

1987

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN HORTICULTURAL CORPORATION BILL 1987

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for
Primary Industries and Energy, the Hon. John Kerin)

OUTLINE

AUSTRALIAN HORTICULTURAL CORPORATION BILL 1987

The purpose of this Bill is to establish the Australian Horticultural Corporation. The Corporation's essential role will be to facilitate and co-ordinate with its prime objective being to assist Australian horticultural industries achieve their full potential in overseas markets. This will be done by encouraging and developing the export marketing of horticultural products through fostering and co-ordinating activities of exporters, growers and other appropriate organisations or groups.

The functions of the Corporation are to promote Australian horticultural products both in Australia and overseas and to improve the industries' competitiveness, by improving the quality, handling, storing, processing and marketing of Australian horticultural products. The Bill provides the Corporation with powers to operate along commercial lines. As such, it will be able to negotiate transport and product insurance contracts, obtain and disseminate market information, charge for services and prepare generic promotion campaigns. It will also be able to bring together different industry interests for mutually beneficial discussions, provide a firm basis on which industry action can be taken such as developing trade descriptions and quality standards for product exported, and engage consultants as and when necessary.

The Corporation will consist of nine people comprising a Chairperson, a government member, the Managing Director of the Corporation and six other members who will be nominated by a Selection Committee for appointment by the Minister.

The Selection Committee will, in addition to its Chairperson, consist of seven members nominated by levy-paying horticultural industries and appointed by the Minister.

In addition, provision is made for Product Group Committees to be established by the Corporation to provide it with product-specific advice.

Persons and bodies involved in Australia's horticultural industries will have a direct say at a strategic level in the operation of the Corporation as follows, through:

- . a direct involvement in selection of the Board of the Corporation and members of the Product Group Committees
- . consultation in development by the Corporation's Board of its corporate plan; and

(ii)

- . the Corporation being subject to questioning on its past and prospective activities at annual conferences of industry organisations, at meetings of executives of organisations or at joint meetings of representatives of industry organisations.

Participation in the Corporation by horticultural industries, not currently covered by a statutory marketing authority, is voluntary and can be in two ways. Firstly, formal participation will entail the imposition of levy for purposes of assisting the Corporation's activities. Such a levy would not be implemented by the Government unless that course of action was initiated by the relevant industry organisation(s) with the clear support of the industry. Secondly, ad hoc participation which will involve the Corporation undertaking contract work on a fee-for-service basis.

Funds derived from levies and charges will be maintained in separate accounts for each industry and the Corporation will have to account to each industry in relation to expenditure from these accounts.

The Corporation is required to prepare a 5 year corporate plan setting out objectives and broad strategies, and an annual operational plan setting out strategies for the coming year.

The Bill provides for the affairs of the Corporation to be managed by the Managing Director who is to be appointed by the Board of the Corporation. It also provides that the Corporation may engage such other staff and consultants as it considers necessary.

As well as being accountable to the industries, the Corporation is accountable to the Parliament and will be required to furnish annual reports.

FINANCIAL IMPACT STATEMENT

In keeping with its commercial orientation the Bill has been drawn up to give the Corporation considerable flexibility in financial matters.

After the first 5 years, all operating and administrative costs are to be funded by levies from industry and fees-for-service

- . however, during the first 5 years, a total of \$5.85 million is to be provided by the Commonwealth in addition to industry funding, to assist in the Corporation's establishment and early operation.

There are thus no implications in the Bill for additional costs to the public sector beyond the initial 5 years.

AUSTRALIAN HORTICULTURAL CORPORATION BILL 1987NOTES ON CLAUSESNo of
ClauseExplanationPART I - PRELIMINARY

- | | |
|---|---|
| 1 | <u>Short title</u> |
| 2 | <u>Commencement</u>

Parts I, III and VI of the Bill will come into effect on the day the Bill receives Royal Assent to enable, in particular, the appointment of the Corporation members. The remaining provisions come into effect by Proclamation. |
| 3 | <u>Interpretation</u> |
| 4 | <u>Act binds Crown</u> |
| 5 | <u>Application of Act</u> |

PART II - THE AUSTRALIAN HORTICULTURAL CORPORATIONDIVISION 1 - ESTABLISHMENT, FUNCTIONS AND POWERS OF CORPORATION

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|---|--|
| 6 | <u>Establishment</u> |
| 7 | <u>Objects</u>

Provides that the principal object of the Act is to assist Australian horticultural industries to achieve their full potential in overseas markets. To achieve this the Corporation is to act in co-operation with the horticultural industries, including growers, processors and exporters, and in conjunction with the Commonwealth, State and Territory authorities concerned with the export from Australia of Australian horticultural products. |
| 8 | <u>Functions</u>

Describes the functions of the Corporation, with respect to horticultural industries and products. They include development of export potential and promotion of Australian horticultural products as well as improving the efficiency of Australian horticultural industries in co-operation with the industries and government authorities. |

<u>No of Clause</u>	<u>Explanation</u>
9	<p data-bbox="435 320 529 345"><u>Powers</u></p> <p data-bbox="435 373 1174 545">Provides the Corporation with powers necessary to perform its functions. These include powers to undertake negotiations, to gather and disseminate information, to undertake work on a fee-for-service basis, to appoint agents and attorneys and to participate in joint venture arrangements.</p>
10	<p data-bbox="435 570 752 594"><u>Export trading powers</u></p> <p data-bbox="435 620 1174 846">Subject to the written approval of the Minister, this clause provides the Corporation with powers to engage in export trading of horticultural products. To facilitate such export trading, the Corporation may buy and sell horticultural products and enter into contracts concerning transport and insurance. For the purpose of hedging its exports, the Corporation may also enter into and deal in futures contracts.</p>
11	<p data-bbox="435 870 1156 894"><u>Consultations with industry representatives etc.</u></p> <p data-bbox="435 921 1174 1071">Provides for the Corporation to consult with representatives of the Australian horticultural industries. Provision is also made for the Corporation, if it so decides, to meet the costs reasonably incurred in connection with such consultations.</p>
DIVISION 2 - CONSTITUTION AND MEETINGS OF CORPORATION	
12	<p data-bbox="435 1144 945 1168"><u>Corporation is body corporate etc.</u></p> <p data-bbox="435 1195 1174 1320">This clause states that the Corporation is a body corporate and provides, among other things, that the Corporation will be legally responsible for its actions and that it may sue or be sued in its own name.</p>
13	<p data-bbox="435 1345 842 1369"><u>Constitution of Corporation</u></p> <p data-bbox="435 1395 1174 1470">Specifies that the Corporation's Board is to consist of 9 persons including the Chairperson, government member and Managing Director.</p>
14	<p data-bbox="435 1495 602 1519"><u>Chairperson</u></p>

No of
ClauseExplanation

- 15 Deputy Chairperson
- This clause provides for the appointment by the Minister of the Deputy Chairperson from members of the Corporation (other than the government member and the Managing Director). It provides for the terms and conditions of appointment, the termination of appointment and for the powers to be exercised and functions to be performed by the Deputy Chairperson. It also specifies that anything done by a person purporting to be a Chairperson is not invalid on grounds of administrative error with regard to the appointment of the person to act as Deputy.
- 16 Appointment of Members
- Provides for the appointment and conditions relating to age of members (other than the Managing Director) to the Corporation and provides for these members to be appointed by the Minister. It provides for members, other than the Chairperson, Managing Director and government member, to be appointed from nominations by the Selection Committee. Such members are referred to as nominated members. It also requires the Minister to ensure the government member is skilled in the formulation of government policy and in public administration.
- 17 Members of executive of eligible industry bodies not eligible for appointment etc.
- Subject to the regulations, a person who is on the executive of an eligible industry body is not eligible for appointment as a member of the Corporation. Conversely, a member of the Corporation ceases to hold office on becoming a member of the executive of an eligible industry body. The intention is that the regulations will exclude only the President/Chairperson and his or her immediate deputy.

No of
ClauseExplanation

- 18 Term of office
- Specifies that all members (other than the Managing Director and government member) are appointed for terms of up to 3 years. This can enable membership periods to be staggered to ensure that the Corporation always has some members with experience of its activities and knowledge of current issues. Members are eligible for re-appointment by the Minister but cease to hold office on attaining 65 years of age unless the Minister is satisfied that expertise they hold is required by the Corporation.
- 19 Members (other than Managing Director) hold office on part time basis
- 20 Remuneration and allowances
- Provides for payment to members (other than the Managing Director) of remuneration at a level determined by the Remuneration Tribunal and such allowances as are prescribed. Members who are also members of, or a candidate for election to, a State Parliament and who would not be entitled to remuneration or allowances under State law will not be paid remuneration or allowances but shall be reimbursed expenses incurred on Corporation business. Members who are also members of a State Parliament and who are entitled to remuneration and allowances or members who are employed full time by a State, must pay to the State an amount equal to the remuneration they receive from the Corporation within one month of receipt.
- 21 Leave of absence
- Provides that the Minister may grant leave of absence to the Chairperson of the Corporation and the Chairperson may grant leave of absence to other members of the Corporation (other than the Managing Director). Terms and conditions of such leave are to be determined by the Minister or the Chairperson as appropriate.

No of
ClauseExplanation

- 22 Resignation
Corporation members (other than the Managing Director) may resign by writing to the Minister.
- 23 Disclosure of interests
Requires that a member in an actual or potential conflict situation, through having a direct or indirect pecuniary interest in a matter being or about to be considered by the Corporation, must disclose the nature of such interests.
- 24 Termination of appointment
Provides the Minister with discretion to terminate the appointment of the Chairperson or a nominated member for misbehaviour or for physical or mental incapacity. Where a nominated member becomes bankrupt, or where the Chairperson or a nominated member is either absent without leave from three consecutive meetings or fails to comply with obligations concerning the disclosure of pecuniary interests, the Minister must terminate the appointment.
- 25 Deputies of members
Provides for the appointment and the termination of appointment of deputy members by the Minister and for the terms and conditions of appointment. These include the right of a nominated member to nominate his or her deputy. They provide for the member's powers to be exercised by the deputy and specify that anything done by a person purporting to be a member is not invalid on grounds of administrative error with regard to the nomination or appointment of the person to act as deputy.
- 26 Terms and conditions of appointment not provided for by Act
Provides for the Minister to determine terms and conditions not provided for by this Act under which members may hold office.

No of
ClauseExplanation

27

Meetings

Provides for the holding of Corporation meetings, the working arrangements to apply at such meetings, and establishes a quorum of five members. Questions are to be decided by a majority of votes with the person presiding having both a deliberative vote and, if required, a casting vote. It requires the Corporation to keep minutes and enables it to invite persons to attend meetings for the purpose of providing it with advice.

DIVISION 3 - CORPORATE PLAN AND ANNUAL OPERATING PLANS

28

Corporate plan

Requires the Corporation to prepare a corporate plan with a five year horizon, to be reviewed and extended annually and to be subject to the Minister's approval. The corporate plan is to set out the Corporation's objectives, to provide an assessment of the industry outlook and to outline the strategies to be pursued. It also requires the Corporation to consult with eligible industry bodies before preparing or revising the corporate plan.

29

Annual operational plans

Requires the Corporation to prepare an annual operational plan for the coming financial year. It is to be subject to the Minister's approval and is to set out the Corporation's strategies for that year, an estimate of expected annual income, the proposed programs and resources required. The clause also provides for the Minister to be able to request a revision of the plan and for the Corporation to revise its operational plan at any time.

30

Corporation to comply with corporate plan and annual operational plans

The Corporation is to ensure consistency between the performance of its functions, the corporate plan and the applicable annual operational plan.

No of
Clause

Explanation

DIVISION 4 - ACCOUNTABILITY

- 31 Annual Report
- Provides that the Corporation prepare an annual report covering its operations during each financial year and the extent to which these operations have helped to achieve the Corporation's stated objectives applicable to that year. The report is to be accompanied by a suitably audited financial statement for the same period as the report. The report and statements are then to be given to the Minister who is required to table them in each House of the Parliament within 15 sitting days of receipt.
- 32 Accountability to horticultural industries
- Requires the Corporation to provide copies of the annual report to each eligible industry body as soon as practicable after it has been given to the Minister. It also requires the Corporation to arrange with some individual, eligible industry bodies for the Corporation Chairperson to attend either their next annual conference or a meeting of their Executives. For other eligible industry bodies the Corporation is required to convene a meeting to which their representatives would be invited to attend. The purpose is to enable the annual report to be considered and the Chairperson to address the relevant meetings. At such meetings the Chairperson will also be able to be questioned on both the Corporation's activities as covered by the annual report and the Corporation's intended activities for the coming year.
- 33 Minister may give directions in exceptional circumstances
- Provides that the Minister will have powers of direction over the Corporation, but only in exceptional circumstances. If invoked, the details of directions are to be gazetted and contained in the Corporation's annual report. Gazettal and reporting is not required if the directions could prejudice the Corporation's commercial operations or if the Minister determines them to be contrary to the public interest.

<u>No of Clause</u>	<u>Explanation</u>
DIVISION 5 - MANAGING DIRECTOR	
34	<u>Managing Director</u>
35	<u>Duties</u> Directs that the Managing Director is to manage the affairs of the Corporation in accordance with its policies and directions. Action taken by the Managing Director on behalf of the Corporation shall be deemed to have been done by the Corporation.
36	<u>Appointment</u> The Managing Director is appointed by the Corporation and must be under 65 years of age. A person who is a member of the Corporation cannot be appointed as the Managing Director.
37	<u>Terms of appointment etc.</u> The Managing Director holds office during the Corporation's pleasure but ceases to hold office on attaining 65 years of age.
38	<u>Terms and conditions of appointment</u> Provides for the Corporation, with the Minister's written approval, to determine terms and conditions of employment of the Managing Director not covered for by this Act.
39	<u>Application of Remuneration Tribunals Act</u>
40	<u>Managing Director not to engage in other paid employment</u>
41	<u>Leave of absence</u> Provides for the Chairperson to grant, with the Minister's written approval, leave of absence and determine conditions of such absence, for the Managing Director.
42	<u>Resignation</u> Provides for resignation of the Managing Director by his or her writing to the Chairperson.

No of
ClauseExplanation

43

Disclosure of interests

The Managing Director must disclose any direct or indirect pecuniary interests in writing to the Chairperson.

44

Acting Managing Director

Enables the Corporation to appoint an acting Managing Director during any or all periods when the Managing Director is absent from duty or from Australia or when the position is vacant. It provides, among other things, for the Managing Director's powers to be exercised by the person acting and specifies that anything done by a person purporting to act as Managing Director is not invalid on grounds of administrative error with regard to the acting appointment.

45

Exclusion of Managing Director etc, from certain deliberations

The Managing Director or the acting Managing Director is excluded from any deliberations concerning the position of Managing Director.

DIVISION 6 - EMPLOYEES AND CONSULTANTS

46

Employees

The Corporation may employ staff as necessary under terms and conditions of employment determined by the Corporation. However, such terms and conditions may not be more favourable than those applying to the Managing Director.

47

Consultants

Provides for the Corporation to engage consultants and to determine terms and conditions of such engagement.

DIVISION 7 - FINANCE

48

Payment of amounts of levy and charge to Corporation

Provides for the Corporation to be paid, from Consolidated Revenue, monies collected or received by the Commonwealth from horticultural levies and export charges and from penalties associated with the levies and export charges.

49 Expenditure of money of Corporation

Provides for the Corporation to expend money in the performance of its functions, including expenditure and liability incurred by the Corporation Selection Committee on behalf of the Commonwealth.

50 Accounts and Records

Requires the Corporation to keep accounts and records in accordance with commercial practice. It also provides, through regulations, for the Corporation to keep separate accounts in relation to the various horticultural products.

51 Bank accounts

The Corporation may open and maintain accounts with banks but must maintain one open account at all times and must pay all Corporation monies into a bank account.

52 Investment of money of Corporation

Provides authority for the Corporation to invest money in Government securities, bank deposits or other commercially sound investments.

53 Borrowing and raising of money

Provides authority for the Corporation to borrow or raise money, subject to the written approval of the Minister. Transactions to raise or borrow money may be undertaken by the Corporation in any currency and such transactions include dealings in securities, payment or deposit of money and the provision of credit.

54 Hedging in relation to borrowings and raisings

Provides that the Corporation may hedge its borrowings or raisings of money or proposed borrowings or raisings by way of currency or interest rate futures contracts. The Minister may give to the Corporation written guidelines with respect to hedging with which it must comply.

55 Guarantee of borrowings and raisings

Provides that the Treasurer may, on behalf of the Commonwealth, enter into a contract to guarantee the repayment or payment by the Corporation of money borrowed or raised and spells out provisions concerning court proceedings in relation to such contracts. The payment or repayment of money may also be guaranteed by the Commonwealth where the Treasurer makes a written determination.

56 Corporation may give security

Provides that the Corporation may give security over all or part of its land or other assets for the repayment by the Corporation of money it borrows or raises.

57 Audit

Specifies the duties, obligations and powers of the Corporation auditor. These include the inspection and audit of the Corporation's financial dealings and assets at least once during the financial year for reporting to the Minister. The auditor is entitled to have access to all documents and information related to these areas of the Corporation's operations. It provides for information required by the auditor to be given by any person as considered necessary and specifies fines applicable on conviction if such requirement is contravened.

58 Appointment of commercial auditor

Outlines the requirements to which the Corporation must adhere in appointing a commercial auditor as Corporation auditor. These include consultation by the Corporation with eligible industry bodies and provision of details of proposed appointee by the Minister to the Auditor-General and the Joint Committee of Public Accounts.

59 Liability to taxation

The Corporation is subject to Commonwealth taxation (other than income tax). It is not subject to State or Territory taxation unless provided for in regulations, but is required to pay State or Territory stamp duty as applicable on the relevant transactions, instruments or documents.

DIVISION 8 - PRODUCT GROUP COMMITTEES

60 Establishment of product group committees etc.

Provides that the Corporation may establish, abolish or vary the coverage of product group committees to assist it in the performance of its functions.

61 Functions of product group committee

The functions of a product group committee are determined by the Corporation.

<u>No of Clause</u>	<u>Explanation</u>
62	<p data-bbox="439 324 1011 347"><u>Powers of product group committee etc.</u></p> <p data-bbox="439 375 1159 525">Provides that a product group committee has powers necessary to perform its functions on behalf of the Corporation. Action taken by a product group committee on behalf of the Corporation is to be deemed to have been done by the Corporation.</p>
63	<p data-bbox="439 549 1178 600"><u>Product group committee to act in accordance with policies etc. of Corporation</u></p> <p data-bbox="439 624 1127 703">Specifies that a product group committee is to act in accordance with the policies and directions of the Corporation.</p>
64	<p data-bbox="439 727 1023 750"><u>Constitution of product group committee</u></p> <p data-bbox="439 774 1159 928">Specifies that a product group committee's membership consists of a Chairperson and from 3 to 5 other members. The number of other members within that range is to be determined by the Corporation in consultation with the relevant horticultural industries.</p>
65	<u>Chairperson</u>
66	<p data-bbox="439 999 708 1022"><u>Acting Chairperson</u></p> <p data-bbox="439 1046 1178 1303">Enables the Corporation to appoint an acting Chairperson during any or all periods when the Chairperson is absent from duty or from Australia or when the position is vacant. It provides, among other things, for the Chairperson's powers to be exercised by the person acting and specifies that anything done by the person purporting to act as Chairperson is not invalid on grounds of administrative error with regard to the acting appointment.</p>
67	<p data-bbox="439 1328 766 1350"><u>Appointment of members</u></p> <p data-bbox="439 1375 1139 1500">Provides for the appointment and conditions of age of nominated members to a product group committee and specifies that appointment to the position of Chairperson is restricted to Corporation members.</p>

No of
ClauseExplanation

- 68 Members of executive of eligible industry bodies not eligible for appointment etc.
- Subject to the regulations, a person who is on the executive of an eligible industry body is not eligible for appointment as a member of a product group committee. Conversely, a member of a product group committee ceases to hold office on becoming a member of the executive of an eligible industry body. The intention is that the regulations will exclude only the President/Chairperson and his or her immediate deputy.
- 69 Term of office
- Specifies that a Chairperson of a product group committee is appointed during the Corporation's pleasure but all other members are to be appointed by the Corporation for terms of up to 3 years. Members are eligible for re-appointment by the Corporation but cease to hold office on attaining 65 years unless the Corporation is satisfied that the expertise they hold is required by the Committee.
- 70 Application of certain provisions to members of product group committees
- Specifies that certain provisions (such as term of office, remuneration and disclosure of interest) for product group committee members are the same as those for Corporation members.
- 71 Chairperson ceasing to be member of Corporation
- Specifies that a person who ceases to be a Corporation member also ceases to hold the office of Chairperson of a product group committee.
- 72 Deputies of members
- Provides for the appointment, terms and conditions of appointment and the termination of appointment of deputy members of product group committee members to be along the same lines as those set out for deputies of Corporation members. This includes the right of the nominated member to nominate his or her deputy.

<u>No of Clause</u>	<u>Explanation</u>
73	<p><u>Meetings</u></p> <p>Provides for the holding of product group committee meetings and the working arrangements to apply at such meetings. It also provides that the quorum and specification of members required to be present is to be determined by the Corporation. Arrangements concerning voting, minutes and invited persons are to be the same as specified for Corporation meetings.</p>
74	<p><u>Arrangements relating to staff etc.</u></p> <p>Provides for arrangements to be made for product group committees to utilise Corporation employees, consultants and facilities.</p>
DIVISION 9 - MISCELLANEOUS	
75	<p><u>General committees</u></p> <p>Provides for the Corporation to establish committees, other than product group committees, to assist it in carrying out its functions. It provides for the Corporation to determine the size and quorum of such committees. It also specifies that arrangements for remuneration and allowances and disclosure of interests by members of such committees are to be the same as for members of the Corporation.</p>
76	<p><u>Delegation by Corporation</u></p> <p>Provides for the Corporation to delegate its powers to Corporation committees, members or employees.</p>
77	<p><u>Delegation by Managing Director</u></p> <p>Permits the Managing Director to delegate his or her powers to a Corporation employee.</p>
<u>PART III - THE AUSTRALIAN HORTICULTURAL CORPORATION SELECTION COMMITTEE</u>	
DIVISION 1 - ESTABLISHMENT, FUNCTION AND POWERS OF CORPORATION SELECTION COMMITTEE	
78	<p><u>Establishment</u></p>

<u>No of Clause</u>	<u>Explanation</u>
79	<p><u>Function</u></p> <p>Specifies that the function of the Selection Committee is to nominate persons to the Minister for appointment as nominated Corporation members.</p>
80	<p><u>Powers</u></p> <p>Provides the Selection Committee with powers necessary to perform its functions.</p>
DIVISION 2 - NOMINATIONS FOR MEMBERSHIP OF CORPORATION	
81	<p><u>Minister may request nomination from Corporation Selection Committee</u></p> <p>Provides for the Minister, by written notice, to request from the Selection Committee a nomination within a specified period.</p>
82	<p><u>Nominations</u></p> <p>Requires the Selection Committee to provide one nomination for each appointment as requested by the Minister. Each nomination is to be accompanied by a statement detailing the nominee's qualifications and experience and any other information that may assist the Minister when considering the appointment.</p>
83	<p><u>Selection of persons by Corporation Selection Committee</u></p> <p>Outlines the fields of expertise from which nominations are to be made by the Selection Committee and specifies that Selection Committee members or persons who were recently members, are not eligible for nomination. The Selection Committee is to best ensure that, collectively, the persons nominated provide the Corporation membership with an appropriate balance of expertise.</p>
84	<p><u>Minister may request further information</u></p> <p>Provides for the Minister to request, in writing, further information from the Selection Committee relating to a nomination.</p>

<u>No of Clause</u>	<u>Explanation</u>
85	<p data-bbox="437 333 888 357"><u>Minister may reject nomination</u></p> <p data-bbox="437 380 1159 456">Provides that the Minister may, by notice in writing, reject a nomination and request a further nomination from the Selection Committee.</p>
<p data-bbox="225 485 1181 533">DIVISION 3 - CONSTITUTION AND MEETINGS OF CORPORATION SELECTION COMMITTEE</p>	
86	<p data-bbox="437 561 1146 586"><u>Constitution of Corporation Selection Committee</u></p> <p data-bbox="437 609 1146 685">Specifies that membership of the Selection Committee is to comprise of the Chairperson and seven other members.</p>
87	<u>Chairperson</u>
88	<p data-bbox="437 761 708 786"><u>Deputy Chairperson</u></p> <p data-bbox="437 809 1181 1094">This clause provides for the appointment by the Minister of the Deputy Chairperson from one of the Selection Committee members. It provides for the terms and conditions of appointment, the termination of appointment and for the powers to be exercised and functions to be performed by the Deputy Chairperson. It also specifies that anything done by a person purporting to be a Chairperson is not invalid on grounds of administrative error with regard to the appointment of the person to act as Deputy.</p>
89	<p data-bbox="437 1113 772 1138"><u>Appointment of members</u></p> <p data-bbox="437 1161 1181 1294">Provides for the appointment by the Minister, and the conditions of appointment, of members to the Corporation Selection Committee. It prohibits the Minister from appointing a member of the Corporation to the Selection Committee.</p>
90	<p data-bbox="437 1313 811 1338"><u>Term of office of members</u></p> <p data-bbox="437 1361 1181 1523">Provides that members are to be appointed for terms of up to 3 years. Members are eligible for re-appointment but cease to hold office on attaining 65 years of age unless the Minister is satisfied that expertise they hold is required by the Committee.</p>
91	<u>Members to hold office on part time basis</u>

No of
ClauseExplanation

- 92 Remuneration and allowances
- Provides for payment to each member of the Committee of remuneration at a level determined by the Remuneration Tribunal and allowances as are prescribed. Members who are also members of, or candidates for election to, a State Parliament and who would not be entitled to remuneration or allowances under State law will not be paid remuneration or allowances but will be reimbursed expenses incurred on Selection Committee business. Members who are also members of a State Parliament and who are entitled to remuneration and allowances or members who are employed full-time by a State, must pay to the State an amount equal to the remuneration they receive from the Corporation within one month of receipt.
- 93 Leave of absence
- Provides that the Minister may grant leave of absence to the Chairperson of the Selection Committee and the Chairperson may grant leave of absence to other members of the Selection Committee. Terms and conditions of such leave are to be determined by the Minister or the Chairperson as appropriate.
- 94 Resignation of members
- Members may resign by writing to the Minister.
- 95 Disclosure of interests
- Requires that a Selection Committee member in an actual or potential conflict situation, through having a direct or indirect pecuniary interest in a matter being or about to be considered by the Selection Committee, must disclose the nature of such interests.
- 96 Termination of appointment
- Provides the Minister with discretion to terminate the appointment of a Selection Committee member for misbehaviour, or for physical or mental incapacity. Where a member becomes bankrupt, fails to comply with obligations concerning the disclosure of pecuniary interests or is absent without leave from 3 consecutive meetings, the Minister must terminate the appointment. It also provides for the Minister to terminate the appointment of a nominated member if requested to do so by that member's nominating body.

No of
ClauseExplanation

- 97 Deputies of members
- Provides for the appointment and the termination of appointment of deputy members by the Minister and for the terms and conditions of appointment. These include the right of a nominated member to nominate his or her deputy. They provide for the member's powers to be exercised by the deputy and specify that anything done by a person purporting to be a member is not invalid on grounds of administrative error with regard to nomination or appointment of the person to act as deputy.
- 98 Terms and conditions of appointment not provided for by Act
- Provides for the Minister to determine terms and conditions not provided for by this Act under which members may hold office.
- 99 Meetings
- Provides for the holding of Selection Committee meetings, the working arrangements to apply at such meetings and establishes a quorum of 5 members. Questions are to be decided by a majority of votes with the person presiding having both a deliberative and, if required, a casting vote. It requires the Selection Committee to keep minutes and enables it to invite persons to attend meetings for the purpose of providing it with advice.
- DIVISION 4 - EMPLOYEES AND CONSULTANTS**
- 100 Employees
- Provides for the Selection Committee to employ staff, on behalf of the Commonwealth, to enable it to carry out its functions. The terms and conditions of employment are to be determined by the Selection Committee.
- 101 Consultants
- Provides for the Selection Committee to engage consultants and to determine the terms and conditions of such engagement.

No of
Clause

Explanation

DIVISION 5 - MISCELLANEOUS

102 Delegation

Provides for the Selection Committee to delegate any or all of its powers to a member of the Selection Committee or to an officer of the Department administering this Act. It also provides for a delegation of power to be revoked by resolution of the Selection Committee.

PART IV SELECTION COMMITTEES FOR PRODUCT GROUP COMMITTEES

DIVISION 1 - ESTABLISHMENT, FUNCTION AND POWERS OF SELECTION COMMITTEES

103 Establishment of selection committees etc.

Provides for the establishment and abolition by the Corporation of a selection committee for each product group committee whenever a product group committee is established or abolished.

104 Function

Specifies that the function of a product group selection committee is to nominate persons to the Corporation for appointment as nominated members to the relevant product group committee.

105 Powers

Provides a product group selection committee with powers necessary to perform its function.

DIVISION 2 - NOMINATIONS FOR MEMBERSHIP OF PRODUCT GROUP COMMITTEES

106 Corporation may request nomination from Selection Committee

Provides for the Corporation to request, in writing, from a product group selection committee a nomination to the relevant product group committee within a specified period.

<u>No of Clause</u>	<u>Explanation</u>
107	<p data-bbox="435 328 605 352"><u>Nominations</u></p> <p data-bbox="435 380 1173 559">Requires a product group selection committee to provide one nomination for each appointment as requested by the Corporation. Each nomination is to be accompanied by a statement detailing the nominee's qualifications and experience and any other information that may assist the Corporation in its consideration of the appointment.</p>
108	<p data-bbox="435 577 1081 602"><u>Selection of persons by selection committee</u></p> <p data-bbox="435 630 1173 831">Outlines the fields of expertise from which nominations are to be made by a product group selection committee and specifies the persons not eligible for nomination. A product group selection committee is to best ensure that persons nominated collectively provide the relevant product group committee membership with an appropriate balance of expertise.</p>
109	<p data-bbox="435 849 1079 874"><u>Corporation may request further information</u></p> <p data-bbox="435 902 1173 981">Provides for the Corporation to request, in writing, further information from a product group selection committee relating to a nomination.</p>
110	<p data-bbox="435 999 929 1024"><u>Corporation may reject nomination</u></p> <p data-bbox="435 1052 1173 1149">Provides that the Corporation may, by notice in writing, reject a nomination and request a further nomination from a product group selection committee.</p>
DIVISION 3 - CONSTITUTION AND MEETINGS OF SELECTION COMMITTEES	
111	<p data-bbox="435 1225 1186 1249"><u>Constitution of product group selection committees</u></p> <p data-bbox="435 1277 1108 1403">Specifies that membership of a product group selection committee is to consist of the Chairperson of the Corporation Selection Committee, two members of the Corporation and 3 to 6 other members.</p>
112	<p data-bbox="435 1422 602 1446"><u>Chairperson</u></p> <p data-bbox="435 1474 1173 1551">Provides for the Corporation Selection Committee Chairperson to be the Chairperson of each product group selection committee.</p>

No of
ClauseExplanation

- 113 Deputy Chairperson
- Requires the Deputy Chairperson of a product group selection committee to be appointed by the Corporation from those committee members who are not also Corporation members. It specifies that the terms and conditions and the termination of appointment of the Deputy Chairperson are to be the same as those which apply to the Deputy Chairperson of the Corporation Selection Committee.
- 114 Appointment of members
- Provides for the appointment and conditions of appointment of members to a product group selection committee (other than the Chairperson) by the Corporation. The Corporation may reject a nomination for a person to be a nominated member and request a further nomination. The Corporation is also prohibited from appointing a member of a product group committee to a product group selection committee.
- 115 Term of office of members
- Provides that members (other than the Chairperson) are to be appointed for terms of up to 3 years. Members are eligible for re-appointment but cease to hold office on attaining 65 years of age unless the Corporation is satisfied that the expertise they hold is required by the relevant product group selection committee.
- 116 Application of certain provisions to members of selection committees etc.
- Provides for members of a product group selection committee to be subject to the same terms and conditions as are specified for Corporation Selection Committee members. These include remuneration and allowances payments, leave of absence, resignation, disclosure of interests, and termination of appointment. It also requires the Minister to terminate the Chairperson's appointment if that person is absent without leave from 3 consecutive meetings of a product group selection committee or fails to disclose a relevant pecuniary interests.

<u>No of Clause</u>	<u>Explanation</u>
117	<p><u>Deputies of members</u></p> <p>Provides for the appointment, terms and conditions of that appointment, and the termination of appointment of deputy members by the Corporation in the same manner as applies for the Corporation Selection Committee.</p>
118	<p><u>Meetings</u></p> <p>Provides for the holding of product group selection committee meetings, the working arrangements to apply at such meetings and specifies that a quorum is to be determined by the Corporation. Questions are to be decided by a majority of votes, with the person presiding having both a deliberative and, if required, a casting vote. It requires the committee to keep minutes and enables it to invite persons to attend meetings for the purpose of providing it with advice.</p>
119	<p><u>Arrangements relating to staff etc.</u></p> <p>Provides for arrangements to be made for a product group selection committee to utilise Corporation employees, consultants and facilities.</p>

PART V - EXPORT CONTROLS

120	<p><u>Object of Part</u></p> <p>To enable the Corporation to be given powers necessary for Australian horticultural industries to realise their full potential in overseas markets.</p>
121	<p><u>Control of export of horticultural products</u></p> <p>Provides for regulations to be made empowering the Corporation to determine the conditions of export of horticultural products including control as to destinations of such products. The provisions empower the Corporation to issue and revoke export licences under certain conditions as a means of controlling exports. They also provide for fees to be charged to meet costs incurred in carrying out export control.</p>

<u>No of Clause</u>	<u>Explanation</u>
122	<p><u>Export of horticultural products without required licence etc.</u></p> <p>Specifies penalties for exporting without a licence when one is required or for contravening a licence condition.</p>
123	<p><u>Certificates for exported horticultural products</u></p> <p>Provides for the Corporation, subject to the regulations, to issue a certificate concerning export of horticultural products.</p>
PART IV - MISCELLANEOUS	
124	<p><u>Conduct of directors, servants and agents</u></p> <p>Specifies the situations and conditions under which a body corporate or a person may be considered responsible for the conduct of employees or agents.</p>
125	<p><u>Regulations</u></p> <p>Provides for the Governor-General to make regulations in respect of this Act. Particular reference is given to the making of regulations which require persons to keep accounts and provide certain information, and which specify penalties for breaches of the Regulations.</p>
126	<p><u>Orders</u></p> <p>Provides the Minister with the power to make orders consistent with this Act.</p>
<u>PART VII - ABOLITION OF THE AUSTRALIAN APPLE AND PEAR CORPORATION</u>	
127	<p><u>Repeals</u></p> <p>Provides for the repeal of the <u>Australian Apple and Pear Corporation Act 1973</u> and relevant amending acts associated with that Act.</p>









