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Horticulture Marketing and Research and
Development Services Bill 2000

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I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

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No. 58 2000–01

Horticulture Marketing and Research and Development
Services Bill 2000

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Law and Bills Digest Group
23 October 2000

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Horticulture Marketing and Research and Development Services Bill 2000

Date Introduced: 5 October 2000

House: House of Representatives

Portfolio: Agriculture, Fisheries and Forestry

Commencement: Parts 1, 2 and 5 commence on Royal Assent. Parts 3 and 4 commence on the day determined by the Minister under clause 12 of the *Horticulture Marketing and Research and Development Services (Repeals and Consequential Provisions) Bill 2000* to be the 'transfer day', immediately after the transfer of assets, liabilities and staff.

Purpose

To enable a company limited by guarantee to be established as the single horticultural industry services body to provide both marketing and research and development services, replacing the Australian Horticultural Corporation, the Horticultural Research and Development Corporation and the Australian Dried Fruits Board.

Background

The gross value of horticulture production in Australia has grown from \$A2.4 billion in 1988-89 to \$5.5 billion in 1998-99. As Senator Troeth, the Parliamentary Secretary for Agriculture, Fisheries and Forestry, has observed:

The sector now accounts for almost 20 per cent of the production value of all Australian agriculture. Exports of fresh and processed horticultural products increased by over 110 per cent during this period, with exports of fresh produce growing faster than those of processed products. The total export value for fresh and processed horticultural produce in 1998-99 was \$1.17 billion, of which fresh produce accounted for around \$700 million.¹

Since 1987, the horticulture industry in Australia has been represented by three main umbrella bodies:

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- the Australian Horticultural Corporation (AHC)
- the Horticultural Research & Development Corporation (HRDC), and
- the Horticultural Policy Council (Council).

Both the AHC and the HRDC are Commonwealth statutory corporations.² The AHC's role is essentially marketing, primarily facilitating and coordinating the effective marketing of Australian horticulture for export markets, but also assisting in the development of Australian horticultural industries domestically.³ The functions of the HRDC are to identify research and development (R&D) needs in the horticulture industry, and to fund or carry out such R&D.

The AHC and HRDC do not receive any direct departmental or administered appropriation from the Commonwealth Government. Both receive significant funding from industry levies. The HRDC also receives almost twice the amount of industry levies in matching Commonwealth contributions.⁴ The AHC supplements its funding by the commercial sale of its products and services.⁵

In contrast, the Council was a Government advisory body whose functions were to conduct inquiries into issues affecting the horticultural industry, and make recommendations to the responsible Minister. It also performed a consultative role, facilitating the participation of industry groups in the policy formation process.⁶ The Council was abolished in 1999, as part of a statute stocktake, as it was no longer operative.⁷

On 9 May 2000, as part of the 2000-2001 Budget, the Government announced its intention to amalgamate the AHC and the HRDC into a single horticultural services company, to be called Horticulture Australia, which will administer both marketing and R&D.⁸ The Australian Dried Fruit Board will also be abolished and its functions integrated with those of the new company. The amalgamation plan is the culmination of consultations between the horticultural industry and the Government over options for a new corporate framework for horticulture service delivery.⁹ The aims of the amalgamation are:

- 'to deliver better industry ownership and involvement in marketing and [R&D]'¹⁰
- 'to allow the synergies between marketing and [R&D] programs to be fully exploited by the industry',¹¹ and
- administrative savings (approximately \$550,000 per year).¹²

On 12 September 2000, horticulture industry leaders representing 26 organisations signed a Memorandum of Understanding setting out the main operational and policy items agreed between industry and the government for the establishment of Horticulture Australia Ltd. The company will not be a statutory corporation, but will be established under the

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Corporations Law as a company limited by guarantee.¹³ The *Explanatory Memorandum* states that:¹⁴

The new company will be a not for personal profit company operating under Corporations Law that has industry representative bodies and voluntary funding contributors as its members, with voting rights allocated according to the amount of funds provided. The company will be accountable to shareholders for the effective use of funds provided.

It will also be accountable to the Government, and the present Bill contains details of the proposed accountability arrangements.

Main Provisions

Key definitions

Proposed section 4 contains definitions of a number of terms, including the following:

‘horticultural product’ means fresh or processed fruits, vegetables, mushrooms, nuts, nursery products (such as trees, shrubs, bulbs, seeds, and propagating material), cut flowers and foliage.

‘horticultural industry’ means industry connected with the growing, harvesting, handling, storing, transporting, processing, supply and marketing of horticultural products.

‘marketing’ means ‘activities intended to improve the meeting of customer needs’. It specifically excludes R&D activities, but includes activities such as promoting, selling, and also storing, handling, processing and transporting.

‘research and development’ means systematic experimentation or analysis to acquire or apply knowledge to improve any aspect of the production, processing, storage, transport or marketing of horticultural products.

Industry services body (ISB)

The Bill does not establish Horticulture Australia Ltd. As mentioned above, the company will be incorporated under the Corporations Law, not under statute. The Bill, instead, creates two abstract concepts, the ‘industry services body’ (ISB) and the ‘industry export control body’ (IECB). The Minister has power to declare a corporation to be either the ISB or the IECB, or to be both at once. He or she also has power to declare the corporation no longer to be the ISB or IECB, and to transfer the functions to another, more suitable corporation. In this way, although the functions currently performed by the AHC and

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HRDC will be performed by a private corporation, the Commonwealth will retain ultimate control of these functions.

The ISB will be the body declared to be such by the Minister under **proposed subsection 9(1)**. Notification of the declaration will be published in the *Gazette* within 14 days (**proposed subsection 9(6)**). The body must:

- be a trading corporation (within the meaning of paragraph 51(xx) of the Constitution)
- be a company limited by guarantee and incorporated under the Corporations Law, and
- have a constitution which the Minister considers appropriate for performing the functions of the ISB.

The factors that the Minister will consider in determining whether a corporation's constitution is appropriate for performing the functions of the ISB are not specified. The Minister's declaration is not a disallowable instrument.

The Commonwealth must enter into a deed of agreement with the ISB before the Minister may declare it to be such (**proposed paragraph 9(1)(d)**). **Proposed subsection 12(1)** gives the Minister power to enter into a deed of agreement with the proposed ISB on behalf of the Commonwealth.

Funding the ISB

From the 'transfer day',¹⁵ the ISB will receive:

- all the funding from levies and charges on horticultural products (and penalties for late payment of levies and charges) currently payable to the AHC for marketing¹⁶
- all the funding from levies and charges on horticultural products (and penalties for late payment of levies and charges) currently payable to the HRDC for R&D,¹⁷ and
- the component of levies and charges that was formerly payable to the Australian Dried Fruits Board.¹⁸

The ISB will also receive the 'matching payments' which the HRDC currently receives from the Commonwealth. The matching payments are currently worth half of the amount spent by the HRDC on R&D.¹⁹ Under **proposed subsection 16(2)**, the matching payments will comprise half the amount of the ISB's 'eligible R&D expenditure'. This appears to be similar to or the same as the current system, although this cannot be verified, as the procedure for determining what the amount of 'eligible R&D expenditure' is will be set out in the deed of agreement (see definition in **proposed section 4**).

The total amount of the matching payments must not exceed 0.5 per cent of the gross value of production of the horticultural industry for the financial year (**proposed subsection 16(3)**). This condition is currently also imposed on matching payments.²⁰

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The deed of agreement may specify that the levies and charges or the matching payments are not payable in certain circumstances (**proposed paragraph 16(5)(a)**). The *Explanatory Memorandum* provides no indication as to what those circumstances might be.

The payment of levies, charges and matching payments to the ISB is conditional on the ISB:

- repaying the Commonwealth any expenses it has incurred in collecting the levies and charges, and administering the legislation which imposes them (**proposed subsection 16(7)**), and
- complying with conditions relating to payments imposed on it by the Act or the deed of agreement (**proposed subsection 16(8)**).

Functions of the ISB

The ISB will have responsibility for both marketing and R&D services to the horticulture industry. The amount of money collected from levies and charges for marketing and the amount of funding for R&D are to be kept separate. The ISB must spend the marketing amounts on ‘marketing related to the horticultural industry’ (**proposed paragraph 17(1)(a)**) and the R&D amounts on R&D ‘related to the horticultural industry’ (**proposed paragraph 17(2)(a)**).

Both the marketing amounts and the R&D amounts may also be used for the following purposes (**proposed subsections 17(1) and (2)**):

- administration
- salaries and allowances for staff, directors, consultants and agents
- paying the Commonwealth (and levy and charge collectors) for the expenses incurred in collecting the levies, charges and penalties which are paid to the ISB, and
- other purposes authorised under the Act or Regulations.

The Bill does not contain any further details relating to the ISB. Some details about staffing, assets, contracts and liabilities of the ISB are contained in the Horticulture Marketing and Research and Development Services (Repeals and Consequential Provisions) Bill 2000 (the *Consequentials Bill*). The rest of the details will presumably be contained in the deed of agreement.

Industry export control body (IECB)

The IECB will be the body declared to be such by the Minister under **proposed subsection 9(2)**. Like the ISB, it must:

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- be a trading corporation (within the meaning of paragraph 51(xx) of the Constitution)
- be a company limited by guarantee and incorporated under the Corporations Law,
- have a constitution which the Minister considers appropriate for performing the functions of the IECB, and
- have entered into a deed of agreement with the Commonwealth (or the Minister on behalf of the Commonwealth, **proposed subsection 12(2)**).

The Minister may declare the same corporation to be both the IECB and the ISB (**proposed subsection 9(3)**), and enter into a single deed of agreement with the corporation.

The deeds of agreement with both the ISB and the IECB (or the single deed of agreement if they are the same corporation) will be public documents. They will be available for inspection free of charge at the registered office of the respective corporations, and copies will be made available on payment of a fee (**proposed section 14**). The Minister and each corporation will have power to vary its deed of agreement by written agreement (**proposed section 13**).

Funding and functions of the IECB

The IECB will not receive any funding under statute, presumably this will be determined under the deed of agreement.

The IECB will have responsibility for some of the export licensing functions currently performed by the AHC. The powers of export control and licensing of specified horticultural products are currently exercised by the AHC, or by the Australian Dried Fruits Board in relation to the horticultural products controlled by it.²¹ Under the Consequentials Bill, the IECB will be able to issue export licences and use the existing export control powers for a further two years.²² The IECB will also be responsible for the licensing of honey exporters,²³ notwithstanding that honey is not covered within the definition of 'horticultural product'. However, the IECB will not have the power to prohibit export of horticultural products either absolutely or to specified places, a power the AHC currently possesses.²⁴ This can only be done by the Secretary, as is explained below.

The Bill also establishes a new export control process, which will exist alongside the current export control powers for the two year transitional period, and will become the sole export control process after that time. Under the new procedure, the Secretary of Agriculture, Fisheries and Forestry Australia, not the IECB, will have the power to determine, by written order, which horticultural products and which markets will be 'regulated' and hence will require export licences before those products can be exported (**proposed section 19**). The Secretary will also have power to revoke these orders (**proposed section 20**). Before making or revoking the orders, the Secretary must comply

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with the processes specified in the deed of agreement relating to the IECB. It appears that this will be the five-step process mentioned by the Minister for Agriculture, Fisheries and Forestry in the second reading speech involving 'preparation of a case by the industry, extensive consultation with industry and final approval of the export control by the Secretary'.²⁵ The *Explanatory Memorandum* states that these processes 'reflect the consultation and consideration process for new export controls agreed between the Government and the horticultural industry.'²⁶

Once the Secretary has declared certain horticultural products and markets to be 'regulated', a person will require a licence to export a 'regulated horticultural product' to a 'regulated horticultural market' (**proposed subsection 21(1)**). The IECB will be responsible for licensing people to export those products to those markets (**proposed section 22**). No licensing procedure is specified; it is left to regulations to prescribe conditions for the grant, assignment, variation, revocation, surrender or suspension of export licences (**proposed subsection 22(2)**). However, these matters relating to export licences are currently left to regulations, so the situation is not materially altered.²⁷

It is an offence under the Bill to export a regulated horticultural product to a regulated horticultural market without an export licence (**proposed subsection 21(1)**). The maximum penalty under the new regime will be 180 penalty units (currently \$19,800),²⁸ whereas currently the penalty for this offence is only \$10,000.²⁹

It is also an offence to export a regulated horticultural product to a regulated horticultural market in contravention of the conditions of an export licence which has been issued (**proposed subsection 21(2)**). The maximum penalty will in future be 60 penalty units (currently \$6,600), less than the \$10,000 maximum penalty which currently applies for this offence.³⁰

The IECB is also vested with the powers currently exercised by the AHC to issue certificates in relation to matters connected with horticultural products (**proposed section 23**). This may include quotas in relation to certain countries to which Australian horticultural products are exported.³¹

If there is no IECB, the Secretary may exercise the export licensing and certification powers of the IECB (**proposed section 24**).

The IECB and its officers are immune from liability for any loss or injury suffered by any person as a result of the exercise of the export licensing and certification functions (**proposed section 25**). Liability will only arise where the act or omission was done in bad faith. This immunity is wholly new, and no rationale for it is contained in the *Explanatory Memorandum*.

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Accountability mechanisms

There are several mechanisms through which the Minister can maintain control over the IECB and the ISB. Chiefly, these are the power to issue Ministerial directions, the ability to obtain injunctions and ultimately the power to revoke a declaration that a body is the IECB or ISB.

Proposed subsection 29(1) confers on the Minister power to give written directions to either or both the IECB and the ISB if:

- the direction is made for a purpose within Commonwealth legislative power, or
- the direction is ‘in Australia’s national interest because of exceptional and urgent circumstances’, but only if the Minister has discussed it with the body’s directors, and only if the body would not have to expend more money in complying with the direction than it has been paid under the Bill.

The IECB and the ISB must comply with any Ministerial directions (**proposed subsection 29(2)**). Such directions must ordinarily be tabled in each House of Parliament within 15 88

If the IECB or the ISB engages in or proposes to engage in conduct which breaches the Bill, the regulations or orders made under it, or the deed of agreement, the Minister may apply to the Federal Court for an injunction (**proposed subsection 27(1)**). The injunction may be granted even if the breach is unlikely to continue or to be repeated. The injunction may be a prohibitory injunction preventing certain conduct, or a mandatory injunction requiring the body to do certain acts (**proposed subsections 27(2) and (4)**). The Federal Court also has power to grant an interim injunction pending final decision on an application for an injunction (**proposed subsection 27(5)**).

The Secretary has power to give written notice requiring information or copies of documents to be provided by the IECB or the ISB. However, this power may only be exercised to assist in investigating whether there may be or may have been a breach of the Bill, the regulations or orders made under it, or the deed of agreement (**proposed section 30**).

Ultimately, the Minister retains control of the horticultural services bodies by the power to declare that the IECB or the ISB ceases to be such (**proposed section 10**). The Minister must have grounds for making this declaration. Grounds are:

- if the body has requested the Minister to declare that it ceases to be the IECB or the ISB
- if the Minister has reasonable grounds to believe that the body has breached the Bill, the regulations or orders made under it, or the deed of agreement

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- if the Minister has reasonable grounds to believe that the body has failed to comply with its constitution, or that the body's constitution is no longer appropriate to perform the functions of the industry services body
- if the body is under liquidation, administration, winding up or similar circumstances, or
- if the body has refused to consent to a variation of the deed of agreement within three months of the variation being requested by the Secretary.

If the Minister has declared that a body ceases to be the IECB or the ISB, the Minister may (by declaration) transfer the industry assets and liabilities to the next ISB, or to a trust or body which can fulfil the marketing and R&D functions for the horticultural industry (**proposed section 11**). The Minister for Agriculture, Fisheries and Forestry has stated that these 'safeguards have been provided in the legislation to ensure the company delivers what the industry and the Government expect of it.'³²

Miscellaneous

The Bill binds the Commonwealth, the States and Territories, although they are not liable to be prosecuted for any criminal offence (**proposed section 5**). The Bill applies both within and outside Australia (**proposed section 6**).

The Commonwealth has the explicit power to sue in court to recover amounts due to it either under the Bill or under the deed of agreement with the IECB or the ISB (**proposed section 28**).

Both the IECB and the ISB will be required to comply with the record-keeping obligations contained in the *Archives Act 1983*, but only in relation to records concerning the exercise of the powers and functions of the IECB, and the use of payments made by the Commonwealth to the ISB (**proposed section 31**).

The Minister may delegate all of his or her powers under the Bill, except the power to give directions, to the Secretary of the Department (**proposed subsection 32(1)**). The Secretary also has power to delegate his or her powers (although not any powers which have been delegated to him or her by the Minister) to public servants within the Department who have appropriate skills or experience (**proposed subsection 32(2)**).

Proposed section 33 provides that the acquisition of property from a person under the Bill must be on just terms, in accordance with paragraph 51(xxxi) of the Constitution. The Federal Court is appointed to arbitrate on the question of what amounts of compensation would constitute 'just terms', if the Commonwealth and the person whose property is acquired are unable to agree.

The Governor-General has power to make regulations relating to any matters contained in the Bill, and has power to prescribe penalties of up to 30 penalty units (**proposed section 34**). The Secretary of the Department also has power to make orders in relation to any

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matters contained in the Bill, but may not prescribe penalties for offences. Orders made by the Secretary are subject to the same notification and disallowance procedures as apply to regulations (**proposed subsection 35(2)**).³³

Concluding Comments

The amalgamation proposal contained in the Bill has industry support. In many respects, it represents an outsourcing of Government marketing and R&D functions to the horticultural industry itself. However, the Bill contains accountability mechanisms to enable the Government to retain some control over these functions, which are conducted with Government levies and charges, as well as significant Government funding in the form of matching payments.

In respect of export control powers over horticultural products, the amalgamation proposal actually represents a significant increase in the centralised power of the executive. Currently, this function is devolved to the AHC, a seven member statutory corporation in which the majority of members do not directly represent the Government's interests.³⁴ In contrast, the Bill proposes that power to declare which products require licences in respect of certain markets will be in the sole discretion of the Secretary of Agriculture, Fisheries and Forestry Australia. Some accountability is provided for, as these orders are to be disallowable instruments. Although the licensing function will be exercised by the IECB, if there is no such body, the Secretary will also be given the licensing powers to exercise. Although the Minister must make an initial declaration that a corporation is the IECB,³⁵ if that declaration is revoked, it is in the discretion of the Minister whether or not another corporation will be declared to be the IECB. Thus it remains at least theoretically possible that the Minister will not make such a declaration, and that export licensing will be done solely by the Secretary.

Technical flaw

One technical comment needs to be made about the definition of 'marketing amounts' and 'R&D amounts'. These definitions form the basis for the funding of the AHC and HRDC, and will fund the ISB after the transfer day.

Currently, levies are imposed on leviable horticultural products sold by the producer or used by the producer to produce other goods;³⁶ and charges are imposed on the export of chargeable horticultural products from Australia.³⁷ These amounts are payable by the producer to the Commonwealth, which then gives the amounts to the AHC and the HRDC. As an alternative method of collection, intermediaries are also statutorily liable for these levies and charges as follows:

- the selling agent who sells a leviable horticultural product, and the first purchaser who buys the product, and the buying agent who buys the product on behalf of the first purchaser or processor are all liable to pay the levy on behalf of the producer³⁸

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- the receiver or processor of a leviable horticultural product is liable to pay the levy on behalf of the producer,³⁹ and
- the exporting agent who exports a chargeable horticultural product is liable to pay the charge on behalf of the producer.⁴⁰

Penalties for late payment of levies or charges are also payable under section 15 of the *Primary Industries Levies and Charges Collection Act 1999*.

The definitions of ‘marketing amounts’ and ‘research and development amounts’ in **proposed section 4** include the amounts of levies and charges payable before the transfer day by the producer and all three classes of intermediaries, as well as penalties for late payment.⁴¹ In respect of amounts of levies and charges payable after the transfer day, the definitions include amounts payable by the producer, and by the receiver or processor and the exporting agent, together with any penalties. However, the definitions omit reference to the amounts payable by the selling agent, first purchaser and buying agent.⁴² The omission of these intermediaries appears to be a drafting error, and Agriculture, Fisheries and Forestry Australia has indicated that it will consider amending the Bill to include these intermediaries.

Endnotes

- 1 Senator the Hon Judith Troeth, Parliamentary Secretary for Agriculture, Fisheries and Forestry, ‘Australian horticulture: clean, green, high-tech and ready for business’, *Address to the Business Council of Australia*, Sydney, 16 September 2000. The text is available at: <http://www.affa.gov.au/affa/pr/speeches/troeth/bcatroeth.html>.
- 2 Established under the *Australian Horticultural Corporation Act 1987* and the *Horticultural Research and Development Act 1987* respectively.
- 3 See *Explanatory Memorandum*, Australian Horticultural Corporation Bill 1987, p. i.
- 4 See the HRDC Portfolio Budget Statement.
- 5 See the AHC Portfolio Budget Statement.
- 6 See *Explanatory Memorandum*, Horticultural Policy Council Bill 1987, p. i; *Horticultural Policy Council Act 1987*, section 6.
- 7 *Statute Stocktake Act 1999*, section 3 and Schedule 1 item 1. See also *Explanatory Memorandum*, Statute Stocktake Bill 1999, p. 3.
- 8 Senator the Hon Judith Troeth, Parliamentary Secretary for Agriculture, Fisheries and Forestry, ‘Government to create new horticulture company’, *Media Release*, 9 May 2000. See also the Hon Warren Truss, Minister for Agriculture, Fisheries and Forestry, *Address to the Farm Writers’ Association Post-Budget Breakfast*, Sydney, 10 May 2000.

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- 9 The Hon Warren Truss, Minister for Agriculture, Fisheries and Forestry, Second reading speech on the Horticulture Marketing and Research and Development Services Bill 2000, House of Representatives, *Hansard*, p. 18691, 5 October 2000.
- 10 *Ibid.*
- 11 *Ibid.*
- 12 *Explanatory Memorandum*, Horticultural Marketing and Research and Development Services Bill 2000, p. 3.
- 13 Senator the Hon Judith Troeth, Parliamentary Secretary for Agriculture, Fisheries and Forestry, 'Industry Support for Horticulture Australia Ltd', *Media Release*, 15 September 2000.
- 14 *Explanatory Memorandum*, Horticultural Marketing and Research and Development Services Bill 2000, p. 2.
- 15 The transfer day is the day declared by the Minister in writing to be the day on which transfer from the AHC and HRDC to the ISB occurs: **proposed subsection 12(1)** of the Consequentials Bill.
- 16 See **proposed subsection 16(1)** and the definitions of 'marketing amounts' and 'research and development amounts' in **proposed section 4**. The exception is levies collected under subsection 7(1) of the *Primary Industries Levies and Charges Collection Act 1991* from selling agents, first purchasers or buying agents. This is discussed further in the Concluding Comments section.
- 17 See **proposed subsection 16(1)** and the definitions of 'marketing amounts' and 'research and development amounts' in **proposed section 4**. The exception is levies collected under subsection 7(1) of the *Primary Industries Levies and Charges Collection Act 1991* from selling agents, first purchasers or buying agents. This is discussed further in the Concluding Comments section.
- 18 See **proposed subsection 16(1)** and paragraph (g) of the definition of 'marketing amounts' in **proposed section 4**. Product Boards dealing with individual products may be established by regulation, with functions relating to marketing of those products both for export and in the domestic market: sections 100 and 102 of the *Australian Horticultural Corporation Act 1987*. Currently, the only Product Board in existence is the Australian Dried Fruits Board established under the *Australian Horticultural Corporation (Australian Dried Fruits Board) Regulations 1991*, which will be repealed by the Consequentials Bill.
- 19 Section 46 of the *Horticultural Research and Development Corporation Act 1987*.
- 20 Subsection 46(5) of the *Horticultural Research and Development Corporation Act 1987* currently calculates the amount of the matching payment by considering the total value of amounts paid in the current financial year and previous years, as a percentage of the total gross value of production of the horticultural industry for the current financial year and earlier financial years. Although proposed subsection 16(3) calculates the matching payments only as a percentage of the current financial year's gross production, the figure of 0.5 per cent remains the same.
- 21 See sections 117 and 117A of the *Australian Horticultural Corporation Act 1987*.

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- 22 See further the Bills Digest on the Consequential Bill.
- 23 *Australian Horticultural Corporation (Honey Export Control) Regulations* and **proposed paragraph 45(1)(b)** of the Consequential Bill.
- 24 Subsection 117(2) of the *Australian Horticultural Corporation Act 1987*.
- 25 The Hon Warren Truss, Minister for Agriculture, Fisheries and Forestry, Second reading speech on the Horticulture Marketing and Research and Development Services Bill 2000, House of Representatives, *Hansard*, p. 18691, 5 October 2000.
- 26 *Explanatory Memorandum*, Horticultural Marketing and Research and Development Services Bill 2000, p. 12.
- 27 Subsection 117(3) of the *Australian Horticultural Corporation Act 1987*.
- 28 The current value of a penalty unit is \$110: subsection 4AA(1) of the *Crimes Act 1914*.
- 29 Subsection 118(1) of the *Australian Horticultural Corporation Act 1987*.
- 30 Subsection 118(2) of the *Australian Horticultural Corporation Act 1987*.
- 31 *Explanatory Memorandum*, Horticultural Marketing and Research and Development Services Bill 2000, p. 13.
- 32 The Hon Warren Truss, Minister for Agriculture, Fisheries and Forestry, Second reading speech on the Horticulture Marketing and Research and Development Services Bill 2000, House of Representatives, *Hansard*, p. 18691, 5 October 2000.
- 33 These are contained in sections 48, 48A, 48B, 49, 49A and 50 of the *Acts Interpretation Act 1901*. Basically, the making of orders must be notified in the *Gazette*, the orders must be tabled in each house of Parliament, and be subject to disallowance by either House within 15 sitting days.
- 34 Section 13 of the *Australian Horticultural Corporation Act 1987*.
- 35 See **proposed subsection 12(2)** of the Consequential Bill.
- 36 Item 2(1) of Schedule 15 of the *Primary Industries (Excise) Levies Act 1999*.
- 37 Item 2(1) of Schedule 10 of the *Primary Industries (Customs) Charges Act 1999*.
- 38 Subsection 7(1) of the *Primary Industries Levies and Charges Collection Act 1999*.
- 39 Subsection 7(2) of the *Primary Industries Levies and Charges Collection Act 1999*.
- 40 Subsection 7(3) of the *Primary Industries Levies and Charges Collection Act 1999*.
- 41 See **proposed paragraph (f)** of the definition of ‘marketing amounts’ and **proposed paragraph (f)** of the definition of ‘research and development amounts’, both of which refer to section 47 of the *Australian Horticultural Corporation Act 1987*.
- 42 There is no reference in either the definition of ‘marketing amount’ or of ‘research and development amount’ to subsection 7(1) of the *Primary Industries Levies and Charges Collection Act 1991*.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.