Rural Research and Development Legislation Amendment Bill 2014

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Date introduced: 25 September 2014
House: House of Representatives
Portfolio: Agriculture

Commencement: Sections 1-3, Schedule 1
  Part 1, Division 1, and Schedule 2, Part 2 commence on the day after Royal Assent.
  Schedule 1, Part 1, Division 2 commences on either the day after Royal Assent or 31 March 2015, whichever is later.
  Schedule 2, Part 1 commences on 1 October 2014.

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through the Australian Parliament website.

When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website.
Purpose of the Bill

The purpose of the Rural Research and Development Legislation Amendment Bill 2014 (the Bill) is to amend various statutes relating to Rural Research and Development Corporations (RDCs) to allow the Commonwealth to recover the cost of membership fees of international commodity organisations and regional fisheries management organisations from RDCs. The Bill also contains amendments to remove the requirement for the Minister to organise an annual co-ordination meeting for the chairs of statutory RDCs and some tabling requirements for certain industry-owned RDCs.

Structure of the Bill

The Bill has two Schedules.

Schedule 1 of the Bill amends the Australian Grape and Wine Authority Act 2013, the Primary Industries Research and Development Act 1989, and the Sugar Research and Development Services Act 2013 so that the Commonwealth can recover fees for membership to international commodity organisations from relevant RDCs.

Schedule 2 of the Bill amends the Australian Meat and Live-stock Industry Act 1997, the Dairy Produce Act 1986, the Forestry Marketing and Research and Development Services Act 2007, the Sugar Research and Development Services Act and the Primary Industries Research and Development Act to remove requirements that the Minister organise a yearly co-ordination meeting for the chairs of statutory RDCs and tabling of documents by industry-owned RDCs.

Background

Rationale for publicly funding rural R&D

Research and development (R&D) is generally considered to be a cornerstone of innovation, and innovation in turn, is the most important source of productivity growth over the long term. The process of R&D is constrained by several factors. R&D is often expensive and involves long time frames with little or no initial gains. Further, individual firms’ decisions to invest in R&D may not result in a socially optimal level of investment because the product of R&D is non-rivalrous in consumption and may be non-excludible in demand.

A good that is non-rivalrous in consumption is a good the consumption of which does not limit or diminish the ability of another person to consume it. An example is street lighting. A non-excludible good is a good which no-one can be excluded from using, for example flood embankments. Goods which have both these characteristics are called public goods.

The outcome of R&D—knowledge—is always non-rivalrous in consumption in that one person’s consumption of it will not diminish another person’s ability to consume it. Knowledge generated from R&D may also be non-excludable in demand, as it may be difficult, or impossible, to exclude another firm from using it.

These factors mean that investment in R&D can generate socially optimal ‘spillovers’. Spillovers are effects that arise as a direct result of activity conducted by another party. They can be positive, such as the pollination of plants by bees, which are kept by beekeepers who produce honey; or negative, such as air pollution produced from the burning of fossil fuels to generate electricity. Positive spillovers are socially desirable, but are usually either non-rivalrous or non-excludable, or both, and so firms will find it difficult, or impossible to make a return when producing them. Bee keepers, for example, do not profit from the pollination that bees do in neighbour’s fields.
The inability of firms to capture the full benefits of their investment (including the spillover effect) means that theoretically firms will only invest in R&D to the extent that it generates a return. When the outcome of the R&D becomes non-excludible the firm will cease investing as it can no longer capture the return. This, however, is when the largest positive spillovers are generated. As a result, investment in R&D by firms will occur at a sub-optimal level for the community.

To avoid such sub-optimal investment some form of government intervention may be warranted, such as by the government subsidising R&D investment, so that positive spillovers are generated beyond the level at which a firm would achieve a return, or through patents which aim to address the non-excludible nature of R&D by providing patent holders exclusive rights to use, or to license the use of the R&D knowledge.

In Australia, one important way the government contributes to rural R&D is through its financial contribution towards the RDCs by way of payments which generally match each RDC’s expenditure on R&D up to a limit. Research done by the Australian Bureau of Agricultural and Resource Economics and Sciences estimated that the internal rate of return on public R&D investment in broadacre agriculture could have been as high as 28 per cent (and 47 per cent for extension work) per year. The Council of Rural Research and Development evaluated 59 individual RDC investments (which represented $676 million) in 2009 and found that the investments had a benefit cost ratio of 2.36 after five years and 5.56 after ten, rising to 10.51 after 25 years. Similar findings were reached in the previous year.

The Rural R&D Corporations

The 15 RDCs in Australia are listed in the Table below. They are either statutory corporations, or industry owned corporations.

<table>
<thead>
<tr>
<th>Statutory bodies</th>
<th>Industry owned companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cotton Research and Development Corporation</td>
<td>Dairy Australia</td>
</tr>
<tr>
<td>Grains Research and Development Corporation</td>
<td>Australian Wool Innovation</td>
</tr>
<tr>
<td>Fisheries Research and Development Corporation</td>
<td>Meat and Livestock Australia</td>
</tr>
<tr>
<td>Rural Research and Development Corporation</td>
<td>Australian Egg Corporation Limited</td>
</tr>
</tbody>
</table>

12. Ibid., p. 50.
15. Ibid., p. v.
16. These statutory RDCs are either established and governed by their own Act, such as the Australian Grape and Wine Authority Act 2013, or established by subordinate legislation (which is enabled by the Primary Industries Research and Development Act 1989), for example the Cotton Research and Development Corporation, which is established under the Cotton Research and Development Corporation Regulations 1990, accessed 17 October 2014. All statutory RDCs are also governed by the Corporations Act 2001, accessed 21 October 2014.
17. Industry owned corporations are established and governed by their own Act, as well the Corporations Act and their funding agreements with the Commonwealth: Dairy Australia, for example is established and governed by the Dairy Produce Act 1986. Source: Department of Agriculture, Fisheries and Forestry, Submission to Productivity Commission, Inquiry into the Australian Government Rural Research and Development Corporations Model, August 2010, accessed 21 October 2014.
18. Cotton Research and Development Corporation (CRDC), About Us, CRDC website, accessed 22 October 2014.
22. Fisheries Research and Development Corporation (FRDC), Home, FRDC website, accessed 22 October 2014.
The goals of RDCs are:

- to bring industry and researchers together
- to establish R&D strategies and
- to fund projects that provide industry with the innovation and productivity tools to compete in global markets.  

RDCs are primarily funded through industry levies and matching Commonwealth contributions. The Commonwealth contribution (known as the matching payment) is an amount that matches individual RDC expenditure on R&D related activities up to a limit of 0.5 per cent of the industry’s Gross Value of Production (this is slightly different for the Fisheries Research and Development Corporation).  

**International commodity organisations**

The Australian Government is a member of ten international commodity organisations. Four of these organisations relate to agricultural commodities, and six to fisheries. The four international agricultural organisations are the International Cotton Advisory Committee, the International Organisation of Vine and Wine, the International Sugar Organisation and the International Grains Council. The six regional fisheries management organisations are the South Pacific Regional Fisheries Management Organisation, the Commission for the Conservation of Southern Bluefin Tuna, the Western and Central Pacific Fisheries Commission, the Southern Indian Ocean Fisheries Agreement, the Indian Ocean Tuna Commission and the Network of Aquaculture Centres in Asia-Pacific.

The objectives of five of the six international fisheries management organisations are similar and generally speaking relate to the conservation and sustainable use of specific fisheries or fish type (depending on the organisation). The objective of the sixth, however, the Network of Aquaculture Centres in Asia-Pacific, is to promote rural development through sustainable aquaculture.
**Budget announcement**

In the lead up to the 2013 Federal election, the Coalition stated that if elected it would provide $100 million in additional funding for Rural RDCs so that they would have ‘greater capacity to deliver cutting edge technology, continue applied research, and focus on collaborative innovation’.  

Consistent with this promise, in the 2014–15 Budget the Government announced that the RDCs would receive an additional $100 million over four years:

...to provide grants for research projects that focus on delivering cutting edge technologies and applied research, with an emphasis on how the research outcomes would be used by farmers. The programme will require research to be done collaboratively between RDCs and one or more research providers with a financial contribution from one or more of the parties required.  

However, the Government also announced the saving measure which is put into effect by this Bill, being the alteration of arrangements for the payments of memberships to international commodity organisations.  

**Committee consideration**

**Senate Rural and Regional Affairs and Transport Legislation Committee**

The Bill has been referred to the Senate Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 24 November 2014. At the time of writing this Bills Digest, nine submissions had been received. Eight of the submissions were from RDCs which are impacted by the amendments in Schedule 1 of the Bill. They are critical of those amendments, and seek to have them withdrawn, for the following reasons:

- it is the Australian Government—not the RDC—which is the member of the international commodity organisation and carries all voting rights and formal status. RDCs do not have any decision making authority in terms of membership.  
- the Commonwealth jeopardises the Government-industry partnership model by funding its own membership of international commodity organisation out of government matching funds.  
- the amendment will change the nature of the co-investment model and reduce the capacity for the RDCs to fulfil their legislated responsibilities to levy and tax payers and  
- although the budget measure is said to result in a saving of approximately $7 million over four years, the amendment does not have a sunset clause so that the change represents a permanent reduction in funding for rural R&D.  

Questions were raised by one RDC as to whether, having decided that the expense of membership of an international commodity organisation is too high, the Government will act on a request that Australia withdraw its membership.  

**Senate Standing Committee for the Scrutiny of Bills**

In its Alert Digest of 27 August 2014, the Senate Standing Committee for the Scrutiny of Bills stated that it had no comments to make in relation to the Bill.  

39. Ibid., p. 52.  
40. Details of the inquiry including the terms of reference, submissions to the Committee and the Committee report are available at the inquiry homepage, accessed 15 October 2014.  
44. Ibid., p. 3.  
Parliamentary Joint Committee on Human Rights

In its report of 1 October 2014 the Parliamentary Joint Committee on Human Rights noted that the Bill does not appear to give rise to any human rights concerns.47

Statement of Compatibility with Human Rights

As required under Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth), the Government has assessed the Bill’s compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act.48 The Government considers that the Bill is compatible.

Policy position of non-government parties/independents

There has been little commentary on the Bill from non-government parties or independents.

Financial implications

The amendments in Schedule 1 of the Bill which allow the Commonwealth to recover fees for membership of international commodity organisations from relevant RDCs is estimated to create savings for the Commonwealth of approximately $7 million over the forward estimates (to 2017–18).49

Key issues and provisions

Schedule 1

Key provisions

Items 1–5 of Part 1 of Schedule 1 of the Bill amend the Australian Grape and Wine Authority Act.

Item 2 inserts proposed section 31L into the Australian Grape and Wine Authority Act. Proposed subsection 31L(3) allows the Minister, by legislative instrument, to determine an international grape and wine organisation. For the purposes of the Australian Grape and Wine Authority Act, the International Organisation of Vine and Wine (OIV) will be the international grape and wine organisation.50 Proposed subsection 31L(1) also defines the term membership contribution. In effect, this is the annual membership fee paid by the Commonwealth to the OIV.

Items 3–5 insert provisions that make the Commonwealth’s payment under paragraph 32(ai) of the Australian Grape and Wine Authority Act (matching payment) conditional on the Australian Grape and Wine Authority (AGWA) reimbursing the Commonwealth the annual OIV membership fee. Proposed subsection 37(4) inserts a ‘set-off’ provision, which allows the Commonwealth to deduct the annual OIV membership fee from the Commonwealth’s matching payment to the AGWA. Item 4 inserts proposed paragraph 35(1)(ae) into the Australian Grape and Wine Authority Act to permit the Grape and Wine Authority to spend money to pay the membership contribution amounts to the Commonwealth.

It has been estimated that the 2014–15 membership fee for OIV is $110,000.51

Items 6–19 of Part 1 of Schedule 1 amend the Primary Industries Research and Development Act in similar terms, that is:

• proposed section 29A inserts definitions of the terms international organisation and membership contribution

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48. The Statement of Compatibility with Human Rights can be found at page 5 of the Explanatory Memorandum to the Bill.


50. Ibid., p. 7.

51. Winemakers’ Federation of Australia and Wine Grape Growers Association, op. cit., p. 3.
• **proposed subsection 29A(3)** empowers the Minister to determine one or more international commodities organisations or international fisheries organisations in relation to a specified RDC as an *international organisation*

• **proposed subsection 34A(5)** inserts a ‘set-off’ provision which allows the Commonwealth to deduct the annual membership contribution amount against its matching payments

• **proposed subsection 33(1)[daa]** permits the relevant RDC to spend money to pay the membership contribution amounts to the Commonwealth.

The *Primary Industries Research and Development Act* governs all the statutory RDCs, including the Fisheries Research and Development Corporation, which receives funding from states and territories as well as levies. **Items 10–16** amend sections 30A and 30B of that Act to deal with fishing industry payments.

Of particular concern to the Council for Rural Research and Development Corporations is the terms of **proposed subsection 29A(3)**. Such a provision, they believe, would set an ‘inappropriate precedent in terms of the Government unilaterally reallocating funding away from strategic and prioritised investments in rural R&D, and the legislation imposes few limits on the future scope of organisations and payments involved’. 52

**Items 20–27** of Part 1 of Schedule 1 amend the *Sugar Research and Development Services Act* so that:

• **item 23** amends the simplified outline in section 5 which provides that the Minister contract to make two kinds of payments to the industry services body. It also sets out how those payments are to be spent. The amendment to the simplified outline reflects that an industry services body can make a payment of a membership contribution amount to the Commonwealth

• **proposed section 5A** inserts definitions of the terms *international sugar organisation, membership contribution* and *membership contribution amount*

• **proposed paragraph 6(2)(ba)** ensures that the funding contract between the industry services body and the Commonwealth makes the payment of matching funds conditional on that body paying an amount which is equivalent to the *membership contribution* paid by the Commonwealth

• **proposed paragraph 6(2)(bb)** contains a ‘set-off’ provision which allows the Commonwealth to off-set the membership contribution amount against the matching payments that it makes to the industry services body and

• **item 25** inserts **proposed subparagraph 6(2)(b)(ia)** which permits the industry services body to spend money to pay the membership contribution amounts to the Commonwealth.

Of particular concern to the Australian Sugar Industry Alliance is that sugar cane growers and sugar mill companies have voted to support a levy to fund Sugar Research Australia. However, ‘the industry did not vote to support funding of international commodity organisations from levies that were specifically and deliberately targeted for the purpose of R&D’. 53

**Schedule 2**

The amendments in Part 1 of Schedule 2 of the Bill are deregulatory in nature.

**Item 1** amends the *Australian Meat and Live-stock Industry Act* to repeal Division 4 of Part 3 of that Act (sections 68A–68D) so that the Minister is no longer required to table in Parliament:

• the funding agreement between the Commonwealth and the live export body (the Australian Livestock Export Corporation Limited)

• variations to the funding agreement

• a report on compliance with the funding agreement and

• the annual report of Australian Livestock Export Corporation Limited. 54

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52. Council of Rural Research and Development Corporations, op. cit., p. 3.


54. The Australian Livestock Export Corporation Limited has been declared by the Minister to be the industry research body for research funding purposes. *Australian Meat and Live-stock Industry Act 1997—Declaration of Research Body* [30/06/1988], accessed 23 October 2014.
Items 2–5 amend the Dairy Produce Act so that the Minister is no longer required to table in Parliament:

• the funding contract between the Commonwealth and the industry services body (Dairy Australia Limited)
• variations to that contract
• the financial report (being the annual report of Dairy Australia Limited)
• a report setting out the amount of dairy service levy received and whether it has been spent in compliance with the terms of the funding contract and
• a report on the Dairy Structural Adjustment Fund.

Item 7 amends the Forestry Marketing and Research and Development Services Act so that the Minister is no longer required to table in Parliament the funding contract between the Commonwealth and the industry services body (Forest and Wood Products Australia Limited) and any variations to that contract.

Item 8 amends the Sugar Research and Development Services Act in equivalent terms in respect of Sugar Services Australia.

Item 9 in Part 2 of Schedule 2 of the Bill repeals section 142 of the Primary Industries Research and Development Act. The effect of the repeal is that the Minister is no longer required to cause a co-ordination meeting to be held annually. At present, co-ordination meetings are held for the purposes of considering, and, as far as practicable, co-ordinating, R&D activities pursued, or proposed to be pursued, by the RDCs.

According to the Explanatory Memorandum, the yearly meeting is no longer required as only five RDCs are statutory corporations. It is considered that regular meetings held by the Council of Research and Development Corporations with all 15 RDCs more appropriately fills this function. It is possible, however, that these meetings between statutory RDCs provide a useful opportunity for discussing issues relevant only to statutory RDCs.

Concluding Comments

In the 2014–15 Budget the Government announced that the RDCs would receive an additional $100 million over four years. This increase in funding was partly offset by a reduction in the funding to the Primary Industries Research and Development Corporation, of $11 million over four years. With the reduction in this Bill, on aggregate an additional $82 million has been allocated to RDCs.

Of concern to R&D bodies is that the requirement that they pay the Australian Government’s fees for membership of international commodity organisations effectively diverts further funding away from R&D.

Removing the requirement that the Minister table various documents in Parliament will reduce the level of transparency and scrutiny that currently exists, while offering little deregulatory benefit to RDCs, as they will still be required to produce these documents.

57. Ibid., p. 52.
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