



Honey Legislation (Repeal and Amendment) Act 1992

No. 122 of 1992

**An Act to repeal the *Honey Marketing Act 1988*,
to amend certain legislation relating to honey,
and for related purposes**

[Assented to 17 October 1992]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

5 1. This Act may be cited as the *Honey Legislation (Repeal and Amendment) Act 1992*.

Commencement

2. This Act commences on 1 January 1993.

PART 2—REPEAL AND PROVISIONS FOR TRANSFER OF ASSETS ETC.

Interpretation

3. In this Part:

“**authorised person**” means a member, the Managing Director or an employee of the Corporation; 5

“**Board**” means the Australian Honey Board continued in existence by section 4 of the *Honey Marketing Act 1988*;

“**Corporation**” means the Australian Horticultural Corporation.

Repeal of the Honey Marketing Act 10

4. The *Honey Marketing Act 1988* is repealed.

Transfer of assets and liabilities etc.

5. On 1 January 1993, the assets, rights, obligations and liabilities of the Board become, by force of this section, assets, rights, obligations and liabilities of the Corporation. 15

Transferred documents

6.(1) In this section, “relevant document” means a document made before 1 January 1993:

- (a) to which the Board is a party; or
- (b) which was given to or in favour of the Board; or 20
- (c) in which a reference is made to the Board; or
- (d) under which any right or liability accrues, or may accrue, to the Board.

(2) A relevant document continues, by virtue of this section, in force but, in its operation on or after 1 January 1993, has effect as if a reference in the document to the Board were a reference to the Corporation. 25

Certificates in relation to assets, liabilities etc.

7.(1) An authorised person may certify in writing:

- (a) that an asset, obligation or liability specified or described in the certificate became, by force of section 5, an asset, obligation or liability, as the case may be, of the Corporation; or 30
- (b) that a document is a relevant document within the meaning of section 6.

(2) In all courts and for all purposes: 35

- (a) an asset specified or described in a certificate of an authorised person as an asset that became an asset of the Corporation by force of section 5 is to be taken to be such an asset; and
- (b) an obligation or liability specified or described in such a certificate as an obligation or liability that became an obligation 40

or liability of the Corporation by force of section 5 is to be taken to be such an obligation or liability; and

- 5 (c) a document specified or described in such a certificate as a document that is a relevant document within the meaning of section 6 is to be taken to be such a document.

(3) A document that purports to be a certificate under subsection (1) is to be taken to be such a certificate in the absence of evidence to the contrary.

Exemption of certain documents from stamp duty etc.

- 10 8. A document that an authorised person certifies to have come into existence because of, or for a purpose connected with or arising out of, the operation of this Act is not liable to stamp duty or other duty or tax under a law of the Commonwealth, of a State or of a Territory.

15 **Pending proceedings**

9. If, immediately before 1 January 1993, proceedings to which the Board was a party were pending in any court or before any tribunal, the Corporation is, by force of this section, substituted for the Board as a party to the proceedings.

20 **Treatment of assets transferred from Board to Corporation**

10.(1) This section applies to assets that, by force of section 5, have been transferred to the Corporation.

(2) In the case of assets consisting of money, the following requirements apply:

- 25 (a) the money is to be used by the Corporation only in the performance of its functions so far as they relate to honey or in the discharge of expenses or liabilities referred to in subsection 11(3);
- 30 (b) accounts and records kept under section 49 of the *Australian Horticultural Corporation Act 1987* must identify the amount of the money transferred to the Corporation and record expenditure of the money separately from expenditure of other money of the Corporation.

35 (3) In the case of assets that do not consist of money, the records of the Corporation must identify the assets separately from other assets of the Corporation.

40 (4) Money of the Corporation, other than money to which subsection (2) applies or money paid to the Corporation under subsection 47(2A) of the *Australian Horticultural Corporation Act 1987*, as amended by this Act, is not to be used for the discharge of a liability transferred to the Corporation by section 5.

Final annual report of Board

11.(1) In spite of the repeal effected by section 4, the Board continues in existence for the purpose of giving the Minister a report on the operation of the *Honey Marketing Act 1988* during the period of 6 months that began on 1 July 1992. 5

(2) To the extent necessary to enable the report to be prepared and given to the Minister, the *Honey Marketing Act 1988* continues to have effect:

- (a) as if it had not been repealed; and
- (b) as if subsection 14(3), Division 4 of Part II and section 60 were omitted; and 10
- (c) as if for subsection 59(1) the following subsection were substituted:

“(1) The Board must, as soon as practicable after 31 December 1992, give the Minister a written report on the operation of this Act during the period of 6 months that commenced on 1 July 1992, together with financial statements for the period in such form as the Minister for Finance approves.”; and 15

- (d) as if the period of 6 months that commenced on 1 July 1992 were a financial year. 20

(3) Any expenses or liabilities incurred by the Board in connection with the preparation of the report, together with any remuneration or allowances payable to members of the Board, are to be paid or discharged by the Corporation out of money transferred to the Corporation by section 5 of this Act or out of money paid to the Corporation under subsection 47(2A) of the *Australian Horticultural Corporation Act 1987*, as amended by this Act. 25

PART 3—AMENDMENTS OF THE AUSTRALIAN HORTICULTURAL CORPORATION ACT 1987 30

Principal Act

12. In this Part, “Principal Act” means the *Australian Horticultural Corporation Act 1987*.

Interpretation

13. Section 3 of the Principal Act is amended: 35

- (a) by inserting “, produced” after “grown” in paragraph (a) of the definition of “Australian horticultural products”;
- (b) by inserting after paragraph (a) of the definition of “horticultural products” the following paragraph:

“(aa) honey;” 40

Payments of levy and charge to Corporation

14. Section 47 of the Principal Act is amended:

(a) by inserting after subsection (2) the following subsection:

- 5 “(2A) There are to be paid to the Corporation amounts equal
to:
- 10 (a) so much of the amounts received by the Commonwealth
as charge under the *Honey Export Charge Act 1973* as is
received by virtue of paragraph 7(1)(a) of that Act as in
force on 31 December 1992; and
- 15 (b) so much of the amounts received by the Commonwealth
as levy under the *Honey Levy Act (No. 1) 1962* as is
received by virtue of paragraph 5(1)(a) of that Act; and
- 20 (c) so much of the amounts received by the Commonwealth
as levy under the *Honey Levy Act (No. 2) 1962* as is
received by virtue of paragraph 5(1)(a) of that Act; and
- 25 (d) so much of the amounts received by the Commonwealth
in discharge of a person’s liability (other than a liability
in respect of a penalty under subsection 8(1) of the
Honey Levy Collection Act 1962) under subsection 7(1)
of that Act in respect of amounts payable by virtue of
paragraph 5(1)(a) of the *Honey Levy Act (No. 1) 1962* or
paragraph 5(1)(a) of the *Honey Levy Act (No. 2) 1962*;
and
- 30 (e) so much of the amounts received by the Commonwealth
in discharge of a person’s liability (other than a liability
in respect of a penalty under section 15 of the *Levies
and Charges Collection Act*) under subsection 7(1) of
that Act in respect of amounts payable by virtue of
paragraph 5(1)(a) of the *Honey Levy Act (No. 1) 1962* or
paragraph 5(1)(a) of the *Honey Levy Act (No. 2) 1962*;
and
- 35 (f) so much of the amounts (if any) received by the
Commonwealth as penalties under section 6 of the *Honey
Export Charge Collection Act 1973* as relates to amounts
referred to in paragraph (a) of this section; and
- 40 (g) so much of the amounts (if any) received by the
Commonwealth as penalties under section 15 of the
Levies and Charges Collection Act as relates to amounts
referred to in paragraph (a) of this section; and
- 45 (h) so much of the amounts (if any) received by the
Commonwealth and payable by way of penalty under
section 8 of the *Honey Levy Collection Act 1962* as relates
to amounts referred to in paragraph (b), (c) or (d) of this
subsection; and
- (i) so much of the amounts (if any) received by the

Commonwealth and payable by way of penalty under section 15 of the Levies and Charges Collection Act as relates to amounts referred to in paragraph (b), (c), (d) or (e) of this subsection.”;

- (b) by omitting from subsection (3) “subsections (1) and (2)” and substituting “subsections (1), (2) and (2A)”. 5

PART 4—AMENDMENTS OF THE HONEY EXPORT CHARGE ACT 1973

Principal Act

15. In this Part, “Principal Act” means the *Honey Export Charge Act 1973*. 10

Interpretation

16. Section 4 of the Principal Act is amended:

- (a) by omitting from subsection (1) the definition of “Board” and substituting the following definition: 15
“ ‘Corporation’ means the Australian Horticultural Corporation;”;
- (b) by omitting from subsection (1) the definition of “packers’ organisation”.

Exemptions 20

17. Section 6 of the Principal Act is amended:

- (a) by omitting from subsection (2) “Board” and substituting “producers’ organisation”;
- (b) by inserting after subsection (2) the following subsection: 25
“(2A) The producers’ organisation must not make a recommendation to the Minister unless it has consulted with the Corporation in relation to the recommendation.”.

Rate of levy

18.(1) Section 7 of the Principal Act is amended:

- (a) by omitting from subsection (1) all words before “rate” (where it first occurs in paragraph (b)) and substituting “The charge imposed on honey by this Act is a charge at the”; 30
- (b) by omitting from paragraph (1)(b) “paragraph” and substituting “subsection”;
- (c) by omitting subsections (2), (2A) and (2B); 35
- (d) by omitting from subsection (3) “paragraph (1)(b)” and substituting “subsection (1)”.

(2) In spite of the amendments made by subsection (1):

- (a) charge that became payable under subsection 7(1) of the

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Principal Act as in force immediately before the commencement of this Act but was not paid on or before 31 December 1992 remains payable; and

- 5 (b) the *Primary Industries Levies and Charges Collection Act 1991* continues to apply, in relation to that charge, as if the amendment had not been made; and
- 10 (c) regulations in force immediately before the commencement of this Act and prescribing a rate for the purposes of paragraph 7(1)(b) of the Principal Act continue in force as if they prescribed that rate for the purposes of subsection 7(1) of the Principal Act as amended by this Act.

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

Principal Act

- 15 19. In this Part, “Principal Act” means the *Honey Levy Act (No. 1) 1962*³.

Interpretation

- 20 20. Section 3A of the Principal Act is amended by omitting from subsection (1) the definitions of “Board” and “packers’ organisation” and substituting the following definition:

⊙ “‘Corporation’ means the Australian Horticultural Corporation;”.

Rates of levy

21. Section 5 of the Principal Act is amended:

- 25 (a) by omitting from subsection (2) “Board” and substituting “producers’ organisation”;
- (b) by omitting subsections (2A) and (2B) and substituting the following subsection:

30 “(2A) The producers’ organisation must not make a recommendation to the Minister unless it has consulted with the Corporation in relation to the recommendation.”.

Exemptions

22. Section 6A of the Principal Act is amended:

- (a) by omitting from subsection (3) “Board” and substituting “producers’ organisation”;
- 35 (b) by adding at the end the following subsection:

“(4) The producers’ organisation must not make a recommendation to the Minister unless it has consulted with the Corporation in relation to the recommendation.”.

**PART 6—AMENDMENTS OF THE HONEY LEVY
ACT (NO. 2) 1962**

Principal Act

23. In this Part, “Principal Act” means the *Honey Levy Act (No. 2) 1962*⁴. 5

Interpretation

24. Section 3A of the Principal Act is amended by omitting from subsection (1) the definitions of “Board” and “packers’ organisation” and substituting the following definition:

“‘Corporation’ means the Australian Horticultural Corporation;”. 10

Rates of levy

25. Section 5 of the Principal Act is amended:

(a) by omitting from subsection (2) “Board” and substituting “producers’ organisation”;

(b) by omitting subsections (2A) and (2B) and substituting the following subsection: 15

“(2A) The producers’ organisation must not make a recommendation to the Minister unless it has consulted with the Corporation in relation to the recommendation.”.

Exemptions 20

26. Section 6A of the Principal Act is amended:

(a) by omitting from subsection (3) “Board” and substituting “producers’ organisation”;

(b) by adding at the end the following subsection:

“(4) The producers’ organisation must not make a recommendation to the Minister unless it has consulted with the Corporation in relation to the recommendation.”. 25

NOTES

1. No. 164, 1987, as amended. For previous amendments, see Nos. 51 and 99, 1988; No. 46, 1989; and Nos. 26 and 42, 1991.
2. No. 183, 1973, as amended. For previous amendments, see No. 37, 1976; No. 146, 1980; No. 103, 1985; No. 30, 1988; No. 17, 1990; and Nos. 26 and 155, 1991.
3. No. 106, 1962, as amended. For previous amendments, see Nos. 72 and 141, 1965; No. 187, 1973; No. 37, 1976; No. 147, 1980; Nos. 5 and 103, 1985; No. 31, 1988; No. 17, 1990; and Nos. 26 and 153, 1991.

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NOTES—continued

4. No. 107, 1962, as amended. For previous amendments, see Nos. 73 and 142, 1965; No. 188, 1973; No. 37, 1976; No. 148, 1980; Nos. 5 and 103, 1985; No. 32, 1988; No. 17, 1990; and Nos. 26 and 154, 1991.

*[Minister's second reading speech made in—
House of Representatives on 25 June 1992
Senate on 8 September 1992]*