



Australian Apple and Pear Corporation Amendment Act 1986

No. 16 of 1986

**An Act to amend the *Australian Apple and Pear
Corporation Act 1973*, and for related purposes**

[Assented to 13 May 1986]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

1. (1) This Act may be cited as the *Australian Apple and Pear Corporation Amendment Act 1986*.

(2) The *Australian Apple and Pear Corporation Act 1973*¹ is in this Act referred to as the Principal Act.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpretation

3. Section 4 of the Principal Act is amended—

- (a) by omitting the definition of “approved bank” and substituting the following definition:

“‘approved bank’ means a trading bank as defined in sub-section 5 (1) of the *Banking Act 1959* or another bank declared by the Treasurer or a person authorised by the Treasurer to give approvals under this section to be an approved bank in relation to the Corporation;” and

- (b) by adding at the end the following sub-sections:

“(2) A reference in this Act to the apple and pear industry is a reference to activities connected with the growing of apples or of pears, with the processing and packing of apples, apple products, pears or pear products and with the marketing, both in Australia and outside Australia, of apples, apple products, pears or pear products.

“(3) In sub-section (2), ‘pears’ does not include pears that are grown for canning.”.

Powers of Corporation

4. Section 7 of the Principal Act is amended—

- (a) by omitting paragraph (1) (a) and substituting the following paragraph:

“(a) control the export, with effect from 20 January 1987, of apples and pears from Australia by determining the persons, other than the Corporation, who shall be permitted to export apples or pears and the conditions under which such exports will be permitted;”;

- (b) by omitting from paragraph 7 (1) (g) “, pear, apple products or pear products” and substituting “and pear”; and

- (c) by adding at the end the following sub-section:

“(4) Subject to sub-section (3), the Corporation shall endeavour to ensure, to the extent that it is practicable to do so, that the performance at any time of its functions and the exercise at any time of its powers is consistent with, and designed to give effect to, the provisions of any corporate plan and of any annual operational plan in force at that time.”.

5. After Part III of the Principal Act the following Part is inserted:

**“PART IIIA—CORPORATE PLANS AND ANNUAL
OPERATIONAL PLANS**

“Division 1—Corporate Plans

Corporation to develop corporate plans

“23A. (1) The Corporation shall prepare, for each successive period determined in accordance with sub-section (3), for the purpose of the more effective performance by the Corporation of its functions, a corporate plan defining the principal objectives of the Corporation during that period and giving a broad outline of the strategies to be pursued by the Corporation in achieving those objectives.

“(2) A corporate plan prepared in accordance with this section shall be in writing and, in addition to the matters referred to in sub-section (1), shall contain a statement assessing, for the period to which the plan relates, the market outlook and the economic outlook for the apple and pear industry.

“(3) The first corporate plan prepared in accordance with this section shall be expressed to relate to the period of 5 years commencing on 1 January 1987 and each subsequent corporate plan shall be expressed to relate to the period of 5 years commencing at the end of the period to which the immediately preceding corporate plan relates.

Approval of corporate plan

“23B. (1) A corporate plan prepared in accordance with section 23A shall be submitted to the Minister for approval not less than 3 months, or such lesser period as the Minister, in special circumstances, allows, before the intended day of commencement of the period to which the corporate plan relates and shall come into force—

(a) on the day on which it is approved by the Minister; or

(b) on the day of commencement of the period to which it relates,
whichever is the later.

“(2) Where a corporate plan is submitted to the Minister in accordance with sub-section (1) and the Minister is of the opinion that, in the interests of the apple and pear industry, or of a particular sector of the apple and pear industry, the plan should be revised in some respect, the Minister may request the Corporation to revise the plan appropriately and shall include in the request a statement setting out his or her reasons for making the request.

“(3) Upon the Corporation’s receiving a request under sub-section (2), it shall consider the request and statement of reasons and shall make such revision of the corporate plan as it considers to be appropriate and shall then re-submit the plan, as so revised, to the Minister for approval.

“(4) Sub-section (1) applies in relation to the first corporate plan prepared in accordance with section 23A as if the reference in that sub-section to 3 months were a reference to 2 months.

Variation of corporate plan by Corporation

“23C. (1) A corporate plan, whether or not it has come into force, may be varied by the Corporation with the approval of the Minister.

“(2) When requesting the Minister’s approval for a variation of a corporate plan, the Corporation shall give the Minister a statement of its reasons for making the request and shall give the Minister such other information as the Minister requests.

“(3) The Minister may, after considering the request and statement of reasons and such other information (if any) as has been given to the Minister, approve or reject the requested variation or may approve such other variation as the Minister thinks fit.

Variation of corporate plan at request of Minister

“23D. (1) A corporate plan, whether or not it has come into force, may be varied by the Corporation at the request, and with the approval, of the Minister.

“(2) When requesting the Corporation to vary a corporate plan, the Minister shall include in the request a statement setting out reasons for making the request.

“(3) Upon the Corporation’s receiving a request under sub-section (2) to vary a corporate plan, it shall consider the requested statement of reasons and shall make, and submit to the Minister for the approval of the Minister, such variation of the plan as it considers to be appropriate.

Date of commencement of corporate plan as varied

“23E. Where a variation of a corporate plan is approved by the Minister in accordance with section 23C or 23D after the plan has come into force, the plan as so varied shall continue in force on and after the date on which the variation is so approved as if the plan had originally been approved by the Minister as so varied.

“Division 2—Annual Operational Plans

Corporation to develop annual operational plans

“23F. (1) The Corporation shall prepare in writing, for each successive calendar year, an annual operational plan, setting out particulars of the strategies to be pursued by the Corporation, for that year, in giving effect to the corporate plan that relates, or the intended corporate plan that will relate, to a period that includes that year.

“(2) The first annual operational plan prepared in accordance with this section shall be expressed to relate to the year commencing on 1 January

1987 and each subsequent plan shall be expressed to relate to the year commencing on the expiration of the period to which the immediately preceding plan relates.

Approval of annual operational plans

“23G. (1) An annual operational plan prepared in accordance with section 23F shall be submitted to the Minister not less than 2 months, or such lesser period as the Minister, in special circumstances, allows, before the intended day of commencement of the period to which the plan relates and shall come into force—

- (a) on the day on which it is approved by the Minister; or
 - (b) on the day of commencement of the period to which it relates,
- whichever is the later.

“(2) Where an annual operational plan is submitted to the Minister in accordance with sub-section (1) and the Minister is of the opinion that the plan is inconsistent with the provisions of the corporate plan that relates, or the intended corporate plan that will relate, to a period that includes or will include the year to which the annual operational plan will relate, the Minister may request the Corporation to revise the annual operational plan appropriately and shall include in the request a statement setting out his or her reasons for making the request.

“(3) If the Corporation receives a request under sub-section (2), it shall consider the request and the Minister’s statement of reasons and shall make such revision of the annual operational plan as it considers to be appropriate and shall then submit the plan, as so revised, to the Minister for approval.

“(4) Where, if a proposed variation of a corporate plan were to be approved by the Minister, an annual operational plan, being an annual operational plan that relates to a year that is included in the period to which the corporate plan relates, would not be consistent with the provisions of the corporate plan, the Corporation shall, at the time of submitting to the Minister for the Minister’s approval the variation of the corporate plan, also submit to the Minister for the Minister’s approval such variation of the annual operational plan as it considers to be appropriate.

“(5) The Minister shall approve an annual operational plan submitted to the Minister under sub-section (1) or submitted under sub-section (3), or a variation of such a plan submitted under sub-section (4), unless the Minister is of the opinion that it is inconsistent with the provisions of the corporate plan that relates, or the intended corporate plan that will relate, to a period that includes or will include the year to which the annual operational plan, or the annual operational plan as so varied, relates.

“(6) Where a variation of an annual operational plan is approved by the Minister in accordance with this section after the plan has come into force, the plan as so varied shall continue in force on and after the day on which the variation is so approved as if the plan had originally been approved by the Minister as so varied.

“(7) Sub-section (1) applies in relation to the first annual operational plan as if the reference in that sub-section to 2 months were a reference to one month.”.

Application of moneys of Corporation

6. Section 32 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (d) “incurred by the Association” and substituting “reasonably incurred by the Association in participating in consultations sought by the Corporation”; and
- (b) by omitting from paragraph (1) (f) “the *Apple and Pear Stabilization Export Duty Collection Act 1971*, the *Apple and Pear Stabilization Act 1971* or”.

Audit

7. Section 35 of the Principal Act is amended by omitting sub-section (7) and substituting the following sub-section:

“(7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction—

- (a) in the case of a natural person—by a fine not exceeding \$1,000; and
- (b) in the case of a body corporate—by a fine not exceeding \$5,000.”.

Annual report

8. Section 37 of the Principal Act is amended by inserting after sub-section (2) the following sub-section:

“(2A) The Corporation shall include in its report for the year ending on 31 December 1986 and in each subsequent report a statement of the principal objectives of the Corporation in the year to which the report relates and of the strategies pursued by the Corporation to achieve those objectives in that year.”.

Corporation to hold annual discussions with Association

9. Section 38 of the Principal Act is amended by inserting “and may, at any other time that the Corporation considers it desirable,” after “Parliament”.

Regulations

10. Section 40 of the Principal Act is amended—

- (a) by omitting paragraph (1) (b) and substituting the following paragraphs:
 - “(b) providing for the grant by the Corporation, or a person authorised by it, of licences, valid for periods determined by the Corporation, being periods commencing on or after 20 January 1987, to export apples or pears from Australia;
 - (ba) specifying the circumstances (including circumstances relating to export performance) in which licences referred to in

- paragraph (b) may be revoked by the Corporation and providing for the revocation by the Corporation of such licences in those circumstances;
- (bb) providing for the periodic review by the Corporation of the export performance of persons granted licences referred to in paragraph (b);
 - (bc) providing for the Corporation to charge each person to whom a licence referred to in paragraph (b) has been granted a fee for services rendered by the Corporation in relation to the grant or the renewal of that licence or the review of the export performance of that person;";
- (b) by omitting paragraph (1) (e) and substituting the following paragraph:
- "(e) providing for penalties not exceeding—
 - (i) in the case of a natural person—a fine of \$500; or
 - (ii) in the case of a body corporate—a fine of \$2,500, for offences against the regulations."; and
- (c) by omitting sub-section (2).

Further amendments

11. The Principal Act is further amended as set out in the Schedule.

Principal Act and certain regulations to continue in force for certain purposes

12. (1) Sections 7 and 40 of the Principal Act as in force immediately before the day of commencement of this Act continue to apply, notwithstanding the amendments of those sections made by this Act, on and after that day, to and in relation to the export of apples and pears from Australia before 20 January 1987, as if the amendments of those sections had not been made.

(2) The regulations relating to the conditions of export of apples and pears from Australia that were in force under the Principal Act immediately before the day of commencement of this Act continue to apply, notwithstanding the amendments of sections 7 and 40 of the Principal Act made by this Act and notwithstanding the making of any regulations in consequence of those amendments, on and after that day, and to and in relation to the export of apples and pears from Australia before 20 January 1987, as if the amendments of those sections had not been made and as if those regulations had not been made.

SCHEDULE

Section 11

FURTHER AMENDMENTS OF THE PRINCIPAL ACT

Sub-section 9 (3)—

Omit "him" (wherever occurring), substitute "the Collector or other officer".

Sub-section 13 (8)—

Omit "his", substitute "the member's".

Sub-section 14 (2)—

- (a) Omit "his appointment", substitute "the person's appointment as a member".
- (b) Omit "his place", substitute "place of the member".

Sub-section 15 (2)—

Omit "his period of appointment as a member or until he", substitute "the period of the person's appointment as a member or until the person".

Sub-section 15 (3)—

- (a) After "his", insert "or her".
- (b) Omit "he", substitute "the member".

Sub-section 15 (4)—

Omit "his office of Deputy Chairman by writing under his hand", substitute "the office of Deputy Chairman by writing signed by the Deputy Chairman and".

Sub-section 16 (1)—

Omit "his office", substitute "the office of Chairman".

Paragraph 16 (2) (a)—

Omit "his office", substitute "the office of Chairman".

Paragraph 16 (2) (b)—

Omit "his office", substitute "the office of Deputy Chairman".

Sub-section 17 (3)—

After "his", insert "or her".

Sub-section 17 (4)—

Omit "his office by writing signed by him", substitute "the office of deputy by writing signed by the deputy".

Sub-section 17 (6)—

Omit "his", substitute "the person's".

Section 20—

Omit "his office by writing under his hand addressed", substitute "the office of member by writing signed by the member and delivered".

Sub-section 21 (2)—

After "his" (wherever occurring), insert "or her".

SCHEDULE—continued

Sub-section 21 (4)—

- (a) Omit “he” (first occurring), substitute “the member”.
- (b) Omit “he” (second occurring), substitute “the deputy”.

Sub-section 22 (1)—

Omit “his knowledge, disclose the nature of his interest”, substitute “the knowledge of the member or the deputy, as the case may be, disclose the nature of that interest”.

Paragraph 23 (3) (a)—

Omit “his office”, substitute “the office of Chairman”.

Paragraph 23 (3) (b)—

Omit “his office”, substitute “the office of Deputy Chairman”.

Sub-section 23 (5)—

Omit “he”, substitute “the Chairman”.

Sub-section 35 (1)—

Omit “his”, substitute “the Auditor-General’s”.

Sub-section 35 (2)—

Omit “his”, substitute “the Auditor-General’s”.

Sub-section 35 (4)—

Omit “him”, substitute “the Auditor-General”.

Sub-section 35 (5)—

Omit “him”, substitute “the Auditor-General”.

Sub-section 35 (6)—

- (a) Omit “him” (first occurring), substitute “the Auditor-General”.
- (b) Omit “him” (second occurring), substitute “the Auditor-General or that authorised person”.

NOTE

1. No. 194, 1973, as amended. For previous amendments, see No. 199, 1976; No. 15, 1978; Nos. 16 and 145, 1981; and Nos. 48 and 80, 1982.

[*Minister’s second reading speech made in—*

House of Representatives on 12 February 1986

Senate on 12 March 1986]