

1987

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

FISHING INDUSTRY RESEARCH AND DEVELOPMENT BILL 1987

EXPLANATORY MEMORANDUM

Circulated by authority of the Minister for Primary Industry,  
the Hon. John Kerin



## FISHING INDUSTRY RESEARCH AND DEVELOPMENT BILL 1987

### OUTLINE

The Bill provides a new framework for the management of the Commonwealth's research and development activities in the Australian fishing industry, along lines generally similar to those provided in respect of other rural industries by the Rural Industries Research Act 198. Separate provision is necessary for fisheries research and development because of the jurisdictional arrangements in Australia for fisheries.

The Bill provides for the establishment and operation of a Fishing Industry Research and Development Council and a Fishing Industry Research and Development Trust Fund managed by the Council. The Council is to develop 5-year plans and annual programs of fisheries research and development that the new Trust Fund will finance, for approval by the Minister.

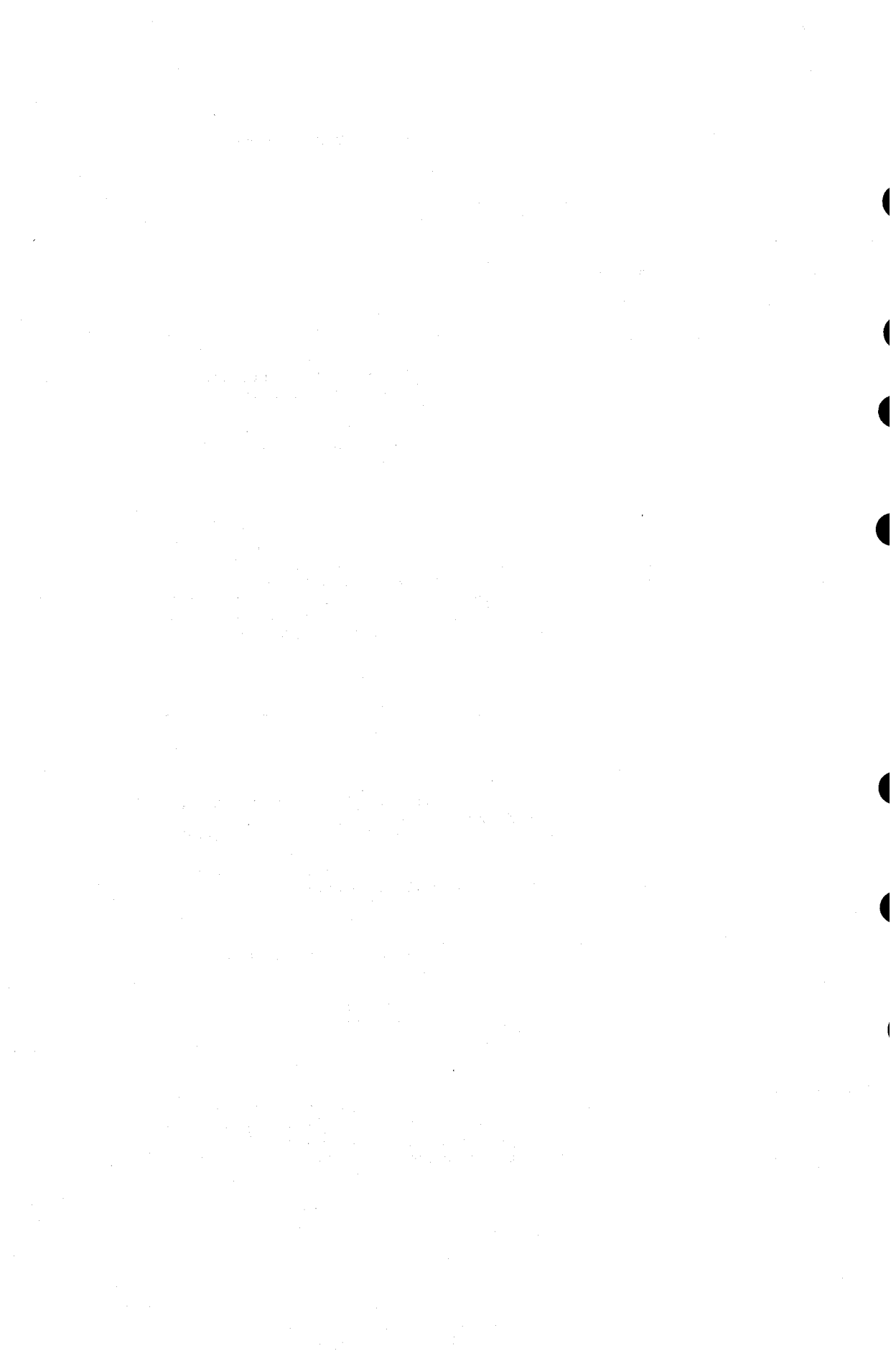
Members of the Council, except for the Chairperson and the government member, are appointed by the Minister on the nomination of a Selection Committee. The Minister appoints the Chairperson and the government member at his discretion. The government member is to be a person knowledgeable and experienced in formulation of government policy and public administration. The remaining members, not fewer than 3 or more than 7, are to have such skills and experience that the Council comprises persons with a high order of general administrative or management ability and qualified in fisheries management, the Australian fishing industry (particularly catching fish and processing and marketing of fish products) and fisheries research and development.

The members of the Selection Committee are to comprise a Chairperson, a member experienced in fisheries administration or management, a member experienced in fisheries research and development, a member nominated by the Australian Fisheries Council and three members nominated by the National Fishing Industry Council.

The Bill provides similarly to the Rural Industries Research Act in relation to the operation of the Council and the Selection Committee and for the management of the Trust Fund.

**FINANCIAL IMPLICATIONS:** To provide funds for the execution of approved programs within approved plans, the Bill appropriates to the Trust Fund an amount equal to the expenditure, from State funds approved by the Minister, of moneys of a kind approved by the Minister. The ceiling on the appropriation in any year is equal to 1% of the average annual Gross Value of Production for the catching and culturing sectors of the Australian fishing industry during the preceding 3 financial years, as determined by the Minister. Determinations of approved State funds, approved monies and the average annual Gross Value of Production are reviewable and disallowable by Parliament.

The Bill is considered appropriate for cognate debate with the Fishing Industry Research Amendment Bill 1987, which amends the Fishing Industry Act 1969 to provide transitional arrangements with respect to the Fishing Industry Research Trust Account. This Account, which the new Trust Fund effectively replaces but which is to continue for the time being, has since 1969 been the vehicle for the Commonwealth's fisheries research and development activities.



FISHING INDUSTRY RESEARCH AND DEVELOPMENT BILL 1987

NOTES ON CLAUSES

Clause 1 - Short Title

Self explanatory

Clause 2 - Commencement

Provides for commencement of Part I (Preliminary), Part III (The Fishing Industry Research and Development Fund) and Part IV (The Fishing Industry Research and Development Council Selection Committee) on Royal Assent. The remaining provisions (Part II - The Fishing Industry Research and Development Council - and Part V - Miscellaneous) come into force on a day fixed by Proclamation.

Clause 3 - Object

States that the object of the Act is to provide for funding and administering fisheries research and development (fisheries R & D) by identifying R & D areas that are relevant to the needs of the fishing industry, improving the industry's efficiency and effectiveness, making more effective use of the resources available to carry out fisheries R & D, including the skills of the community generally and the scientific community particularly, and improving accountability for expenditure on it.

Clause 4 - Interpretation

This clause interprets the following terms in the Bill as having the meanings described, in the absence of a contrary intention.

"Australian fishing industry":

except in s.33, any industry carried out in or from Australia dealing with taking, culturing, preserving, storing, transporting, processing or marketing fish or fishery products  
for purposes of s.33, any industry carried out in or from Australia dealing with taking or culturing fish.

"Chairperson":

the Chairperson of the Council or the Selection Committee.

"Council":

the Fishing Industry Research and Development Council established by Part II.

"fish":

all living aquatic natural resources of the sea and the seabed or in waters within Australia. This definition, while global in its scope, is limited in its application by the definition of the Australian fishing industry.

"fishing research and development":

systematic experiment or analysis in any field for gaining knowledge potentially useful for improving the efficiency and competitiveness of the Australian fishing industry

exploring the sea to find and assess fish stocks

applying knowledge, however gained, to improve the efficiency and competitiveness of the Australian fishing industry

and, without limiting the generality of the foregoing -

developing methods and equipment for all the elements of the Australian fishing industry

disseminating information and providing advice and assistance to encourage the Australian fishing industry to achieve efficiency and competitiveness through adoption of scientific and technological developments

publishing information useful for improving the efficiency and competitiveness of the Australian fishing industry

providing for employment and vocational training in the Australian fishing industry

establishing or developing the Australian fishing industry in a place or for a purpose

training persons in fisheries R & D disciplines and methods any activity incidental to the above.

"government member":

of the Council.

"member":

as the case requires, of the Council or the Selection Committee, including the Chairperson in each case but excluding the government member in relation to s.17.

"Parliament":

includes the Legislative Assembly of the Northern Territory.

"planning period":

the period of 5 years commencing on 1 July next after the day fixed for commencement of Part II and every subsequent period of 5 years.

"processing":

in relation to fish, has the same meaning as in the Fisheries Act 1952.

"Selection Committee":

the Fishing Industry Research and Development Council Selection Committee established by Part IV.

"taking":

in relation to fish, includes catching or capturing.

"Trust Fund":

the Fishing Industry Research and Development Trust Fund established by Part III.

**PART II - THE FISHING INDUSTRY  
RESEARCH AND DEVELOPMENT COUNCIL**

Division 1 - Establishment, functions and powers

Clause 5 - Establishment

Establishes the Council.

Clause 6 - Functions

Vests the Council with the functions of -

investigating and evaluating fisheries R & D requirements and preparing R & D plans based on the results thereof

preparing annual R & D programs for each financial year during the period of a plan

entering into agreements for the performance of fisheries R & D projects

approving payments from the Trust Fund

monitoring and reporting to Parliament and the Fishing Industry Policy Council of Australia (FIPCA) on fisheries R & D projects funded wholly or partly by the Trust Fund

such other functions in relation to the Australian fishing industry as this or any other Act confers on the Council.

Clause 7 - Powers

Empowers the Council, on behalf of the Commonwealth, to do all things necessary or convenient to be done in connection with the performance of its functions.

Division 2 - Constitution and meetings of the Council

Clause 8 - Constitution of Council

Provides for the Council to comprise the Chairperson, the government member and a number, approved in writing by the Minister, of other members not fewer than 3 or more than 7.

Clause 9 - Role of Chairperson etc.

Makes the Chairperson the Council's principal spokesperson and the person responsible for its overall operations and performance. The Chairperson may be referred to as Chairman or Chairwoman, as the case requires.

#### Clause 10 - Appointment of members

Provides for the Minister to appoint the Council [sub-clause (1)]. The Minister is to be satisfied that the government member has knowledge and experience in formulating government policy and public administration before appointing that member [sub-clause (2)]. Members other than the Chairperson and the government member are to be appointed from persons nominated by the Selection Committee [sub-clause (3)]. The maximum age of a member on appointment is to be 65 years [sub-clause (4)]. Appointment of a member is not invalid because of any defect or irregularity in the appointment [sub-clause (5)].

#### Clause 10 - Term of office of members

Members' appointments take effect on the day specified in the instrument of appointment and run, subject to the Act:

except for the government member - for the period of not more than 3 years specified in the instrument of appointment. Members in this category may be reappointed in accordance with the Act

in the case of the government member - at the Minister's pleasure

[sub-clause (1)].

A replacement may be appointed to serve for the remainder of the term of appointment of a member other than the government member who has ceased to hold office [sub-clause (2)]. Members cease to hold office on reaching 65 years of age [sub-clause (3)].

#### Clause 12 - Members to hold office on part time basis

Self explanatory.

#### Clause 13 - Remuneration and allowances

Remuneration of Council members is as determined by the Remuneration Tribunal or, if there is no such determination, as prescribed [sub-clause (1)]. Council members shall be paid prescribed allowances [sub-clause (2)]. A Council member who is a Member of, or a candidate for election to, the Parliament of a State where that membership or election would not be permitted if the member received remuneration or allowances under the Act is to be reimbursed expenses reasonably incurred in performing duties under the Act [sub-clause (3)]. It is a condition of a Member of a State Parliament to whom sub-clause (3) does not apply, a full-time State employee, or a person performing full-time positions established under State law, holding office as a member of the Council that such a person pays remuneration received under the Act to the State within one month of receiving it [sub-clause (4)]. Such amounts are debts due to the State which may sue for recovery [sub-clause (5)]. Section 13 has effect subject to the Remuneration Tribunals Act 1973 [sub-clause (6)] but s.7(9) of that Act does not apply to a Council member [sub-clause(7)].

#### Clause 14 - Leave of absence

The Minister may grant leave to the Chairperson on appropriate terms and conditions and the Chairperson may do the same for other members of the Council.



**Clause 15 - Resignation**

May be effected by writing signed by the member and delivered to the Minister.

**Clause 16 - Disclosure of interests**

Required to be made to a meeting of the Council without delay when a member becomes aware that a matter under consideration by the Council (in or out of session) is one in which the member has a pecuniary interest of any kind [sub-clause (1)]. The minutes of the Council are to record the disclosure [sub-clause (2)].

**Clause 17 - Termination of appointment**

May be effected by the Minister of a member who has misbehaved or become physically or mentally incapacitated [sub-clause (1)]. The Minister is to terminate the appointment of any Council member who becomes bankrupt, etc., fails to disclose an interest that s.16 requires to be disclosed or is absent without leave from 3 consecutive meetings [sub-clause (2)].

**Clause 18 - Terms and conditions of appointment not provided for by the Act**

May be determined by the Minister in writing in relation to holding the office of a member of the Council.

**Clause 19 - Acting Chairperson**

The Minister may appoint a person who is not a member of the Council or the Selection Committee to act for not more than 12 months as Chairperson of the Council while the office of Chairperson is vacant or the Chairperson is unable to perform the duties of that office [sub-clause (1)]. The appointment of the acting Chairperson may be limited to specified circumstances [sub-clause (2)]. An acting Chairperson may, if appointed to act for a Chairperson unable to perform duties of office and that office becomes vacant, continue to act until the Minister otherwise directs in writing, the vacancy is filled or the 12-month period beginning with the vacancy of the office has ended [sub-clause (3)]. An acting Chairperson has all the powers of the Chairperson [sub-clause (4)]. The Minister may determine remunerations, allowances and conditions of appointment of the acting Chairperson and terminate the appointment at any time [sub-clause (5)]. The acting Chairperson may at any time resign by writing signed by the acting Chairperson and delivered to the Minister [sub-clause (6)]. Acts by or in relation to the acting Chairperson are not invalid simply because of the occasion for the appointment or for the person to act as Chairperson not having arisen or having ceased, a defect or irregularity in the appointment or expiry of the appointment [sub-clause (7)].

**Clause 20 - Meetings**

Are held when and where the Council determines [sub-clause (1)], subject to the power of the Chairperson to convene a meeting at any time [sub-clause (2)]. The Chairperson presides if present [sub-clause (3)]. Otherwise, the members present appoint one of their number to preside [sub-clause (4)].

**Clause 20 - Meetings (continued)**

At meetings, a majority of the members in office form a quorum, questions are decided by a majority of members present and voting and the presiding member has both a deliberative vote and a casting vote in the event of equality [sub-clause (5)]. The Council is to keep minutes of its proceedings [sub-clause (6)] and may invite advisers to attend meetings [sub-clause (7)].

**Clause 21 - Resolutions without meetings**

Resolutions of the Council out of session are deemed to have been passed if members sign one or more identical documents stating that they favour a resolution in terms set out therein, with effect from the date of signature, or if not all members sign the document on the same day, the day on which a majority of them has done so [sub-clause (1)]. Two or more documents are deemed to be one document for purposes of sub-clause (1) if they are identical [sub-clause (2)].

**Division 3 - Research and development plans and annual programs**

**Clause 22 - Research and development plans**

Are to be prepared not later than 3 months (or such lesser period as the Minister approves in writing) before the beginning of each planning period, setting out the council's broad objectives during that period and an outline of the Council's policies and strategies for achieving those objectives [sub-clause (1)]. Each year, the Council shall review the plan and consider whether it needs revising, at the time it is preparing the next annual R & D program under clause 23. As well, the Council may revise the current plan at any time and shall do so if the Minister so requests in writing giving reasons for the request [sub-clause (2)]. Plans or revisions of plans are to be submitted to the Minister as soon as practicable after preparation and have no effect until approved by the Minister [sub-clause (3)]. The Council is to consult the Australian Fisheries Council (AFC) and the National Fishing Industry Council (NFIC) before preparing or revising a plan [sub-clause (4)].

**Clause 23 - Annual research and development programs**

Are to be prepared not later than 2 months (or such lesser period as the Minister approves in writing) before the beginning of each financial year, setting out the kinds of fisheries R & D that the Council proposes to fund in the coming program year, an estimate of the cost in that year of each of those kinds of fisheries R & D and an estimate of the total likely expenditure from the Trust Fund for that year [sub-clause (1)]. The Minister may request the Council to revise the program if he considers it to be inconsistent with the current plan [sub-clause (2)] and the Council is to do so if the Minister gives reasons for the request [sub-clause (3)]. Programs or revisions of programs are to be submitted to the Minister as soon as practicable after preparation and have no effect until approved by the Minister [sub-clause (4)]. The Minister is not to refuse to approve a program unless he considers it to be inconsistent with the current fisheries R & D plan [sub-clause (5)].

Clause 24 - Council to comply with plans and programs

To the extent practicable, the Council is to perform its functions and exercise its powers consistently with, and in a manner designed to give effect to, the current plan and program.

Division 4 - Employees, consultants and sub-committees of Council

Clause 25 - Employees

The Council may, on behalf of the Commonwealth, employ staff to provide administrative and clerical services [sub-clause (1)]. No employee may be engaged to provide a kind of service unless the Minister has approved in writing the employment of persons to provide service of that kind [sub-clause (2)]. In employing staff, the Council is to comply with any written directions given by the Minister [sub-clause (3)]. The Council is to determine the terms and conditions of employment in consultation with the Public Service Board [sub-clause (4)].

Clause 26 - Consultants

May be engaged by the Council on behalf of the Commonwealth [sub-clause (1)], on terms and conditions determined by the Council [sub-clause (2)].

Clause 27 - Sub-committees

May be established by the Council to assist in performing its functions and exercising its powers [sub-clause (1)]. Members of a sub-committee may include Council members and consultants [sub-clause (2)]. The Council may fix the quorum for each sub-committee [sub-clause (3)].

Division 5 - Miscellaneous

Clause 28 - Delegation

The council may, by resolution, delegate all or some of its functions to a member, a sub-committee or an officer of the Department, other than the power of delegation [sub-clause (1)]. When the delegate exercise the power, it is deemed to have been an exercise by the Council [sub-clause (2)]. Delegates are subject to the directions given by the Council in the exercise of their powers [sub-clause (3)]. Delegations are revokeable by resolution of the Council as constituted at the time of revocation, do not prevent the Council from exercising the power and continue in force under a Council with changed membership [sub-clause (4)]. For purposes of s.34A of the Acts Interpretation Act 1901, delegations given by the Council are deemed to have been given by a person [sub-clause (5)]. A certificate in relation to any aspect of a delegation, signed by the Chairperson, is prima facie evidence of the matter in the certificate [sub-clause (6)] and a document purporting to be a certificate shall be deemed to be a certificate duly given unless the contrary be established [sub-clause (7)].

### Clause 29 - Annual report

Is to be prepared as soon as practicable after the end of each financial year and given to the Minister [sub-clause (1)]. The report is to include the Council's assessment of the extent to which the objectives in the relevant plan were achieved and the relevant year's program was implemented [sub-clause (2)]. The Minister is to table the report in each House within 15 sitting days of receiving it [sub-clause (3)]. As soon as practicable after giving the report to the Minister, the Chairperson is to provide copies to FIPCA and attend a meeting of FIPCA to hear its views about the report [sub-clause (4)]. The first report is to relate, if Part II of the Act comes into force on a day between 1 January and 30 June, to the next financial year or, in any other case, to the financial year in which that Part came into force [sub-clause (5)].

### PART III - THE FISHING INDUSTRY RESEARCH AND DEVELOPMENT FUND

#### Clause 30 - Establishment etc.

Establishes the Trust Fund and makes it a Trust Account for purposes of s.62A of the Audit Act 1901.

#### Clause 31 - Approved research funds

Provision similar to s.4 of the Fishing Industry Research Act 1969 for the Minister to declare not more than one fund in each State, established under the State's law with respect to fisheries, to be an approved fund for the purposes of s.33 of this Act.

#### Clause 32 - Approved moneys

Provision similar to s.5 of the Fishing Industry Research Act 1969 for the Minister to determine that money of a specified kind in an approved research fund is approved money for purposes of s.33.

#### Clause 33 - Appropriation

Appropriates from Consolidated Revenue to the Trust Fund, an amount equal to the total expenditure of approved money from approved research funds [sub-clause (1)]. The amount appropriated in any financial year shall not exceed 1% of the average annual Gross Value of Production [by the catching and culturing sectors - see paragraph (b) of definition of "Australian fishing industry", in Clause 4] of the Australian fishing industry during the preceding 3 financial years as determined by the Minister [sub-clause (2)].

#### Clause 34 - Other payments into Trust Fund

Provides for payment into the Trust Fund of:

money paid to the Commonwealth -

as proceeds of the sale of property paid for with Trust Fund money

as proceeds of the sale of property produced, or of dealings in patents for inventions made, in the course of fisheries R & D projects funded wholly or partly from the Trust Fund

in respect of work paid for with Trust Fund money

**Clause 34 - Other payments into Trust Fund (continued)**

other money received by the Commonwealth under agreements made under s.63

interest on investment of money in the Trust Fund.

**Clause 35 - Payments out of Trust Fund**

Provides for payment from the Trust Fund, with the approval of the Council, of money for meeting the expenses and discharging the liabilities of the Council, for paying remuneration, allowances or expenses of persons authorised by the Act and for paying the expenses of the Commonwealth in administering the investment of money in the Trust Fund [sub-clause (1)]. Until Part II comes into force, payments from the Trust Fund are limited to paying the expenses and discharging the liabilities of the Selection Committee [sub-clause (2)].

**Clause 36 - Determinations by Minister to be tabled in the Parliament and disallowable**

Ss. 48, 49, 49A and 50 of the Acts Interpretation Act 1901 apply to determinations under Part III [of approved funds - clause 31: approved moneys - Clause 32; the average annual Gross Value of Production - Sub-clause 33(2)] which are to be tabled in both Houses of the Parliament as if they are regulations and may be disallowed [sub-clause (1)]. Determinations are subject to the provisions of the Statutory Rules Publication Act 1903 only in relation to the requirements for publishing notification of the making of the determination in the Gazette, for making copies available at the places stated in the notification and for the Minister to inform the Parliament if copies are not so available. Failure to have copies available or to notify the Parliament does not invalidate the determination. Determinations are Ministerial orders for purposes of s.5 of the Evidence Act 1905.

**PART IV - THE FISHING INDUSTRY RESEARCH AND DEVELOPMENT  
COUNCIL SELECTION COMMITTEE**

**Division 1 - Establishment, powers and functions  
of Selection Committee**

**Clause 37 - Establishment**

Establishes the Selection Committee.

**Clause 38 - Function**

Vests the Selection Committee with the functions of selecting persons for nomination as members of the Council and of nominating persons so selected to the Minister for appointment.

**Clause 39 - Powers**

Empowers the Selection Committee, on behalf of the Commonwealth, to do all things necessary or convenient to be done in connection with the performance of its functions.

Division 2 - Nominations for membership of the Council

Clause 40 - Minister may request nomination from Selection Committee

By written notice to the Chairperson of the Selection Committee, the Minister may request the nomination by a specified time of a person for appointment to the Council.

Clause 41 - Nominations

Requires the Selection Committee, when requested by the Minister, to select and nominate in writing, within the specified time, a person for appointment to the Council [sub-clause (1)]. For each appointment to be made, only one nomination is to be submitted [sub-clause (2)]. Each nomination is to be accompanied by a statement of the nominee's qualifications and experience and any other information that the Selection Committee considers would be helpful to the Minister in making a decision [sub-clause (3)]. A nominee may be a person whose nomination on a previous occasion has been rejected or a person considered but not nominated on a previous occasion [sub-clause (4)].

Clause 42 - Selection of persons by Selection Committee

Requires the Selection Committee to nominate persons having a high order of administrative or management ability, whether in or outside the Australian fishing industry, and who fall into one or other category of:

persons with senior experience in management or administration of fisheries

persons with fishing industry experience or knowledge at a high level, particularly in catching, processing or marketing fish

persons with fisheries R & D experience.

[sub-clause (1)].

Persons barred from nomination include members of the Selection Committee and former members of the Selection Committee within one year of their ceasing to be such members [sub-clause (2)]. The Selection Committee is to nominate persons to fill vacancies on the Council such that the collective membership of the Council embraces the full range of qualifications listed in sub-clause (1) to the maximum possible extent [sub-clause (3)].

Clause 43 - Minister may request further information

If the Minister considers that the information supplied about a nominee is inadequate, he may request the Chairperson of the Selection Committee in writing to provide specified additional information by a specified time.

Clause 44 - Minister may reject nomination

If the Minister is not satisfied that a nominee is suitable for appointment, he may, in writing, reject the nomination and request the Chairperson of the Selection Committee to select and nominate another nominee by a specified time.

## Division 3 - Constitution and meetings of Selection Committee

## Clause 45 - Constitution of Selection Committee

Provides for the Selection Committee to comprise the Chairperson, a member with fisheries administration or management experience, a member with fisheries R & D experience, a member nominated by AFC and 3 members nominated by NFIC [sub-clause (1)]. The Selection Committee is not affected in its activities by reason of there being a vacancy on it [sub-clause (2)].

## Clause 46 - Role of Chairperson etc.

Makes the Chairperson the Selection Committee's principal spokesperson and the person responsible for its overall operations and performance. The Chairperson may be referred to as Chairman or Chairwoman, as the case requires.

## Clause 47 - Appointment of members

Provides for the Minister to appoint the Selection Committee [sub-clause (1)]. The Minister is to be satisfied that members possess the qualifications required for the positions they occupy [sub-clause (2) and (3)]. If the Minister is not satisfied that the nominee of AFC of NFIC is suitable for appointment, he may request either such body to make a fresh nomination [sub-clause (4)]. A member of the Council is not eligible for appointment to the Selection Committee [sub-clause (5)]. The maximum age of a member on appointment is to be 65 years [sub-clause (6)]. Appointment of a member is not invalid because of any defect or irregularity in the appointment [sub-clause (7)].

## Clause 48 - Term of office of members

Members' appointments take effect on the day specified in the instrument of appointment and run, subject to the Act, for the period of not more than 3 years specified in the instrument of appointment. Members may be reappointed in accordance with the Act [sub-clause (1)]. A replacement may be appointed to serve for the remainder of the term of appointment of a member who has ceased to hold office [sub-clause (2)]. Members cease to hold office on reaching 65 years of age [sub-clause (3)].

## Clause 49 - Members to hold office on part time basis

Self explanatory.

## Clause 50 - Remuneration and allowances

Remuneration of Selection Committee members is as determined by the Remuneration Tribunal or, if there is no such determination, as prescribed [sub-clause (1)]. Selection Committee members shall be paid prescribed allowances [sub-clause (2)]. A Selection Committee member who is a Member of, or a candidate for election to, the Parliament of a State where that membership or election would not be permitted if the member received remuneration or allowances under the Act, is to be reimbursed expenses reasonably incurred in performing duties under the Act [sub-clause (3)]. It is a condition of of a Member of a State Parliament to whom sub-clause (3) does not apply, a full-time State employee, or a person performing a full-time position established under State law, holding office as a member of the Selection Committee that such a person pays remuneration received under the Act to the State within one month of receiving it [sub-clause (4)].

Clause 50 - Remuneration and allowances (continued)

Such amounts are debts due to the State which may sue for recovery [sub-clause (5)]. Section 50 has effect subject to the Remuneration Tribunals Act 1973 [sub-clause (6)] but s.7(9) of that Act does not apply to a Selection Committee member [sub-clause(7)].

Clause 51 - Leave of absence

The Minister may grant leave to the Chairperson on appropriate terms and conditions and the Chairperson may do the same for other members of the Selection Committee.

Clause 52 - Resignation

May be effected by writing signed by the member and delivered to the Minister.

Clause 53 - Disclosure of interests

Required to be made to a meeting of the Selection Committee without delay when a member becomes aware that a matter under consideration by the Selection Committee (in or out of session) is one in which the member has a pecuniary interest of any kind [sub-clause (1)]. The minutes of the Selection Committee are to record the disclosure [sub-clause (2)].

Clause 54 - Termination of appointment

May be effected by the Minister of a member who has misbehaved or become physically or mentally incapacitated [sub-clause (1)]. The Minister is to terminate the appointment of any Selection Committee member who becomes bankrupt, etc., fails to disclose an interest that s.53 requires to be disclosed or is absent without leave from 3 consecutive meetings [sub-clause (2)]. The Minister is to terminate the appointment of the member nominated to the Selection Committee by AFC if that body so requests [sub-clause (3)] or of the member nominated to the Selection Committee by NFIC if that body so requests [sub-clause (4)].

Clause 55 - Terms and conditions of appointment not provided for by the Act

May be determined by the Minister in writing in relation to holding the office of a member of the Selection Committee.

Clause 56 - Acting Chairperson

The Minister may appoint a person who is not a member of the Council or the Selection Committee to act for not more than 12 months as Chairperson of the Selection Committee while the office of Chairperson is vacant or the Chairperson is unable to perform the duties of that office [sub-clause (1)]. The appointment of the acting Chairperson may be limited to specified circumstances [sub-clause (2)]. An acting Chairperson may, if appointed to act for a Chairperson unable to perform duties of office and that office becomes vacant, continue to act until the Minister otherwise directs in writing, the vacancy is filled or the 12-month period beginning with the vacancy of the office has ended [sub-clause (3)]. An acting Chairperson has all the powers of the Chairperson [sub-clause (4)].



**Clause 56 - Acting Chairperson (continued)**

The Minister may determine remunerations, allowances and conditions of appointment of the acting Chairperson and terminate the appointment at any time [sub-clause (5)]. The acting Chairperson may at any time resign by writing signed by the acting Chairperson and delivered to the Minister [sub-clause (6)]. Acts by or in relation to the acting Chairperson are not invalid simply because of the occasion for the appointment or for the person to act as Chairperson not having arisen or having ceased, a defect or irregularity in the appointment or expiry of the appointment [sub-clause (7)].

**Clause 57 - Deputies of members**

The Minister may appoint deputies of the members of the Selection Committee who have been appointed as the member with fisheries administration or management experience or the member with fisheries R & D experience [sub-clause (1)]. Deputies are to possess the same qualifications as the members for whom they deputise [sub-clauses (2) and (3)]. The Minister may appoint deputies of the members of the Selection Committee nominated by AFC or NFIC, on the nominations of those bodies [sub-clauses (4) and (5)]. Deputies hold office at the Minister's pleasure [sub-clause (6)]. If either AFC or NFIC requests the Minister to terminate the appointment of the deputy it has nominated, the Minister shall do so [sub-clauses (7) and (8)]. A deputy may attend meetings at which the member of the Selection Committee for whom he or she deputises is not present and is deemed at such times to be a member [sub-clause (9)]. Appointment of a deputy is not invalid because of any defect or irregularity in the appointment [sub-clause (10)].

**Clause 58 - Meetings**

Are held when and where the Selection Committee determines [sub-clause (1)], subject to the power of the Chairperson to convene a meeting at any time [sub-clause (2)]. The Chairperson presides if present [sub-clause (3)]. Otherwise, the members present appoint one of their number to preside [sub-clause (4)]. At meetings, 4 members form a quorum, questions are decided by a majority of members present and voting and the presiding member has both a deliberative vote and a casting vote in the event of equality [sub-clause (5)]. The Selection Committee is to keep minutes of its proceedings [sub-clause (6)] and may invite advisers to attend meetings [sub-clause (7)].

**Clause 59 - Resolutions without meetings**

Resolutions of the Selection Committee out of session are deemed to have been passed if members sign one or more identical documents stating that they favour a resolution in terms set out therein, with effect from the date of signature, or if not all members sign the document on the same day, the day on which a majority of them has done so [sub-clause (1)]. Two or more documents are deemed to be one document for purposes of sub-clause (1) if they are identical [sub-clause (2)].

Division 4 - Employees, consultants and  
sub-committees of Selection Committee

Clause 60 - Employees

The Selection Committee may, on behalf of the Commonwealth, employ staff to provide administrative and clerical services [sub-clause (1)]. No employee may be engaged to provide a kind of service unless the Minister has approved in writing the employment of persons to provide service of that kind [sub-clause (2)]. In employing staff, the Selection Committee is to comply with any written directions given by the Minister [sub-clause (3)]. The Selection Committee is to determine the terms and conditions of employment in consultation with the Public Service Board [sub-clause (4)].

Clause 61 - Consultants

May be engaged by the Selection Committee on behalf of the Commonwealth [sub-clause (1)], on terms and conditions determined by the Selection Committee [sub-clause (2)].

Clause 62 - Delegation

The Selection Committee may, by resolution, delegate all or some of its functions to a member, a sub-committee or an officer of the Department, other than the power of delegation [sub-clause (1)]. When the delegate exercise the power, it is deemed to have been an exercise by the Selection Committee [sub-clause (2)]. Delegates are subject to the directions given by the Selection Committee in the exercise of their powers [sub-clause (3)]. Delegations are revokeable by resolution of the Selection Committee as constituted at the time of revocation, do not prevent the Selection Committee from exercising the power and continue in force under a Selection Committee with changed membership [sub-clause (4)]. For purposes of s.34A of the Acts Interpretation Act 1901, delegations given by the Selection Committee are deemed to have been given by a person [sub-clause (5)]. A certificate in relation to any aspect of a delegation, signed by the Chairperson, is *prima facie* evidence of the matter in the certificate [sub-clause (6)] and a document purporting to be a certificate shall be deemed to be a certificate duly given unless the contrary be established [sub-clause (7)].

PART V - MISCELLANEOUS

Clause 63 - Agreements relating to fisheries research and development

Authorises the Council, on behalf of the Commonwealth to enter into agreements for the performance of fisheries R & D projects by the other party [sub-clause (1)]. Agreements may provide as necessary to give effect to their purpose, including provision for:

money provided under the agreement and property or goods produced with that money not to be used except as the agreement provides

the other party to the agreement to repay all the money or so much of it as the Council agrees to the Commonwealth if any of the money or any of the property or goods referred to above is used otherwise than as specified in the agreement

Clause 63 - Agreements relating to fisheries research and development (continued)

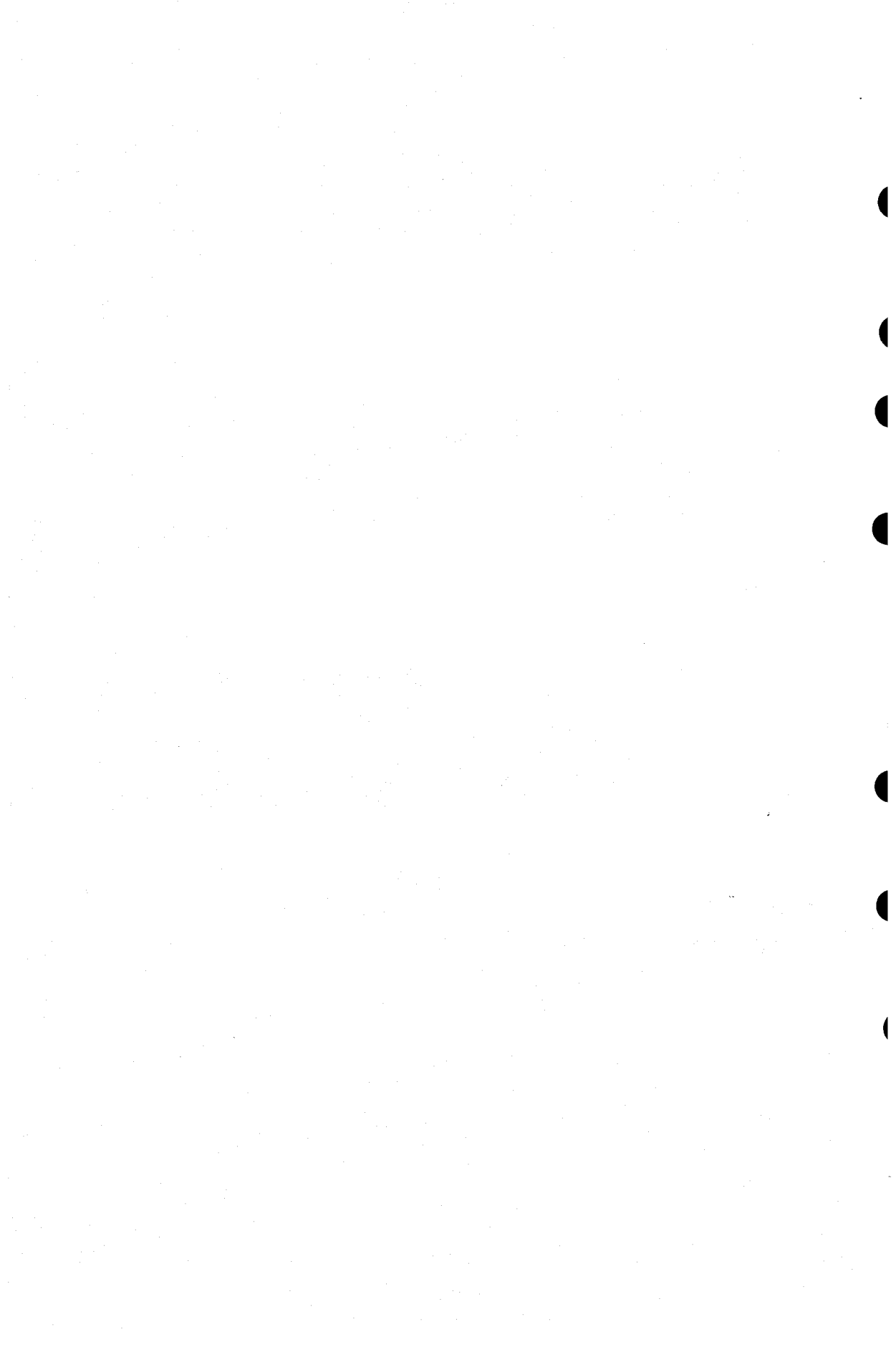
the other party to the agreement to pay to the Commonwealth all or so much as the Council determines of the income derived by the other party from the sale of property acquired or goods produced with money provided by the Council or from patents or patent application rights in relation to inventions made in the course of undertaking the fisheries R & D project or any other property so acquired using money provided wholly or partly by the Council

the assignment to the Commonwealth of the above-mentioned properties, goods or rights

payment to the Commonwealth of all, or of a proportion determined by the Council, of the net proceeds of sale or assignment of property or goods of a kind referred to above or, if the property or goods are disposed of other than by sale or assignment, of their value as determined by the Council.

Clause 64 - Regulations

Empowers the Governor-General to make regulations prescribing matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.



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