Australian Horticultural Corporation Bill 1987

Date Introduced: 18 September 1987
House: House of Representatives
Presented by: The Hon. Barry Jones, M.P., Minister representing the Minister for Primary Industries and Energy

Digest of Bill

Purpose
To provide for the establishment and operation of an Australian Horticultural Corporation (AHC) to assist horticultural industries in export markets.

Background
In April 1986, the Government issued its Statement on Economic and Rural Policy in which it proposed the establishment of a Horticultural Marketing Corporation to co-ordinate the export of fresh and processed fruit and vegetable products. This would be complemented by another corporation to co-ordinate and assist research into more effective production techniques, and a policy council for co-ordinating national policy for the horticultural industry in consultation with Government and industry bodies.¹

The proposed establishment of a marketing infrastructure to serve the horticultural industry is in line with the Government’s policy outlined in the White Paper, Reform of Commonwealth Primary Industry Statutory Marketing Authorities, the key features of which are:

- the selection of members with skills and experience relevant to the business of an authority;
- clearer definition of the respective roles of authorities, Government, Parliament and the industries;
- increased operational autonomy and commercial flexibility; and
- more effective accountability arrangements.²

To help meet establishment costs of the two corporations, the Government has committed, over a five year period, $5.85 million to the Australian Horticultural Corporation and $1.25 million to the Horticultural Research and Development Corporation.³ In the 1987-88 Budget, it was announced that the Government had made an initial commitment of $1.1 million for the next financial year.⁴ Funds from apple and pear export charges are approximately $300 000 per year⁵, while funds from apple and pear levies amount to approximately $1.3 million per year.⁶ These will continue under the proposed Horticultural Export Charge and Levy Bills and the related Collection Bills, and are expected to increase as more horticultural industries join the new system. In addition, the Government will match industry expenditure by up to
0.5% of the average annual gross value of production of groups of products. Funding for the Policy Council will be met by the Commonwealth for a period of five years, at the end of which, the continued existence of the Council will come under review.

In the Minister’s Second Reading Speech, it was stated that the value of horticultural production in 1985-86 was approximately $2 billion, while the value of exports reached approximately $400 million, exceeding the Government's estimate in April 1986 by $600 million and $200 million respectively.7

Main Provisions

Horticultural products are defined in clause 3 to mean fruits, vegetables, nuts, nursery products, cut flowers and foliage and products in a prescribed class.

The Australian Horticultural Corporation (AHC) will be established by clause 6.

Clause 7 will specify the objectives of AHC’s establishment. The principal objects are to assist Australian horticultural industries to achieve their full potential in overseas markets and to assist the development of horticultural industries.

AHC’s functions will include encouraging, assisting, facilitating, promoting and coordinating exports, as well as improving industrial efficiency, product quality, encouraging consumption and sales, and production activities associated with the marketing and transport of Australian horticultural products. In undertaking its functions, AHC is to co-operate with industry representatives as well as relevant Government authorities (clause 8).

Clauses 9 and 10 will provide AHC with the powers necessary for the performance of its functions and, with the written approval of the Minister, powers to engage in the export of Australian horticultural products.

Clauses 12 to 27 deal with the Constitution of AHC which will be a corporation (clause 12). Membership will be made up of a Chairperson, Government member, Managing Director and six members nominated by the Corporation Selection Committee (clauses 13 and 16). Except for the Managing Director, all members are to be appointed by the Minister who must be satisfied with their experience in and knowledge of the formulation of government policy and public administration (clause 16). Generally, members of the executive of eligible industry bodies will not be eligible for appointment (clause 17). Clause 23 will require members to disclose interests which could conflict with AHC’s interests.

Clauses 28 and 29 will require that AHC submit to the Minister a five-year corporate plan, to be revised and resubmitted at least annually, as well as annual operational plans which may also be revised. Plans will only take effect with the Minister’s written approval.

AHC will be required to submit an annual report to the Minister (clause 31) with copies to prescribed horticultural industries (clause 32).

In exceptional circumstances, the Minister will be able to direct AHC in the performance of its functions. Prior discussions with the Chairperson will be mandatory,
as will Gazettal and tabling of any such directions (clause 33).

Clauses 34 to 45 deal with the duties, appointment, terms and conditions of the Managing Director and contain the usual provisions for statutory corporations.

The Commonwealth will pay to AHC, out of the Consolidated Revenue Fund, amounts received under the proposed Horticultural Levy Bill 1987, Horticultural Levy Collection Bill 1987 and Horticultural Export Charge Bill 1987 which will be appropriated accordingly (clause 48).

Other financial provisions are contained in clauses 49 to 54 which specify the purposes of AHC's expenditure; require proper accounts and records to be kept; authorise investment, and the borrowing and raising of money in accordance with specified procedure; and permit dealings with futures contracts for hedging purposes. The Treasurer will be empowered to act as guarantor on behalf of the Commonwealth for the repayment of loans or other money raised by AHC and to make determinations accordingly (clause 55). Clauses 57 and 58 specify audit requirements, and clause 59 will render AHC subject to Commonwealth taxation (other than income tax) laws and State and Territory taxation laws as prescribed by regulation.

Clause 60 will permit AHC to establish product group committees to assist it in matters relating to particular horticultural products. The functions, powers, constitution and terms and conditions of members and staff of the committees are specified in clauses 61 to 74. Their functions will be as determined by AHC.

Other committees may be established by AHC to assist in the performance of its functions (clause 75). Clauses 76 and 77 will provide for delegation of powers by AHC and its Managing Director respectively.

Clause 78 will establish the Australian Horticultural Corporation Selection Committee (AHCSC) to nominate persons to the Minister for appointment as members of AHC. Clauses 81 to 85 specify the nominations procedure. The proposed constitution of AHCSC, which will consist of a Chairperson and seven members, who shall be appointed by the Minister, and terms and conditions of members of AHCSC are set out in clauses 86 to 99.

AHCSC will be empowered to delegate its powers, by resolution, to a member of AHC or a Departmental officer (clause 102).

Clauses 103 to 119 deal with selection committees. A selection committee is to be established for each product group committee (clause 103) to nominate persons to AHC for appointment to the product group committee (clause 104).

Regulations will be able to provide for AHC to control and to prohibit, either absolutely, conditionally or to a specified place, the export of horticultural products from Australia (clause 121). Clause 122 will provide for the offences of engaging in the prohibited export of horticultural products without, or in contravention of, a prescribed licence.

The Governor-General will be able to make regulations consistent with this Bill, in particular, requiring exporters and other prescribed persons to keep records and
provide information; providing for registration of premises and imposing related fees; and prescribing fines not exceeding $1000 for people and $5000 for companies for offences against the regulations (clause 125).

Clause 126 will provide that the regulations may empower the Minister to make orders consistent with this Bill. Power to make orders prescribing penalties will be expressly excluded.

References
1. Economic and Rural Policy, Canberra, 1986, p.66.
2. Ibid.
3. Ibid.
5. Explanatory Memorandum to the Horticultural Export Charge Bill 1987, p.(i).
7. Economic and Rural Policy, Canberra, 1986, p.46.

For further information, if required, contact the Economics and Commerce Group.

Bills Digest Service
Legislative Research Service
8 October 1987

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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