Commonwealth Serum Laboratories (Conversion into Public Company) Bill 1989

Date Introduced: 22 November 1989
House: House of Representatives
Portfolio: Community Services and Health

Digest of Bill

Purpose
The Bill aims to improve the efficiency of the Commonwealth Serum Laboratories (CSL) through the removal of day-to-day controls and the conversion of CSL into a public company.

Background
The CSL were established by the Federal Government in 1916 following the outbreak of World War 1 when difficulties were experienced in obtaining sufficient supplies of antitoxins from European or American sources to meet Australian requirements. In 1923, CSL was one of only four laboratories worldwide to commence production of insulin on a large scale. Penicillin was first made experimentally at CSL in 1943 and Australia was the first country in the world to make penicillin commercially available for civilian use. In 1952, CSL serum fractionation commenced for the production of albumin, fibrinogen and gamma globulin and antihaemophilic factor. In 1953, Triple Antigen vaccine, for the immunisation of infants and young children against diphtheria, whooping cough and tetanus, was introduced. In 1956, CSL commenced production of Salk activated poliomyelitis vaccine. Other notable achievements of CSL include anti-sera and anti-venoms for specific Australian pests and diseases, such as the funnel-web spider.

The continued development and operation of the CSL was reviewed in 1961 and it was decided that the CSL should become a statutory authority. The Commonwealth Serum Laboratories Act 1961 (the Principal Act) gave effect to this decision, and CSL is now a statutory authority responsible to the Minister for Community Services and Health. CSL commercial operations are fully competitive with the private sector and are conducted in accordance with commercial practices. The Commission is required under the Principal Act to operate profitably and to pay all rates, taxes, and charges. CSL commercial operations currently centre around the production of biologicals and pharmaceuticals, for example insulin, penicillin and various vaccines including influenza vaccine. CSL also produces a wide range of diagnostic and veterinary products (e.g. sheep and cattle vaccines). Of total operating revenues of $121.933 million in 1987-88, $115.094 million came from commercial
operations. The remainder, $6.839 million, came from departmental appropriations through the Department of Community Services and Health to finance a range of services which the CSL maintains in the national interest and which cannot be sustained on a commercial basis.

The national interest functions include the maintenance of reserve stocks and capacity above commercial levels in order to maintain an emergency capability and R&D projects in relation to pharmaceutical products. These functions are individually approved by the Minister on the advice of the CSL and Department of Community Services and Health Working Party. The CSL is entitled to be reimbursed by the Commonwealth for national interest functions.

Total operating revenues of the CSL in 1987–88 were $121.9 million, a 22% increase over 1986–87. Net operating profit pre-tax in 1987–88 was $6.8 million, a 68% increase over the 1986–87 result of $4.1 million. Sales revenue increased 25% over 1986–87 to $111.2 million. Total R&D expenditure for 1987–88 was $12.1 million. CSL funded R&D expenditure was $9.8 million and $2.6 million from programs conducted under Ministerial directions. Export revenue increased 36% in 1987–88 to $11.7 million.

Main Provisions
Clause 8 provides for the transfer from the Commonwealth to CSL of assets held by the Commonwealth that arise from CSL’s activities and the transfer of related liabilities.

New Part IIA – Part VI (proposed sections 44A–66) will be inserted into the Principal Act by clauses 12–14. The share capital of the CSL is to consist of $1 shares (proposed section 44A). CSL is to convert its capital into shares, and the shares are to be issued to the Commonwealth or to a nominee as directed by the Minister. The share issue will discharge the CSL’s debts to the Commonwealth. There may be different classes of shares with different rights attached to different classes (proposed section 44B).

CSL is to apply to be registered (proposed section 44C), and will be taken to be registered under the Companies Act 1981 by virtue of proposed section 44F.

Other persons are not to use a protected name (i.e. CSL, Commonwealth Serum Laboratories, Commonwealth Serum Laboratories Limited, or other prescribed names) or a name likely to be mistaken for it. The maximum penalty for such use will be $3000 fine (proposed section 47). Proposed section 48 provides for exemptions to this offence where the offending name is registered as a trade mark, design, or where it is already in use and was being used in good faith.

Staff will continue to be employed by the new body on the same terms and conditions (proposed section 51).
CSL will not be required to pay tax in connection with exempt matters (i.e. matters connected with the conversion to a public company) (proposed section 57).

References
2. Ibid., pp. 4 and 9 – 11.

For further information, if required, contact the Science, Technology and Environment Group.

30 November 1989

Bills Digest Service
Legislative Research Service

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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