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HONEY LEGISLATION (REPEAL AND AMENDMENT) BILL 1992

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Primary Industries and Energy,
the Hon Simon Crean MP)

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HONEY LEGISLATION (REPEAL AND AMENDMENT) BILL 1992

OUTLINE

1. This Bill proposes to terminate the Australian Honey Board (AHB) from 1 January 1993 through the repeal of the Honey Marketing Act 1988 and to make the necessary transitional arrangements to allow certain functions of the AHB to be transferred under the umbrella of the Australian Horticultural Corporation (AHC).
2. The definition of horticulture is changed to accommodate honey under the AHC.
3. Provision is also made for the transfer of assets to the AHC and for such assets to be separately identified and used for the honey industry. Any transferred liabilities are to be met from the separate honey funds.
4. The Bill provides for the AHB to continue beyond 1 January 1993 solely for the purpose of preparing and submitting the final annual report of the Board to Parliament.
5. Provision is made for the levies and charges on honey to be paid to the AHC, including outstanding levies and charges from before 1 January 1993.
6. The Bill also makes provision to abolish the marketing component of the Honey Export Charge.

FINANCIAL IMPACT STATEMENT

7. There are no financial implications for the Commonwealth arising from this legislation. However, for industry there are expected savings of up to \$100,000 annually in the administration of the honey industry marketing activities.
8. Abolition of the marketing component of the export charge will mean a reduction in industry levy collections of about \$70,000 which will be available to exporters to promote pre-packaged branded products in targeted markets.

NOTES ON CLAUSES

Clause 1 – Short title

9. Provides for the Bill to be called the Honey Legislation (Repeal and Amendment) Act 1992.

Clause 2 – Commencement

10. Provides for this Bill to come into effect on 1 January 1993.

PART 2 REPEAL AND PROVISIONS FOR TRANSFER OF ASSETS ETC.

Clause 3 – Interpretation

11. Defines terms used in the Bill.

Clause 4 – Repeal of Honey Marketing Act

12. Provides for the Honey Marketing Act 1988 to be repealed.

Clause 5 – Transfer of assets and liabilities etc.

13. Provides that on 1 January 1993 the assets, obligations and liabilities of the Australian Honey Board become the assets, obligations and liabilities of the Australian Horticultural Corporation.

Clause 6 – Transferred documents

14. This clause provides that a relevant document made before 1 January 1993: to which the Board is a party; which was given to or in favour of the Board; in which a reference is made to the Board; or under which any right or liability accrues, or may accrue to the Board; continues its operation on or after 1 January 1993 except that any reference to the Board becomes in effect a reference to the Corporation.

Clause 7 – Certificates in relation to assets, liabilities etc

15. Subclause (1) provides that an authorised person may certify in writing that an asset, obligation or a liability of the Board is an asset, obligation or liability, as the case may be, of the Corporation by way of clause 5 or that a document is a relevant document within the meaning of clause 6.

16. Subclause (2) provides that in all courts and for all purposes an asset specified or described in a certificate of an authorised person as an asset that became as asset of the Corporation by force of clause 5 is to be taken to be such an asset. It also provides that an obligation or liability specified or described in a certificate as an obligation or liability that became an obligation or liability of the Corporation by force of clause 5 is to be taken to be such an obligation or liability and a document specified or described in a certificate as a document that is a relevant document within the meaning of clause 6 is to be taken to be such a document.
17. Subclause (3) provides that a document purporting to be a certificate under subclause (1) is to be taken to be such a certificate in the absence of evidence to the contrary.

Clause 8 – Exemption of certain documents from stamp duty etc.

18. This clause makes provision for a document which an authorised person has certified as having come into existence because of or for purposes connected with or arising out of the operation of this Act, is not liable to stamp duty or other duty or tax under the law of the Commonwealth, of a State or of a Territory.

Clause 9 – Pending proceedings

19. This clause makes provision for the Corporation to be substituted for the Board as a party to proceedings that were pending in any court or before any tribunal.

Clause 10 – Treatment of assets transferred from Board to Corporation

20. Subclause (1) states that this clause applies to assets that by force of clause 5 have been transferred to the Corporation.
21. Subclause (2) makes provision for transferred assets consisting of money to be used by the Corporation only in the performance of its functions so far as they relate to honey. Accounts and records kept under section 49 of the Australian Horticultural Corporation Act 1987 must identify money transferred to the Corporation from the Board and record expenditure of that money separately from expenditure of other money of the Corporation.
22. Subclause (3) provides that transferred assets other than money must be separately identified and recorded by the Corporation.
23. Subclause (4) requires the Corporation to only discharge liabilities transferred from the Board out of assets transferred to the Corporation from the Board or out of levies, charges or penalties received by the Corporation from the honey industry.

Clause 11 – Final annual report of the Board

24. Subclause (1) provides that in spite of the repeal effected by clause 4, the Australian Honey Board continues to exist for the purpose of giving the Minister a report on the operation of the Honey Marketing Act 1988 during the 6 month period that began 1 July 1992.
25. Subclause (2) enables the Honey Marketing Act 1988 to continue as if it had not been repealed, to facilitate the Board to prepare its final annual report and submit it to the Minister; without the need for re-appointment of Board members, undergoing a selection process or the obligation to present the report to the industry organisations; as if subsection 59(1) were substituted with the requirements that the Board must submit its written Annual Report, including financial statements in a form acceptable to the Minister for Finance, as soon as possible after 31 December 1992; and as if a financial year were the period of six months commencing on 1 July 1992.
26. Subclause (3) makes provision for any expenses or liabilities incurred by the Board, together with any remuneration payable to members of the Board, to be paid or discharged by the Corporation out of money transferred to the Corporation from the Board or out of levy, charge or penalty received by the Corporation from the honey industry.

PART 3 AMENDMENTS OF THE AUSTRALIAN HORTICULTURAL CORPORATION ACT 1987

Clause 12 – Principal Act

27. For this part the Principal Act refers to the Australian Horticultural Corporation Act 1987.

Clause 13 – Interpretation

28. Amends section 3 of the Principal Act to allow for "honey" in the definition of horticultural products and to recognise that it is "produced" (not grown).

Clause 14 – Payments of levy and charge to Corporation

29. This clause amends section 47 of the Australian Horticultural Corporation Act 1987 to allow the Corporation to receive from the Commonwealth:

amounts of money relating to the marketing component of the Honey Export Charge Act 1973 and Honey Levy Act (No's 1&2) 1962 which have been collected but not appropriated as at 31 December 1992;

amounts of money relating to the marketing component of the Honey Export Charge Act 1973 and Honey Levy Act (No's 1&2) 1962 which have not been collected as at 31 December 1992; and

amounts of penalty by way of section 6 of the Honey Export Charge Collection Act 1973, section 8 of the Honey Levy (No's 1&2) Collection Act 1962 and section 15 of the Primary Industries Levies and Charges Collection Act 1991 relating to the discharge of a person's liability in respect of the marketing component of the Honey Export Charge Act 1973 and Honey Levy Act (No's 1&2) 1962.

PART 4 AMENDMENTS OF THE HONEY EXPORT CHARGE ACT 1973

Clause 15 – Principal Act

30. "Principal Act" refers to the Honey Export Charge Act 1973.

Clause 16 – Interpretation

31. Amends section 4 of the Principal Act by omitting from subsection (1) the definition of "Board" and "packers' organisation" and inserting the definition of "Corporation".

Clause 17 – Exemptions

32. This clause amends subsection 6(2) of the Principal Act, changing the consultation mechanism prior to the making of regulations regarding exemptions from charge so that the producers organisation is required to make recommendations to the Minister after having consulted with the Corporation.

Clause 18 – Rate of levy

33. This clause abolishes the marketing component of the Honey Export Charge Act 1973. As a consequence it also abolishes the provision to make Regulations in relation to the marketing component of the Export Charge and the requirement for industry consultation in relation to the making of those Regulations.
34. This clause also makes transitional provisions for the discharge of any liability that may have been incurred under the abolished marketing component of the Export Charge and the continuation of collection arrangements in relation to that liability.
35. This clause also provides that regulations in force and relating to the research and development component of the Export Charge continue in effect.

PART 5 AMENDMENTS OF THE HONEY LEVY ACT (NO.1) 1962

Clause 19 – Principal Act

36. Provides for the Principal Act to be the Honey Levy Act (No.1) 1962.

Clause 20 – Interpretation

37. Section 3A of the Principal Act is amended by omitting from subsection (1) the definition of "Board" and "packers' organisation" and inserting the definition of "Corporation".

Clause 21 – Rates of levy

38. This clause changes the consultation mechanism in relation to the setting of levy rates so that the producers organisation is required to make recommendations to the Minister after having consulted with the Corporation.

Clause 22 – Exemptions

39. This clause changes the consultation mechanism prior to the making of regulations regarding exemptions from levy so that the producers organisation is required to make recommendations to the Minister after having consulted with the Corporation.

PART 6 AMENDMENTS TO THE HONEY LEVY ACT (NO.2) 1962

Clause 23 – Principal Act

40. Provides for the Principal Act to be the Honey Levy Act (No.1) 1962.

Clause 24 – Interpretation

41. This clause amends section 3A of the Principal Act omitting from subsection (1) the definition of "Board" and inserting the definition of "Corporation".

Clause 25 – Rates of levy

42. This clause changes the consultation mechanism in relation to the setting of levy rates so that the producers organisation is required to make recommendations to the Minister after having consulted with the Corporation.

Clause 26 – Exemptions

43. This clause changes the consultation mechanism prior to the making of regulations regarding exemptions from levy so that the "producers organisation" is required to make recommendations to the Minister after having consulted with the Corporation.

