 48 (1), the Selection Committee shall make only one nomination in respect of each appointment to be made by the Minister.

(3) The notice specifying the name of a person or the names of persons

nominated for appointment to a Council shall be accompanied by a statement in respect of the person, or of each of the persons, so nominated:

(a) containing details of the person's qualifications or experience in any one or more of the fields of activity referred to in paragraphs 46 (1) (a) to (j) (inclusive); and

(b) containing such other information relating to the person as the Selection Committee thinks appropriate to include so as to assist the Minister in considering whether to appoint the person.

(4) If the Minister considers the information contained in a statement accompanying a nomination made to the Minister by the Selection Committee to be inadequate for the Minister to consider the suitability of the person nominated for appointment, the Minister may, by notice in writing given to the Chairperson, require the Selection Committee, by such date as the Minister specifies in the notice, to provide the Minister with such further information of the kind referred to in subsection (3) as the Minister specifies.

#### 48 Minister may reject nominations

48. (1) Where the Minister is not satisfied that a person nominated for appointment as a member of a Council by the Selection Committee is suitable for appointment, the Minister may inform the Selection Committee, by notice in writing given to the Chairperson, that the Minister rejects the nomination and may include in that notice a further request for a nomination.

(2) For the purposes of this Act, a further request made under subsection (1) shall be treated as a request made under and in accordance with section 45.

#### 49 Acting Chairperson of Selection Committee

49. (1) The Minister may appoint a person to act as Chairperson:

(a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to the office; or

(b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia, or is, for any other reason, unable to perform the functions of the office of Chairperson;

but a person appointed to act during a vacancy shall not continue so to act after the expiration of 12 months commencing on the date on which the vacancy occurred.

(2) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) A person who is a member of the Selection Committee, or a deputy of such a member, is not eligible to be appointed to act as Chairperson.

(4) The Minister may:

(a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as Chairperson; and

(b) terminate such an appointment at any time.

(5) Where a person is acting as Chairperson in accordance with paragraph (1)

(b) and the office of Chairperson becomes vacant while that person is so

acting, then, subject to subsection (2), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months commencing on the day on which the vacancy occurred expires, whichever first happens.

(6) The appointment of a person to act as Chairperson ceases to have effect if the person resigns his or her appointment by writing signed by the person and delivered to the Minister.

(7) While a person is acting as Chairperson, the person has, and may exercise, all the powers, and shall perform all the functions, of the Chairperson under this Act.

(8) The validity of anything done by, or in relation to, a person purporting to act under subsection (1) shall not be called in question on the ground that the occasion for the person's appointment had not arisen, that there is a defect or irregularity in or in connection with the person's appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

#### 50 Deputies of Selection Committee members

50. (1) The Minister may appoint a person to be the deputy of the member of the Selection Committee referred to in paragraph 43 (1) (b).

(2) The Minister may, upon the nomination of a body referred to in paragraph 43 (1) (c) or (d), appoint a person to be the deputy of the member of the Selection Committee appointed pursuant to that paragraph.

(3) Where a relevant industry organization referred to in subsection 44 (2) has, or relevant industry organizations referred to in that subsection have, nominated a person for appointment as a member of the Selection Committee for the purpose of the performance of the functions of the Selection Committee referred to in paragraphs 41 (b) and (c) in respect of a particular Research Council and the Minister has appointed that person as a member of the Selection Committee, the Minister may, on the nomination of that organization or those organizations, appoint a person to be the deputy of that member of the Selection Committee.

(4) If a member of the Selection Committee who is entitled to attend a meeting of the Selection Committee does not attend the meeting, the person appointed to be the deputy of that member may attend the meeting and, while the deputy attends the meeting, the deputy shall be deemed to be a member of the Selection Committee.

(5) If a body or organization on the nomination of which a person was appointed to be the deputy of a member of the Selection Committee, requests the Minister to terminate the appointment, the Minister shall terminate the appointment accordingly.

(6) The appointment of a person as the deputy of a member of the Selection Committee is not invalidated, and shall not be called in question, by reason of a defect or irregularity in or in connection with the person's nomination or appointment.

## 51 Casual vacancies

51. (1) If the Chairperson of the Selection Committee ceases to hold office before the expiration of the period for which the Chairperson was appointed, the Minister may appoint another person to be the Chairperson for the remainder of that period.

(2) If a member of the Selection Committee as it is constituted for the performance of a particular function or particular functions ceases to hold office as such a member before the expiration of the period for which the person was appointed, the Minister may appoint another person as the member of the Selection Committee as so constituted for the remainder of that period.

(3) For the purposes of subsection (2), if the member of the Selection Committee who ceased to hold office had been appointed by the Minister on a nomination by a body referred to in paragraph 43 (1) (c) or (d), the person appointed by the Minister shall be a person nominated to the Minister by that body.

(4) For the purposes of subsection (2), if the member of the Selection Committee who ceased to hold office had been appointed by the Minister under subsection 44 (1) on a nomination by a relevant industry organization or relevant industry organizations referred to in subsection 44 (2), the person appointed by the Minister shall be a person nominated to the Minister by that organization or those organizations.

## 52 Leave of absence in respect of members of Selection Committee

52. (1) The Minister may grant leave of absence to the Chairperson of the Selection Committee upon such terms and conditions as the Minister thinks fit.

(2) The Chairperson may grant leave of absence to another member of the Selection Committee upon such terms and conditions as the Chairperson thinks fit.

## 53 Removal and resignation of members of Selection Committee

53. (1) The Minister may terminate the appointment of a member of the Selection Committee for misbehaviour or physical or mental incapacity.

(2) If:

(a) a member of the Selection Committee becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for their benefit;

(b) a member of the Selection Committee fails, without reasonable excuse, to comply with the member's obligations under section 54;

(c) the Chairperson is absent, except with the leave of the Minister, from 3 consecutive meetings of the Selection Committee; or

(d) a member of the Selection Committee, other than the Chairperson, is absent, except with the leave of the Chairperson, from 3 consecutive meetings of the Selection Committee that that member is eligible to attend; the Minister shall terminate the appointment of the member concerned.

(3) A member of the Selection Committee may resign from office by writing signed by the member and delivered to the Minister.

#### 54 Disclosure of interests of members of Selection Committee

54. (1) A member of the Selection Committee as it is constituted for the performance of a particular function who has a direct or indirect pecuniary interest in a matter that is being considered, or that is about to be considered, by the Selection Committee as so constituted, being an interest that could conflict with the proper performance of that member's functions in relation to the consideration of the matter, shall, as soon as practicable after the relevant facts have come to the knowledge of that member, disclose the nature of that interest at a meeting of the Selection Committee.

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

(3) A member of the Selection Committee as it is constituted for the performance of a particular function who has a direct or indirect pecuniary interest in a matter the subject of a document of a kind referred to in section 57, being an interest that could conflict with the proper performance of that member's functions in relation to the consideration of the matter, shall, as soon as practicable after the relevant facts have come to the knowledge of that member, disclose the nature of that interest to the Minister.

#### 55 Remuneration and allowances of members of Selection Committee

55. (1) Each member of the Selection Committee and each deputy of a member shall be paid such remuneration as is determined by the Remuneration Tribunal.

(2) Each member of the Selection Committee and each deputy of a member shall be paid such allowances as are prescribed.

(3) This section has effect subject to the Remuneration Tribunal Act 1973 other than subsections 7 (9) and (13) of that Act.

#### 56 Meetings of Selection Committee

56. (1) The Chairperson may convene such meetings of the Selection Committee as the Chairperson considers necessary for the performance of its functions.

(2) Meetings of the Selection Committee shall be held at such places and at such times as the Chairperson determines.

(3) The Chairperson shall preside at all meetings of the Selection Committee at which he or she is present.

(4) If, at a meeting of the Selection Committee, the Chairperson is not present, the members of the Selection Committee who are present shall elect one of their number to preside at the meeting.

(5) Subject to subsection (6), a quorum at a meeting of the Selection Committee as it is constituted for the performance of a particular function shall consist of a majority of the members of the Selection Committee as so



constituted.

(6) Where a meeting of the Selection Committee is convened for the purpose of the performance of a function referred to in paragraph 41 (b) or (c), the quorum for the purposes of that meeting must include a majority of the members of the Selection Committee who are appointed to the Selection Committee under section 44.

(7) At a meeting of the Selection Committee:

(a) subject to subsection (8), a question shall be determined by a majority of the votes of the members of the Selection Committee present and voting; and

(b) the person presiding:

(i) in a case where that person is the Chairperson-has a deliberative vote and, in the event of an equality of votes, also has a casting vote; and  
(ii) in any other case-has a deliberative vote only.

(8) At a meeting held in the absence of the Chairperson, a person may not be nominated for appointment to a Council if his or her proposed nomination is voted against by more than one of the members of the Selection Committee who are present.

(9) The Selection Committee shall keep a record of its proceedings.

#### 57 Resolutions without formal meetings of Selection Committee

57. (1) If a number of the members of the Selection Committee as constituted for the performance of a particular function (being members who, if they were present at a meeting of the Selection Committee as so constituted, would constitute a quorum) sign a document containing a statement that they are in favour of a resolution of the Selection Committee as so constituted in terms set out in the document, a resolution in those terms shall be deemed to have been passed at a duly convened meeting of the Selection Committee as so constituted on the day on which the document was signed, or, if the members signed the document on different days, on the day on which the document was last signed by a member.

(2) For the purposes of subsection (1), 2 or more separate documents containing statements in identical terms each of which is signed by one or more members of the Selection Committee as constituted for the performance of a particular function shall together be deemed to constitute one document containing a statement in those terms signed by those members on the respective days on which they signed the separate documents.

#### 58 Selection Committee to notify costs to each Council

58. (1A) In this section:

"reimbursement period" means:

(a) the period of 12 months ending on 31 December 1988;  
(b) the period of 6 months ending on 30 June 1989; or  
(c) a period of 12 months ending on 30 June in a later year.

(1) The Selection Committee shall, as soon as practicable after the end of each reimbursement period, determine the amount, if any, of the costs that were incurred by the Selection Committee during that period that were

attributable to the Selection Committee's activities in relation to the selection of the members of a Council and shall give to that Council a notice in writing specifying the amount of the costs that were so attributable during that period or stating that no costs were so attributable during that period, as the case requires.

(2) In subsection (1), a reference to the costs incurred by the Selection Committee shall be taken to include a reference to the remuneration and allowances payable to the Chairperson of the Selection Committee, to the members of the Selection Committee to the deputies of those members and to the persons engaged under section 59 by the Chairperson.

#### - DIVISION 3 -Staff and Consultants

##### 59 Staff and consultants

59. (1) The Chairperson of the Selection Committee may, subject to subsection (3), on behalf of the Commonwealth, engage persons to perform administrative and clerical services in connection with the performance of its functions as so constituted or as constituted in accordance with section 44.

(2) The Selection Committee's Chairperson may, on the Commonwealth's behalf, engage persons, under written agreements, as consultants to, or to perform services of a professional nature for, the Selection Committee to assist the Selection Committee as constituted in accordance with section 44 in identifying persons suitable for nomination to the Minister.

(3) A person shall not be engaged for the performance of a service referred to in subsection (1) unless the Minister has approved that engagement or the engagement of persons to perform services of that kind.

(3A) A person may only be engaged under subsection (2) if he or she has suitable qualifications and experience.

(4) A person engaged under subsection (1) by the Chairperson of the Selection Committee shall be engaged on such terms and conditions as are determined by the Selection Committee.

(5) A person engaged under subsection (2) by the Chairperson of the Selection Committee shall be engaged on such terms and conditions as are determined by that Selection Committee.

#### - DIVISION 4-Accountability

##### 60 Annual reports of Selection Committee

60. (1) The Selection Committee as constituted in accordance with section 43 shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report of its operations during the year that ended on that 30 June.

(2) The Minister shall cause a copy of the report furnished to the Minister under subsection (1) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

(3) For the purposes of subsection (1), if the Selection Committee is established on a day other than 1 July in any year, that subsection shall have effect as if:

(a) the first 30 June to occur after the day on which the Selection Committee is established were the 30 June first occurring at least 6 months after that day; and

(b) the period beginning on the day on which the Selection Committee is established and ending on the 30 June first occurring at least 6 months after that day were a period of one year.

## - PART VI -MISCELLANEOUS

### 61 Co-ordination meetings

61. (1) The Minister shall, at least once in each financial year:

(a) cause a meeting, to be called a co-ordination meeting, to be held at a time and place nominated by him or her for the purpose of considering, and, to the extent that it is practicable, co-ordinating, the research and development activities pursued, or proposed to be pursued, by the respective Councils and State Research Committees; and

(b) nominate the Chairperson of one of the Councils as the person entitled to preside at that co-ordination meeting.

(2) Each co-ordination meeting shall be attended by the Chairperson of each of the Councils, or, if that person is unable to attend, by such other person as is nominated by the Council for the purpose.

(3) For the purpose of enabling the Chairperson of, or another person nominated to represent, a Research Council established in respect of goods of a kind or kinds in respect of which State Research Committees have been established under section 12 fully to participate in a co-ordination meeting, each such State Research Committee shall, upon receipt of a written request by the Research Council, give to that Research Council, within such period as is specified in the request, such information as is requested concerning its operations since the time of its last report to the Research Council pursuant to subsection 30 (2).

(4) If the Chairperson nominated by the Minister to preside at a co-ordination meeting is unable to attend that meeting, the persons attending the meeting in accordance with subsection (2) shall elect one of their number to preside at the meeting.

(5) The member nominated by the Minister under subsection (1) as the person entitled to preside at a co-ordination meeting or, if that person is unable to attend the meeting, the person elected to preside in accordance with subsection (4), may, subject to this Act and to the regulations, give directions regarding the procedure to be followed at or in connection with the meeting.

(6) At a co-ordination meeting:

(a) all questions shall be decided by a majority of votes of the persons attending the meeting in accordance with subsection (2) and voting; and

(b) the person presiding has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(7) The member nominated by the Minister under subsection (1) as the person entitled to preside at a co-ordination meeting may invite any person involved in the administration of a research and development program in respect of goods of a particular kind or kinds to attend that co-ordination meeting for the purpose of advising the meeting of research and development activities being undertaken, or proposed to be undertaken, in respect of goods of that kind or those kinds under that research program.

(8) In this section:

"Chairperson", in relation to a Council, means, if there is no office of Chairperson of that Council, a prescribed member of that Council;

"Council" includes:

(a) the Wool Research and Development Council in existence by force of section 90 of the Wool Marketing Act 1987;

(b) the Meat Research Corporation established by section 4 of the Meat Research Corporation Act 1985;

(c) the Horticultural Research and Development Corporation established by section 4 of the Horticultural Research and Development Corporation Act 1987;

(d) the Fishing Industry Research and Development Council established by section 5 of the Fishing Industry Research and Development Act 1987; and

(e) a prescribed body (whether incorporated or not).

## 62 Regulations

62. The Governor-General may make regulations, not inconsistent with this Act prescribing all 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.

## - SCHEDULE 1

### SCH

#### SCHEDULE 1\*2\* Sections 4, 6 and 11

#### NAMES OF RESEARCH FUNDS AND RESEARCH COUNCILS ESTABLISHED IN RESPECT OF CERTAIN GOODS

##### PART I

Column 1

Levy

Column 2

Research component of levy

Column 3

Name of Research Fund established under this Act

Column 4

Name of Research Council established under this Act

Levy imposed by Barley Research Levy Act 1980

Whole of levy referred to in Column 1

Barley Research Trust Fund

Barley Research Council

Levy imposed by Meat Chicken Levy Act 1969

So much of levy referred to in Column 1 as is received by virtue of paragraph 7 (1) (a) of the Meat Chicken Levy Act 1969

Chicken Meat Research Trust Fund  
 Chicken Meat Research Council  
 Levy imposed by Cotton Levy Act 1982  
 Whole of levy referred to in Column 1  
 Cotton Research Trust Fund  
 Cotton Research Council  
 Levy imposed by Dried Fruits Levy Act 1971  
 Whole of levy referred to in Column 1  
 Dried Fruits Research Trust Fund  
 Dried Fruits Research Council  
 Levy imposed by Oilseeds Levy Act 1977  
 Whole of levy referred to in Column 1  
 Oilseeds Research Trust Fund  
 Oilseeds Research Council  
 Levy imposed by Pig Slaughter Levy Act 1971  
 So much of levy referred to in Column 1 as is received by virtue  
 of paragraph 6 (1) (a) of the Pig Slaughter Levy Act 1971  
 Pig Research Trust Fund  
 Pig Research Council  
 Levy imposed by Poultry Industry Levy Act 1965  
 So much of levy referred to in Column 1 as is received by virtue  
 of paragraph 6 (1) (b) of the Poultry Industry Levy Act 1965  
 Egg Industry Research Trust Fund  
 Egg Industry Research Council  
 Levy imposed by section 6 of the Dairying Industry Research and Promotion  
 Levy Act 1972  
 So much of levy referred to in Column 1 as is received by virtue  
 of paragraph 7 (a) of the Dairying Industry Research and Promotion  
 Act 1972  
 Dairying Research Trust Fund  
 Dairy Research Council  
 PART II

Column 1

Levy

Column 2

Research component of levy

Column 3

Name of Research Fund established under this Act

Column 4

Name of Research Council established under this

Act

Levy imposed by section 10 of the Dairying Industry Research and Promotion  
 Levy Act 1972

So much of levy referred to in Column 1 as is received by virtue  
 of paragraph 11 (a) of the Dairying Industry Research and  
 Promotion Levy Act 1972

Levy imposed by section 5 of the Dairy Produce Levy (No. 1) Act 1986

So much of levy referred to in Column 1 as is received by virtue  
 of sub-section 7 (4) of the Dairy Produce Levy (No. 1) Act 1986

PART III

Column 1

Levy

Column 2

Research component of levy

Column 3

Name of Research Fund established under this Act  
Column 4

Name of Research Council established under this  
Act

Levy imposed by Honey Export Charge Act 1973

So much of levy referred to in Column 1 as is received by virtue  
of paragraph 7 (1) (b) of the Honey Export Charge Act 1973

Honey Research Trust Fund

Honey Research Council

Levy imposed by Honey Levy Act (No. 1) 1962

So much of levy referred to in Column 1 as is received by virtue  
of paragraph 5 (1) (b) of the Honey Levy Act (No. 1) 1962

Levy imposed by Honey Levy Act (No. 2) 1962

So much of levy referred to in Column 1 as is received by virtue  
of paragraph 5 (1) (b) of the Honey Levy Act (No. 2) 1962

PART IV

Column 1

Levy

Column 2

Research component of levy

Column 3

Name of Research Fund established under this Act

Column 4

Name of Research Council established under this  
Act

Levy imposed by Tobacco Charge Act (No. 1) 1955

So much of levy referred to in Column 1 as is received by virtue  
of paragraph 5 (b) of the Tobacco Charge Act (No. 1) 1955

Tobacco Research Trust Fund

Tobacco Research Council

Levy imposed by Tobacco Charge Act (No. 2) 1955

So much of levy referred to in Column 1 as is received by virtue  
of paragraph 6 (b) of the Tobacco Charge Act (No. 2) 1955

Levy imposed by Tobacco Charge Act (No. 3) 1955

So much of levy referred to in Column 1 as is received by virtue  
of paragraph 5 (b) of the Tobacco Charge Act (No. 3) 1955

PART V

Column 1

Levy

Column 2

Research component of levy

Column 3

Name of Research Fund established under this Act

Column 4

Name of Research Council established under this  
Act

Levy imposed by Wheat Tax Act 1957

Whole of levy referred to in Column 1

Wheat Research Trust Fund

Wheat Research Council

Levy imposed by Wheat Tax Act 1979

Whole of levy referred to in Column 1

Levy imposed by Wheat Tax (Permit) Act 1984

So much of levy referred to in Column 1 as would have been  
received by virtue of paragraph 6 (a) of the Wheat Tax (Permit)

Act 1984 in respect of permits issued under that Act if the total quantity of wheat authorised by those permits to be purchased had been the same as the total quantity of wheat that was purchased under those permits

Levy imposed by Wheat Industry Fund Levy Act 1989

A percentage of the levy referred to in Column 1 as determined under subsection 85 (3) of the Wheat Marketing Act 1989

\*2\* The was amended by the Primary

Industries and Energy Legislation Amendment Act (No. 1) 1996. The applicable provision provides as follows:

Schedule 4-Amendment of the Rural Industries Research Act 1985

1. Schedule 1 (Part 1)

Omit:

Levy imposed by Poultry Industry Levy Act 1965

So much of levy referred to in Column 1 as is received by virtue of paragraph 6 (1) (b) of the Poultry Industry Levy Act 1965

Egg Industry Research Trust Fund

Egg Industry Research Council

Subsection 2 (3) of the Primary Industries and Energy Legislation Amendment Act (No. 1) 1996 provides as follows:

"(3) Schedules 3, 4 and 8 commence on the day on which a notice is published in the Gazette under subsection 6(6) of the Poultry Industry Assistance Act 1965."

As at 12 November 1996 no date had been fixed and the amendments are not incorporated in this reprint.

- SCHEDULE 2

SCH

SCHEDULE 2 Section 12

NAMES OF STATE RESEARCH COMMITTEES ESTABLISHED IN  
RESPECT OF CERTAIN GOODS

PART I

Column 1

Levy

Column 2

States in respect of which a State Research Committee established under this Act

Column 3

Name of State Research Committee established under this Act

Levy imposed by Barley Research Levy Act 1980

New South Wales

Barley Research Committee for New South Wales

Victoria

Barley Research Committee for Victoria

Queensland

Barley Research Committee for Queensland

Western Australia

Barley Research Committee for Western Australia

South Australia

Barley Research Committee for South Australia

PART II

Column 1

## Levy

Column 2

States in respect of which a State Research Committee established under this Act

Column 3

Name of State Research Committee established under this Act

Levy imposed by Wheat Tax Act 1957

New South Wales

Wheat Research Committee for New South Wales

Levy imposed by Wheat Tax Act 1979

Victoria

Wheat Research Committee for Victoria

Levy imposed by Wheat Tax (Permit) Act 1984

Queensland

Wheat Research Committee for Queensland

Levy imposed by Wheat Industry Fund Levy Act 1989

Western Australia

Wheat Research Committee for Western Australia

South Australia

Wheat Research Committee for South Australia