



Rural Research and Development Legislation Amendment Act 2013

No. 146, 2013

**An Act to amend legislation relating to research
and development in relation to primary industries,
and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 146, 2013

**An Act to amend legislation relating to research
and development in relation to primary industries,
and for related purposes**

[Assented to 13 December 2013]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Rural Research and Development
Legislation Amendment Act 2013*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	13 December 2013
2. Schedules 1 to 4	The day this Act receives the Royal Assent.	13 December 2013
3. Schedule 5, items 1 to 7	The day this Act receives the Royal Assent.	13 December 2013
4. Schedule 5, items 8 to 11	Immediately after the commencement of the provision(s) covered by table item 3.	13 December 2013
5. Schedule 5, item 12 to 14	The day this Act receives the Royal Assent.	13 December 2013
6. Schedules 6 to 10	The day this Act receives the Royal Assent.	13 December 2013
7. Schedule 11, Part 1	The later of: (a) the start of the day on which this Act receives the Royal Assent; and (b) immediately after the commencement of Part 1 of Schedule 1 to the <i>Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Act 2013</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	14 December 2013 (paragraph (b) applies)
8. Schedule 11, Part 2	The later of: (a) the start of the day on which this Act receives the Royal Assent; and (b) immediately after the commencement of	1 July 2014 (paragraph (b) applies)

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
	Part 2 of Schedule 1 to the <i>Grape and Wine Legislation Amendment (Australian Grape and Wine Authority) Act 2013</i> .	
	However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments to repeal provisions relating to R&D Councils and R&D Funds

Plant Health Australia (Plant Industries) Funding Act 2002

1 Section 3 (subparagraph (b)(i) of the definition of *primary levy or charge*)

Omit “, or an R&D Fund.”.

2 Paragraph 7(3)(c)

Omit “or 108(1)(a)(iii) of that Act (as the case requires)”, substitute “of that Act”.

3 Paragraph 8(3)(b)

Omit “or 113”.

4 Paragraph 9(5)(b)

Omit “or 114 (as the case requires)”.

Primary Industries and Energy Research and Development Act 1989

5 Subsection 4(1) (definition of *annual operational plan*)

Repeal the definition, substitute:

annual operational plan means an annual operational plan of an R&D Corporation in force under Division 3 of Part 2.

6 Subsection 4(1) (definition of *Chairperson*)

Repeal the definition, substitute:

Chairperson, in relation to an R&D Corporation, means the Chairperson of the Corporation.

7 Subsection 4(1) (definition of *Deputy Chairperson*)

Repeal the definition, substitute:

Deputy Chairperson, in relation to an R&D Corporation, means the Deputy Chairperson of the Corporation.

8 Subsection 4(1) (definition of *member*)

Repeal the definition, substitute:

member, in relation to a Selection Committee, means a member of the Selection Committee, and includes the Presiding Member of the Selection Committee.

9 Subsection 4(1) (definition of *nominated member*)

Repeal the definition.

10 Subsection 4(1) (definition of *Presiding Member*)

Repeal the definition, substitute:

Presiding Member means a person appointed under section 122 as the Presiding Member of the Selection Committee for an R&D Corporation.

11 Subsection 4(1) (definitions of *R&D Council* and *R&D Fund*)

Repeal the definitions.

12 Subsection 4(1) (definition of *R&D plan*)

Repeal the definition, substitute:

R&D plan means an R&D plan of an R&D Corporation in force under Division 3 of Part 2.

13 Subsection 4(1) (definition of *refund*)

Repeal the definition, substitute:

refund, in relation to a levy, means the amount of refund required to be paid by the Commonwealth in respect of an amount paid to an R&D Corporation under paragraph 30(1)(a), 30A(1)(a) or 30B(2)(a) in respect of the levy.

14 Subsection 4(1) (definition of *representative organisation*)

Repeal the definition, substitute:

representative organisation, in relation to an R&D Corporation, means an organisation declared under section 7 to be a representative organisation in relation to the Corporation.

15 Subsection 4(1) (definition of *Selection Committee*)

Repeal the definition, substitute:

Selection Committee means a Selection Committee for an R&D Corporation established under section 124 or 125.

16 Section 5 (heading)

Omit “or R&D Funds”.

17 Subsection 5(1)

Omit “or an R&D Fund”.

18 Paragraphs 5(1)(a) and (b)

Omit “or the Fund, as the case may be”.

19 Subsection 5(2)

Omit “or an R&D Fund”.

20 Paragraphs 5(2)(a) and (b)

Omit “or the Fund, as the case may be”.

21 Paragraph 5(3)(b)

Omit all the words after “class of primary” (third occurring), substitute “industries in respect of which the Corporation is established”.

22 Subsection 6(1)

Omit “(1)”.

23 Paragraph 6(1)(b)

Omit “or to an R&D Fund”.

24 Paragraph 6(1)(c)

Omit “or from the R&D Fund, as the case may be”.

25 Paragraph 6(1)(d)

Omit “or to the R&D Fund, as the case may be”.

26 Subsection 6(2)

Repeal the subsection.

27 Subsection 7(1)

Omit “or an R&D Council”.

28 Subsection 7(2)

Omit “or an R&D Council”.

29 Subsection 7(2)

Omit “or 92 establishing the Corporation or Council”, substitute “establishing the Corporation”.

30 Subsection 7(3)

Omit “and each R&D Council”.

31 Subsection 36(2)

Repeal the subsection.

32 Paragraph 37(b)

Omit “or to an R&D Fund”.

33 Paragraph 37(c)

Omit “or to the R&D Fund,”.

34 Paragraph 37(c)

Omit “or 30A(1)(a) or into the Fund under paragraph 108(1)(a)”, substitute “, 30A(1)(a) or 30B(2)(a)”.

35 Paragraph 37(f)

Omit “30A(1)(a) or 108(1)(a)”, substitute “30A(1)(a) or 30B(2)(a)”.

36 Paragraph 37(f)

Omit “, or into the Fund, as the case may be”.

37 Paragraph 38(b)

Omit “or to an R&D Fund”.

38 Paragraph 38(c)

Omit “or to the R&D Fund,”.

39 Paragraph 38(c)

Omit “, or money in the Fund was spent under section 112,”.

40 Paragraph 38(d)

Omit “or 30A(1)(b) or into the Fund under paragraph 108(1)(b)”, substitute “, 30A(1)(b) or 30B(2)(b)”.

41 Paragraph 38(g)

Omit “108(1)(b)”, substitute “30B(2)(b)”.

42 Paragraph 38(g)

Omit “, or into the Fund, as the case may be”.

43 Subsection 39(2)

Repeal the subsection.

44 Part 3

Repeal the Part.

45 Subsection 123(2)

Repeal the subsection.

46 Subsection 123(3)

Omit “or (2) is”, substitute “is”.

47 Subsection 123(3)

Omit “or (2), as the case may be,”.

48 Section 126

Repeal the section.

49 Section 127

Omit “or an R&D Council”.

50 Section 127

Omit “or nominated members of the R&D Council, as the case may be”.

51 Subsection 130(1)

Omit “or an R&D Council”.

52 Paragraph 130(2)(b)

Omit “or R&D Council”.

53 Paragraph 130(3)(b)

Omit “, or the members of the R&D Council concerned,”.

54 Subsection 131(1)

Omit “or an R&D Council”.

55 Subsection 131(1B)

Repeal the subsection.

56 Subsection 131(2)

Omit “, or the members of the R&D Council concerned,”.

57 Paragraph 131(3)(a)

Omit “or R&D Council”.

58 Subsection 134(1)

Omit “or R&D Council (as the case may be)”.

59 Section 137

Repeal the section.

60 Subsection 139(3)

Repeal the subsection.

61 Subsection 142(2)

Omit “and R&D Councils”.

62 Subsection 142(3)

Omit “and each R&D Council”.

63 Subsection 143(1)

Omit “or an R&D Council”.

64 Subsection 143(2)

Omit “or R&D Council”.

65 Paragraph 143(3)(a)

Omit “or R&D Council”.

66 Paragraph 143(3)(a)

Omit “or Council”.

67 Section 144 (heading)

Omit “or R&D Council”.

68 Subsection 144(2)

Repeal the subsection.

69 Section 145 (heading)

Omit “or R&D Council”.

70 Subsection 145(3)

Repeal the subsection.

71 Section 146 (heading)

Omit “or R&D Council”.

72 Subsection 146(1)

Omit “(1)”.

73 Subsection 146(2)

Repeal the subsection.

74 Section 147 (heading)

Omit “or R&D Council”.

75 Subsection 147(1)

Omit “(1)”.

76 Subsection 147(2)

Repeal the subsection.

77 Section 148 (heading)

Omit “and R&D Councils”.

78 Section 148

Omit “or R&D Council”.

79 Subsection 149(2)

Omit “or section 92”.

80 Subsection 149(2)

Omit “or R&D Council”.

Schedule 2—Amendments relating to change of Act name

Dairy Produce Act 1986

1 Subsection 3(1) (paragraphs (g), (h) and (i) of the definition of *old dairy levy amounts*)

Omit “*and Energy*”.

Fisheries Administration Act 1991

2 Subsection 94E(1) (paragraph (a) of the definition of *deductible component*)

Omit “*and Energy*”.

Freedom of Information Act 1982

3 Part III of Schedule 2

Omit “*Primary Industries and Energy Research and Development Act 1989*”, substitute “*Primary Industries Research and Development Act 1989*”.

Pig Industry Act 2001

4 Subsection 10(6)

Omit “*and Energy*”.

5 Subsection 10(14) (definition of *Research and Development Act*)

Omit “*and Energy*”.

6 Subclause 17(2) of Schedule 1

Repeal the subclause.

Plant Health Australia (Plant Industries) Funding Act 2002

7 Section 3 (subparagraph (b)(i) of the definition of *primary levy or charge*)

Omit “*and Energy*”.

8 Subsection 7(3)

Omit “*and Energy*”.

9 Subparagraph 8(1)(b)(iii)

Omit “*and Energy*”.

10 Paragraph 8(3)(b)

Omit “*and Energy*”.

11 Paragraph 9(5)(b)

Omit “*and Energy*”.

Primary Industries and Energy Research and Development Act 1989

12 Title

Omit “, **energy**”.

13 Section 1

Omit “*and Energy*”.

Note: This item amends the short title of the Act. If another amendment of the Act is described by reference to the Act’s previous short title, that other amendment has effect after the commencement of this item as an amendment of the Act under its amended short title (see section 10 of the *Acts Interpretation Act 1901*).

14 Subsection 4(1) (paragraph (b) of the definition of *primary industry*)

Repeal the paragraph.

Primary Industries Levies and Charges Collection Act 1991

15 Subsection 4(1) (definition of *R & D Corporation*)

Omit “*and Energy*”.

Schedule 3—Funding agreements

Primary Industries and Energy Research and Development Act 1989

1 Subsection 4(1)

Insert:

funding agreement means an agreement under subsection 33(4).

2 At the end of section 33

Add:

Spending must be in accordance with funding agreement

- (3) After 30 June 2015, an R&D Corporation must not spend money that has been paid to the R&D Corporation by the Commonwealth unless the R&D Corporation does so in accordance with a written funding agreement.
- (4) The Minister may enter into a funding agreement with an R&D Corporation. The agreement must specify the terms and conditions on which money paid to the R&D Corporation by the Commonwealth will be spent.
- (5) A funding agreement must be published on the website of the R&D Corporation concerned as soon as practicable after it is made or varied.

Schedule 4—Separately levied fisheries

Primary Industries and Energy Research and Development Act 1989

1 Subsection 4(1)

Insert:

separately levied fishery has the meaning given by subsection 5A(1).

2 After section 5

Insert:

5A Separately levied fisheries

- (1) The regulations may declare that a part of the fishing industry, whether managed in whole or in part by or on behalf of the Commonwealth or a State or Territory, is a *separately levied fishery*.
- (2) The regulations may declare that a levy attached to an R&D Corporation established in respect of the fishing industry is also a levy on a separately levied fishery.

3 Subparagraph 25(2)(c)(iv)

Omit “or 30A”, substitute “, 30A or 30B”.

4 Section 30A (heading)

Repeal the heading, substitute:

30A Fishing industry payments other than separately levied fishery payments

5 Before subsection 30A(1)

Insert:

- (1A) In this section:

- (a) a reference to a levy does not include a reference to a levy on a separately levied fishery; and
- (b) a reference to an amount spent or required to be spent by an R&D Corporation under section 33 does not include a reference to an amount spent or required to be spent in relation to:
 - (i) a separately levied fishery; or
 - (ii) marketing activities; and
- (c) a reference to the fishing industry does not include a reference to a separately levied fishery; and
- (d) a reference to an amount spent or required to be spent by an R&D Corporation under section 33 does not include a reference to an amount spent or required to be spent in relation to marketing activities.

Levy payments

6 Before subsection 30A(2)

Insert:

Matching payments

7 Subsection 30A(2)

Omit “Subject to subsection (2A), the”, substitute “The”.

8 Subparagraph 30A(2)(b)(ii)

After “the amount so”, insert “spent or”.

9 Paragraph 30A(2)(b)

Omit “Corporation):”, substitute “Corporation);”.

10 Subparagraph 30A(2)(c)(ii)

After “the amount so”, insert “spent or”.

11 Subsection 30A(2A)

Repeal the subsection.

12 After section 30A

Insert:

30B Separately levied fishery payments

- (1) In this section, a reference to an amount spent or required to be spent by an R&D Corporation under section 33 does not include a reference to an amount spent or required to be spent in relation to marketing activities.

Levy payments

- (2) There are to be paid to an R&D Corporation established in respect of the fishing industry amounts equal to:
- (a) if a levy on a separately levied fishery is attached to the Corporation—the amounts from time to time received by the Commonwealth, under the Collection Act, as:
 - (i) the research component of that levy; and
 - (ii) amounts (if any) paid, on behalf of a person liable to pay that levy, by another 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 the non-payment of the research component of that levy; and
 - (iv) the marketing component of that levy; and
 - (b) amounts worked out under subsection (3) in respect of the separately levied fishery.

Matching payments

- (3) The amounts to be paid to an R&D Corporation under paragraph (2)(b) in respect of the separately levied fishery, during a particular financial year, are as follows:
- (a) an amount equal to 0.5% of interim GVP for the fishery for that year or, if the amount spent or required to be spent by the Corporation under section 33 in relation to the separately levied fishery (other than paragraph 33(1)(d)) for that financial year is less than 0.5% of that interim GVP, an amount equal to that lesser amount;
 - (b) where the amount so spent or required to be spent by the Corporation in relation to the fishery for that financial year is more than 0.5% of interim GVP for that year:
 - (i) if that amount is not less than 1% of that interim GVP—
an amount equal to 0.25% of that interim GVP; or

-
- (ii) if that amount is more than 0.5%, but less than 1%, of that interim GVP—half of the amount equal to the percentage of that interim GVP by which the amount spent or required to be spent was more than 0.5% of that interim GVP;

reduced, unless the regulations provide otherwise, by the amount (if any) by which the amount worked out under subparagraph (i) or (ii) (as the case may be) exceeds the total of the amounts paid to the Corporation during the year under subparagraphs (2)(a)(i) and (ii) (less the sum of any refunds paid in relation to levies covered by those subparagraphs).

(4) If:

- (a) an amount is paid to the Corporation under paragraph (2)(b) in a financial year; and
- (b) the amount was calculated, in whole or in part, under subsection (3) on the basis of interim GVP for the financial year; and
- (c) before the end of 31 October next following the financial year, the Minister determines an amount that is the final GVP for the fishery for the financial year; and
- (d) as at the end of 31 October next following the financial year, the total amount paid to the Corporation under paragraph (2)(b) in the financial year exceeds the amount that would have been paid to the Corporation under that paragraph in the financial year if each reference in subsection (3) to interim GVP were a reference to the amount of final GVP so determined;

the Corporation must pay to the Commonwealth an amount equal to the excess.

(5) If:

- (a) an amount is paid to the Corporation under paragraph (2)(b) in a financial year; and
- (b) the amount was calculated, in whole or in part, under subsection (3) on the basis of interim GVP for the financial year; and
- (c) before the end of 31 October next following the financial year, the Minister determines an amount that is the final GVP for the fishery for the financial year; and

- (d) as at the end of 31 October next following the financial year, the total amount paid to the Corporation under paragraph (2)(b) in the financial year falls short of the amount that would have been paid to the Corporation under that paragraph in the financial year if each reference in subsection (3) to interim GVP were a reference to the amount of final GVP so determined;
- the Commonwealth must pay to the Corporation an amount equal to the shortfall.
- (6) If:
- (a) before the end of 31 October next following a financial year, the Minister has not determined under subsection (10) an amount that is final GVP for the fishery for the financial year; and
- (b) the Minister has determined under subsection (10) the amount that is final GVP for the fishery for the previous financial year;
- the Minister is taken to have made, immediately before the end of that 31 October, a determination under subsection (10) that the amount of final GVP for the fishery for the financial year is equal to the amount of the final GVP for the fishery determined under subsection (10) for the previous financial year.
- (7) The Minister may, on behalf of the Commonwealth, set off an amount payable by an R&D Corporation under this section against an amount that is payable to the Corporation under subsection (2) or (5).
- (8) A determination made under this section is not a legislative instrument.
- (9) Amounts payable under subsection (2) or (5) are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.
- (10) In this section:
- final GVP*, for a separately levied fishery for a financial year, means the amount that the Minister determines to be the amount of the gross value of production for that financial year of the goods that are the produce of that fishery.

interim GVP, for a separately levied fishery for a financial year, means the final GVP for the fishery for the previous financial year.

- (11) The regulations may provide for the manner in which the Minister is to determine the amount of the final GVP for a separately levied fishery for a financial year.

13 Paragraph 33(1)(ca)

After “30A(2B)”, insert “, 30B(4)”.

14 Before section 34

Insert:

33B State and Territory fisheries R&D money

- (1) This section applies if:
- (a) a State or Territory makes a payment to an R&D Corporation in respect of research and development in respect of the fishing industry; or
 - (b) the Commonwealth makes a payment to an R&D Corporation of money paid by a State or Territory to the Commonwealth in respect of research and development in respect of the fishing industry.
- (2) The R&D Corporation must, within 5 years of receiving the payment, spend an equal amount on R&D activities of relevance to the State or Territory.

33C Separately levied fisheries money

Money received by an R&D Corporation under section 30B in respect of a separately levied fishery may be spent for purposes related to the separately levied fishery only.

15 Paragraphs 34(a) and (b)

Omit “or 30A(1)(a)”, substitute “, 30A(1)(a) or 30B(2)(a)”.

16 At the end of section 35

Add “, 30A(1)(a) or 30B(2)(a)”.

17 Paragraph 37(c)

Omit “or 30A(1)(a)”, substitute “, 30A(1)(a) or 30B(2)(a)”.

Schedule 5—Matching voluntary payments

Dairy Produce Act 1986

1 At the end of subsection 6(3)

Add:
; and (c) amounts prescribed by the regulations.

2 After subsection 6(3)

Insert:

(3A) Subsection (3) does not apply if the eligible body is prescribed by the regulations as a body to which the subsection does not apply.

Egg Industry Service Provision Act 2002

3 Section 4 (at the end of the definition of *matching amounts*)

Add:
; and (c) amounts prescribed by the regulations.

4 After subsection 8(2)

Insert:

(2A) Paragraph (2)(c) does not apply if the regulations so provide.

Forestry Marketing and Research and Development Services Act 2007

5 Subsection 9(3)

Omit all the words after “sum”, substitute:

of:
(a) the tax-related amounts; and
(b) amounts prescribed by the regulations.

6 After subsection 9(3)

Insert:

- (3A) Subsection (3) does not apply if the company is prescribed by the regulations as a company to which the subsection does not apply.

Pig Industry Act 2001

7 Subsection 10(6)

Repeal the subsection, substitute:

Overall limit for matching payments

- (6) For matching payments, the total limit on the appropriation is the sum of:
- (a) the total amount of levy received by the Commonwealth (either before or after the commencement of this section), less amounts that have been paid by the Commonwealth to the Pig Research and Development Corporation before the transfer time, in respect of that levy, under paragraph 30(1)(b) of the *Primary Industries Research and Development Act 1989*; and
 - (b) amounts prescribed by the regulations.

- (6A) Subsection (6) does not apply if the regulations so provide.

Primary Industries and Energy Research and Development Act 1989

8 Paragraph 30A(2)(b)

After “reduced”, insert “, unless the regulations provide otherwise,”.

9 At the end of subsection 30A(2)

Add:

- ; (d) other amounts of matching payments specified in the regulations, so along as the total of the amounts paid to the Corporation under paragraph (1)(b) in the financial year do not exceed 0.75% of interim total GVP for that year.

10 At the end of subsection 30B(3)

Add:

; and (c) other amounts of matching payments specified in the regulations, so along as the total of the amounts paid to the Corporation under paragraph (2)(b) in the financial year do not exceed 0.75% of interim GVP for that year.

11 At the end of subsection 31(1)

Add:

; and (e) other amounts of matching payments specified in the regulations.

Sugar Research and Development Services Act 2013

12 Section 4 (at the end of the definition of *matching amounts*)

Add:

; (c) amounts prescribed by the regulations.

13 After subsection 7(3)

Insert:

(3A) Subsection (3) does not apply if the company is prescribed by the regulations as a body to which the subsection does not apply.

Wool Services Privatisation Act 2000

14 Subsection 31(6)

Repeal the subsection, substitute:

Overall limit on appropriation for category B payments

(6) For category B payments, the total limit on the appropriation is the sum of:

- (a) the total amount of wool levy received by the Commonwealth, and for this purpose, amounts received by the Commonwealth as penalties for late payment of wool levy are not to be treated as amounts of wool levy; and
- (b) amounts prescribed by the regulations.

(6A) Subsection (6) does not apply if the regulations so provide.

Schedule 6—Selection committees

Primary Industries and Energy Research and Development Act 1989

1 Subsection 17(3)

Omit all the words after “appointed”, substitute:

from persons:

- (a) nominated by a Selection Committee under Part 4; or
- (b) included on a list, given to the Minister under paragraph 132(2)(b), of persons a Selection Committee considers suitable for nomination.

2 Subsection 122(1)

Omit “Selection Committees”, substitute “the Selection Committee”.

3 Subsection 123(1)

Omit “Selection Committees”, substitute “the Selection Committee”.

4 Paragraphs 123(1)(c) and (ca)

Repeal the paragraphs, substitute:

- (c) if there is no Selection Committee for the R&D Corporation—requesting the Presiding Member to establish the Selection Committee; and

5 Subsections 124(1) and (2)

Repeal the subsections, substitute:

- (1) If:
 - (a) the Presiding Member of the Selection Committee for an R&D Corporation (other than an R&D Corporation to which section 125 applies) receives a request under subsection 123(1); and
 - (b) there is no Selection Committee for the Corporation; the Presiding Member must establish the Selection Committee for the purpose of nominating persons for appointment to the Corporation.

-
- (2) The Selection Committee so established consists of the following members:
 - (a) the Presiding Member;
 - (b) up to 4 other members appointed by the Minister on the nomination of the Presiding Member.
 - (2A) For the purposes of nominating the other members, the Presiding Member must:
 - (a) consult with each of the Corporation’s representative organisations; and
 - (b) have regard to the desirability of reflecting diversity, including a diversity of expertise, experience and gender, among the nominees.

6 Subsection 124(3)

Omit “representative organisation or representative organisations”, substitute “Presiding Member”.

7 Subsections 125(2), (3) and (4)

Repeal the subsections, substitute:

- (2) If a request is made under subsection 123(1) to the Presiding Member of the Selection Committee for the R&D Corporation:
 - (a) if there is no Selection Committee for the R&D Corporation—the Presiding Member must establish the Selection Committee for the purpose of nominating persons for appointment to the Corporation; and
 - (b) the Minister may appoint up to 4 persons as members of that Committee for the purposes of this paragraph; and
 - (c) the Minister must inform the Presiding Member of any such appointment.
- (3) If the Minister has not appointed 4 persons under paragraph (2)(b), the Minister may request the Presiding Member to nominate to the Minister persons for appointment to the Selection Committee.
- (4) The Selection Committee so established consists of the following members:
 - (a) the Presiding Member;
 - (b) up to 4 other members, being:

- (i) the members (if any) appointed by the Minister under paragraph (2)(b); and
- (ii) such other members appointed by the Minister on the nomination of the Presiding Member.

(4A) For the purposes of nominating persons for appointment to the Selection Committee, the Presiding Member must:

- (a) consult with each of the Corporation's representative organisations; and
- (b) have regard to the desirability of reflecting diversity, including a diversity of expertise, experience and gender, among the nominees.

8 Subsection 125(5)

Omit "representative organisation or representative organisations", substitute "Presiding Member".

9 Section 129

Repeal the section, substitute:

129 Presiding Member to abolish Selection Committee

The Presiding Member of a Selection Committee must abolish the Selection Committee at the later of the following times:

- (a) when the term of office of the Presiding Member in which the Selection Committee was established ends (disregarding any term for which the Presiding member is reappointed);
- (b) if, when that term ends, the Selection Committee is part way through a selection process, when that selection process is complete.

10 Subsection 130(1)

Omit "or R&D Council", substitute ", having regard to the desirability of reflecting diversity, including a diversity of expertise, experience and gender, among the nominees".

11 At the end of subsection 130(2)

Add:

; and (d) must make a list of persons the Selection Committee considers suitable for nomination and the details of their expertise and experience.

12 At the end of paragraph 130(3)(b)

Add:

; and (iii) appropriate diversity.

13 Paragraph 131(1)(m)

Omit “sociology”, substitute “communication”.

14 Subsection 131(1B)

Repeal the subsection.

15 At the end of section 131

Add:

- (4) The Selection Committee must not invite nominations under paragraphs 130(2)(a) to (c) in relation to the appointment if:
- (a) the Selection Committee is satisfied that a person listed within the previous 12 months under paragraph 130(2)(d) is suitable for nomination by the Selection Committee; and
 - (b) the person has not been included on a list of persons given to the Minister under paragraph 132(2)(b) in relation to the appointment.

16 Section 132

Before “Subject”, insert “(1)”.

17 At the end of section 132

Add:

- (2) The Selection Committee must also provide the Minister with:
- (a) details of the expertise and experience of the nominees; and
 - (b) a list of any other persons the Selection Committee considers suitable for nomination and the details of their expertise and experience.

18 Subsection 134(1)

After “nominee”, insert “or any other person listed by a Selection Committee”.

19 Subsection 134(1)

Omit all the words after “written notice”, substitute “requesting another nomination within a specified period”.

20 Subsection 134(2)

Omit “, 125 and 126”, substitute “and 125”.

21 Paragraph 135(1)(c)

Omit “Selection Committees”, substitute “the Selection Committee”.

22 Section 136

Repeal the section.

23 Subsection 141(1)

Omit “Selection Committees” (wherever occurring), substitute “the Selection Committee”.

24 Subsection 141(1AA)

Omit “each”, substitute “the”.

25 Subsection 141(3)

Omit “Selection Committees”, substitute “a Selection Committee”.

26 Partly completed selection processes

Despite the amendments made by this Schedule, the *Primary Industries and Energy Research and Development Act 1989* as in force before the commencement of this Schedule continues to apply, after that commencement, in relation to a selection process begun under Part 4 of that Act before that commencement.

Schedule 7—Delegations and directions

Part 1—Delegations

Australian Meat and Live-stock Industry Act 1997

1 Section 70

Repeal the section, substitute:

70 Delegations

- (1) The Minister may, in writing, delegate all or any of his or her powers and functions under this Act (other than section 69) to:
 - (a) the Secretary; or
 - (b) an APS employee who holds or performs the duties of an SES Band 1 position, or an equivalent or higher position, in the Department.
- (2) The Secretary may, in writing, delegate all or any of his or her powers under this Act (other than section 49) to an APS employee who holds or performs the duties of an SES Band 1 position, or an equivalent or higher position, in the Department.

Horticulture Marketing and Research and Development Services Act 2000

2 Section 32

Repeal the section, substitute:

32 Delegations

- (1) The Minister may, in writing, delegate all or any of his or her powers and functions under this Act (other than section 29) to:
 - (a) the Secretary; or
 - (b) an APS employee who holds or performs the duties of an SES Band 1 position, or an equivalent or higher position, in the Department.

- (2) The Secretary may, in writing, delegate all or any of his or her powers under this Act to an APS employee who holds or performs the duties of an SES Band 1 position, or an equivalent or higher position, in the Department.

Primary Industries and Energy Research and Development Act 1989

3 After section 143

Insert:

143A Delegations

The Minister may, in writing, delegate all or any of his or her powers and functions under this Act (other than section 143) to:

- (a) the Secretary; or
- (b) an APS employee who holds or performs the duties of an SES Band 1 position, or an equivalent or higher position, in the Department.

Wool Services Privatisation Act 2000

4 Section 38

Repeal the section, substitute:

38 Delegations

The Minister may, in writing, delegate all or any of his or her powers and functions under this Act (other than section 33A) to:

- (a) the Secretary; or
- (b) an APS employee who holds or performs the duties of an SES Band 1 position, or an equivalent or higher position, in the Department.

Part 2—Ministerial directions

Dairy Produce Act 1986

5 After section 126

Insert:

126A Ministerial directions

- (1) The Minister may give a written direction to the industry services body if:
 - (a) the Minister:
 - (i) is satisfied that the direction is in Australia's national interest because of exceptional and urgent circumstances; and
 - (ii) is satisfied that the direction would not require the body to incur expenses greater than amounts paid to the body under this Act; and
 - (iii) has given the body's directors an adequate opportunity, in accordance with any arrangements set out in the body's funding contract, to discuss with the Minister the need for the proposed direction and the impact of compliance with subsection (3) on the body's commercial activities; and
 - (b) the direction is made for a purpose that is within the Commonwealth's legislative power.
- (2) If the body is given a direction under subsection (1), it must comply with it.
- (3) Subject to subsection (4), if the Minister gives a direction to the body under subsection (1):
 - (a) the Minister must cause a copy of the direction:
 - (i) to be published in the *Gazette* as soon as practicable after giving the direction; and
 - (ii) to be tabled in each House of the Parliament within 5 sitting days of that House after giving the direction; and
 - (b) the annual reports of the body applicable to periods in which the direction has effect must include:

- (i) particulars of the direction; and
 - (ii) an assessment of the impact that the direction has had on the operations of the body during the period.
- (4) Subsection (3) does not apply in relation to a particular direction if:
- (a) the Minister, on the recommendation of the industry services body, determines, in writing, that compliance with the subsection would, or would be likely to, prejudice the commercial activities of the body; or
 - (b) the Minister determines, in writing, that compliance with the subsection would be contrary to the public interest.
- (5) The Minister is not to be taken to be a director of the industry services body for the purposes of the *Corporations Act 2001* merely because of the power conferred on the Minister by this section.
- (6) The Commonwealth is not to be taken to be in a position to exercise control over the industry services body merely because of the power conferred on the Minister by this section.

Wool Services Privatisation Act 2000

6 Section 7

Insert:

research body means the body that is declared to be the research body under section 30.

7 After section 33

Insert:

33A Ministerial directions

- (1) The Minister may give a written direction to the research body if:
- (a) the Minister:
 - (i) is satisfied that the direction is in Australia's national interest because of exceptional and urgent circumstances; and

- (ii) is satisfied that the direction would not require the body to incur expenses greater than amounts paid to the body under this Act; and
 - (iii) has given the body's directors an adequate opportunity, in accordance with any arrangements set out in the body's funding contract, to discuss with the Minister the need for the proposed direction and the impact of compliance with subsection (3) on the body's commercial activities; and
 - (b) the direction is made for a purpose that is within the Commonwealth's legislative power.
- (2) If a body is given a direction under subsection (1), it must comply with it.
- (3) Subject to subsection (4), if the Minister gives a direction to a body under subsection (1):
- (a) the Minister must cause a copy of the direction:
 - (i) to be published in the *Gazette* as soon as practicable after giving the direction; and
 - (ii) to be tabled in each House of the Parliament within 5 sitting days of that House after giving the direction; and
 - (b) the annual reports of the body applicable to periods in which the direction has effect must include:
 - (i) particulars of the direction; and
 - (ii) an assessment of the impact that the direction has had on the operations of the body during the period.
- (4) Subsection (3) does not apply in relation to a particular direction if:
- (a) the Minister, on the recommendation of the research body, determines, in writing, that compliance with the subsection would, or would be likely to, prejudice the commercial activities of the body; or
 - (b) the Minister determines, in writing, that compliance with the subsection would be contrary to the public interest.
- (5) The Minister is not to be taken to be a director of the research body for the purposes of the *Corporations Act 2001* merely because of the power conferred on the Minister by this section.

Schedule 7 Delegations and directions
Part 2 Ministerial directions

- (6) The Commonwealth is not to be taken to be in a position to exercise control over the research body merely because of the power conferred on the Minister by this section.

Schedule 8—Marketing activities

Primary Industries and Energy Research and Development Act 1989

1 Section 3

Repeal the section, substitute:

3 Objects

The objects of this Act are to:

- (a) make provision for the funding and administration of research and development relating to primary industries with a view to:
 - (i) increasing the economic, environmental and social benefits to members of primary industries and to the community in general by improving the production, processing, storage, transport or marketing of the products of primary industries; and
 - (ii) achieving the sustainable use and sustainable management of natural resources; and
 - (iii) making more effective use of the resources and skills of the community in general and the scientific community in particular; and
 - (iv) supporting the development of scientific and technical capacity; and
 - (v) developing the adoptive capacity of primary producers; and
 - (vi) improving accountability for expenditure on research and development activities in relation to primary industries; and
- (b) make provision for the funding and administration of marketing relating to products of primary industries.

2 Subsection 4(1)

Insert:

marketing activities means the marketing, advertising or promotion of products of primary industries.

marketing component, in relation to a levy, means so much of the levy as the regulations declare to be the marketing component of the levy under paragraph 5(3)(aa).

3 After paragraph 5(3)(a)

Insert:

- (aa) the specified proportion (if any) of the levy, or of each levy included in the class, as the case may be, to be the marketing component of the levy; and

4 After paragraph 11(e)

Insert:

- (ea) if a levy attached to the Corporation has a marketing component—to carry out marketing activities for the benefit of the primary industry or class of primary industries in respect of which the Corporation was established; and

5 Paragraphs 12(1)(a) and (b)

After “R&D”, insert “or marketing”.

6 Section 13 (heading)

Repeal the heading, substitute:

13 Agreements for carrying out R&D activities and marketing activities by other persons

7 Subsection 13(1)

Omit all the words after “carrying out of”, substitute:

either or both of the following by the person:

- (a) R&D activities;
- (b) if a levy attached to the Corporation has a marketing component—marketing activities.

8 Section 14 (heading)

Repeal the heading, substitute:

14 Agreements for carrying out R&D activities and marketing activities with other persons

9 Subsection 14(1)

Omit all the words after “with a person for”, substitute:

either or both of the following to be carried out by the Corporation and the person:

- (a) R&D activities;
- (b) if a levy attached to the Corporation has a marketing component—marketing activities.

10 Paragraphs 14(2)(a) to (d)

Omit “R&D”.

11 Paragraph 25(2)(a)

After “of R&D”, insert “and marketing”.

12 Subsection 25(3)

Omit “R&D activities” (wherever occurring), substitute “R&D or marketing activities”.

13 After subparagraph 28(1)(a)(i)

Insert:

- (ia) if a levy attached to the Corporation had a marketing component during the period—the marketing activities that it coordinated or funded, wholly or partly, during the period; and

14 Before subsection 30(1)

Insert:

- (1A) In this section, a reference to an amount spent or required to be spent by an R&D Corporation under section 33 does not include a reference to an amount spent or required to be spent in relation to marketing activities.

15 At the end of paragraph 30(1)(a)

Add:

(iv) the marketing component of that levy; and

16 At the end of paragraph 30A(1)(a)

Add:

(iv) the marketing component of that levy; and

17 After section 33

Insert:

33A R&D money must not be spent on marketing

Of money received by an R&D Corporation under sections 30 to 30B, only money received under the following provisions may be spent in relation to marketing activities:

- (a) subparagraph 30(1)(a)(iv);
- (b) subparagraph 30A(1)(a)(iv);
- (c) subparagraph 30B(2)(a)(iv).

18 Paragraph 40(1)(a)

Omit “R&D activities”, substitute “activities”.

19 Subsection 40(2)

Omit “R&D activities”, substitute “activities”.

20 Subparagraph 60(1)(d)(i)

After “component”, insert “, or marketing component,”.

21 Paragraph 61(e)

After “component”, insert “, or marketing component,”.

Wool Services Privatisation Act 2000

22 Paragraph 31(2)(a)

Repeal the paragraph, substitute:

- (a) category A payments are spent by the research body on all or any of the following activities for the benefit of Australian woolgrowers:
 - (i) research and development activities;

- (ii) marketing activities;
- (iii) other activities; and

23 Subsection 32(3)

Omit “third anniversary of the previous recommendation”, substitute “time prescribed by the regulations”.

Schedule 9—Miscellaneous amendments

Egg Industry Service Provision Act 2002

1 Paragraph 7(2)(a)

Repeal the paragraph, substitute:

- (a) promotion payments are spent by the body on all or any of the following for the benefit of the Australian egg industry:
 - (i) the marketing of eggs and egg products;
 - (ii) the promotion of eggs and egg products;
 - (iii) the provision of industry services; and

Primary Industries and Energy Research and Development Act 1989

2 Subsection 4(1) (paragraph (b) of the definition of *R&D activity*)

Omit “training”, substitute “development”.

3 At the end of section 7

Add:

- (4) A declaration must be published on the Department’s website as soon as practicable after it is made.

4 Paragraph 11(e)

Omit “facilitate the dissemination, adoption and commercialisation of”, substitute “disseminate and commercialise, and facilitate the dissemination, adoption and commercialisation of,”.

5 Paragraph 12(1)(c)

Repeal the paragraph, substitute:

- (c) make intellectual property and other applications, including joint applications, in relation to the results of research and development; and

6 Paragraph 12(1)(d)

Repeal the paragraph, substitute:

- (d) deal with the results of research and development vested in, or made available to, the Corporation or the Corporation and other persons; and

7 Section 26

Repeal the section, substitute:

26 Commencement of annual operational plan etc.

- (1) An annual operational plan for an R&D Corporation comes into operation on the first day of the period to which the plan relates.
- (2) Before the plan comes into operation, the Corporation must provide a copy of the plan to:
 - (a) the Minister; and
 - (b) each of the representative organisations of the Corporation.

8 Subparagraph 28(1)(a)(iia)

Repeal the subparagraph.

9 Subparagraph 28(1)(a)(iii)

Omit “or annual operational plan”.

10 Subparagraph 28(1)(d)(ii)

Repeal the subparagraph, substitute:

- (ii) funds derived from transfer of assets, debts, liabilities and obligations under section 144.

Schedule 10—Repeal of spent transitional, consequential and amending provisions

Primary Industries and Energy Research and Development Act 1989

1 Subsection 4(1) (definition of *Research Council*)

Repeal the definition.

2 Subsection 4(1) (definition of *Research Fund*)

Repeal the definition.

3 Subsection 4(1) (definition of *Special Research Fund*)

Repeal the definition.

4 Subsection 5(3)

Omit “Subject to subsection (4), where”, substitute “If”.

5 Subsections 5(4), (5) and (6)

Repeal the subsections.

6 Part 6

Repeal the Part.

Schedule 11—Contingent amendments relating to the Australian Grape and Wine Authority

Part 1—Amendments relating to the Authority Selection Committee

Wine Australia Corporation Act 1980

1 Section 5A

Omit “Where”, substitute “(1) If”.

2 At the end of section 5A

Add:

- (2) A declaration must be published on the Department’s website as soon as practicable after it is made.

3 Section 5B

Before “If”, insert “(1)”.

4 At the end of section 5B

Add:

- (2) A declaration must be published on the Department’s website as soon as practicable after it is made.

5 At the end of section 5BA

Add:

- (4) A declaration under paragraph (1)(c) must be published on the Department’s website as soon as practicable after it is made.

6 Section 27A

Omit:

- | |
|--|
| (b) to nominate persons so selected to the Minister for appointment as directors of the Authority. |
|--|

Schedule 11 Contingent amendments relating to the Australian Grape and Wine Authority

Part 1 Amendments relating to the Authority Selection Committee

substitute:

- | |
|---|
| <ul style="list-style-type: none">(b) to nominate persons so selected to the Minister for appointment as directors of the Authority; and(c) to give the Minister a list of other persons the Authority Selection Committee considers suitable for nomination and the details of their qualifications and experience. |
|---|

7 At the end of section 27C

Add:

- ; and (c) to give the Minister a list of other persons the Authority Selection Committee considers suitable for nomination and the details of their qualifications and experience.

8 Paragraph 27G(1)(b)

Repeal the paragraph, substitute:

- (b) the Presiding Member of the Authority Selection Committee must, on behalf of the Authority Selection Committee, before the end of that period:
 - (i) give to the Minister the number of nominations specified in the request; and
 - (ii) make a list of any other persons the Authority Selection Committee considers suitable for nomination (and the details of their qualifications and experience) and give the list to the Minister.

9 After subsection 27G(1)

Insert:

- (1A) The Authority Selection Committee must not include a person on the list given to the Minister under subparagraph (1)(b)(ii) unless, within the 12-month period preceding the giving of the list:
 - (a) the Committee considered the person suitable for nomination; and
 - (b) the person was not so nominated.

10 Section 27H

After “director of the Authority”, insert “, or any person included on the list given to the Minister under subparagraph 27G(1)(b)(ii),”.

11 Section 27H

Omit all the words after “the Minister may”, substitute “make a further request under section 27E for a specified number of nominations of persons for appointment to the office concerned”.

12 Paragraph 27J(b)

Repeal the paragraph, substitute:

(b) not more than 4 other members.

Part 2—Other amendments

Australian Grape and Wine Authority Act 2013

13 Subsection 4(1)

Insert:

funding agreement means an agreement under subsection 35(1C).

14 Subsection 14(4)

Omit all the words after “appointed”, substitute:

from persons:

- (a) nominated by the Authority Selection Committee in accordance with section 27G; or
- (b) included on a list, given to the Minister under subparagraph 27G(1)(b)(ii), of persons the Authority Selection Committee considers suitable for nomination.

15 At the end of subsection 14(6)

Add:

; and (c) appropriate diversity.

16 Section 32A

Omit “*and Energy*” (wherever occurring).

17 At the end of subsection 32A(1)

Add:

; and (e) amounts prescribed by the regulations.

18 After subsection 32A(1)

Insert:

(1A) Subsection (1) does not apply if the regulations so provide.

19 After subsection 35(1A)

Insert:

Spending must be in accordance with funding agreement

- (1B) After 30 June 2015, the Authority must not spend money that has been paid to the Authority by the Commonwealth unless the Authority does so in accordance with a written funding agreement.
- (1C) The Minister may enter into a funding agreement with the Authority. The agreement must specify the terms and conditions on which money paid to the Authority by the Commonwealth will be spent.
- (1D) A funding agreement must be published on the website of the Authority as soon as practicable after it is made or varied.

20 After section 41A

Insert:

42 Delegation by Minister

The Minister may, in writing, delegate all or any of his or her powers and functions under this Act (other than section 31K) to:

- (a) the Secretary; or
- (b) an APS employee who holds or performs the duties of an SES Band 1 position, or an equivalent or higher position, in the Department.

21 Section 43 (heading)

Repeal the heading, substitute:

43 Delegation by Authority

*[Minister's second reading speech made in—
House of Representatives on 20 November 2013
Senate on 5 December 2013]*

(224/13)
