THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

RURAL RESEARCH AND DEVELOPMENT LEGISLATION AMENDMENT BILL
2013

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Agriculture, Fisheries and Forestry,
Senator the Hon. Joe Ludwig)
RURAL RESEARCH AND DEVELOPMENT LEGISLATION AMENDMENT BILL 2013

GENERAL OUTLINE

The Rural Research and Development Legislation Amendment Bill 2013 will make amendments to implement the government’s rural research and development (R&D) policy, along with two companion Bills - the Primary Industries (Excise) Levies Amendment Bill 2013 and the Primary Industries (Customs) Charges Amendment Bill 2013.

This Bill will amend eight Acts in the agriculture, fisheries and forestry portfolio to improve the efficiency, transparency and accountability of the rural research and development corporations (RDCs). It will also make technical amendments, including consequential amendments to other acts, and remove obsolete provisions.

Currently, there are 15 RDCs – six statutory RDCs and nine industry-owned RDCs – providing services to a diverse range of rural industries. RDCs provide a mechanism for industry to invest collectively in research and development (R&D) and, in the case of industry-owned RDCs, marketing. The Australian Government assists these industries by establishing a levy if an industry so requests, by collecting that levy and by returning the funds to the relevant RDC, less the cost of collection. In addition, the government matches the RDC’s eligible R&D spending up to legislated limits. The amendments will assist the RDCs to deliver improved services to levy payers and to lift the productivity of Australia’s rural industries.

The Bill will:
- allow statutory RDCs to undertake marketing at the request of industry
- enable government matching funding for voluntary contributions to all RDCs to encourage the private sector to invest in rural R&D
- remove the requirement for statutory RDCs to submit their annual operating plans to the minister for approval
- make statutory RDC board selection processes more efficient
- introduce funding agreements for statutory RDCs to drive performance improvements and increase transparency in the delivery of R&D services
- allow individual fisheries industry levies to be collected and matched subject to a cap based on the gross value of production of that industry.

The Department of Agriculture, Fisheries and Forestry consulted relevant Australian Government agencies and industry stakeholders on the policy changes. In 2011 the Productivity Commission and the Rural Research and Development Council reviewed the rural research, development and extension system in Australia. Around the country, meetings were held with industry representative bodies, RDCs and other stakeholders and many submissions were received in response to the two reviews. The department has continued to consult with RDCs and industry representative bodies throughout the process leading to these legislative amendments.
The proposed amendments involve changes to eight Acts. These are the *Primary Industries and Energy Research and Development Act 1989* (the PIERD Act); the *Pig Industry Act 2001*; the *Dairy Produce Act 1986*; the *Egg Industry Service Provision Act 2002*; the *Wool Services Privatisation Act 2000*; the *Forestry Marketing and Research and Development Services Act 2007*; the *Horticulture Marketing and Research and Development Services Act 2000*; and the *Australian Meat and Live-stock Industry Act 1997*.

**Allowing a marketing function for statutory RDCs**

Schedule 8 of the Bill will amend the PIERD Act to allow statutory RDCs to undertake marketing activities, where requested by industry. If an industry decides to undertake marketing activities, it will need to establish new levy arrangements to collect separately identified marketing funds from industry members. The amendments in this Bill will not alter the current process by which industry establishes a new levy. The amendments do not allow the Commonwealth to provide matching funding for marketing levies established by industry.

**Arrangements for voluntary contributions to RDCs**

Schedule 5 of the Bill will amend six Acts to enable the Commonwealth to match voluntary contributions made to the RDCs by businesses for R&D. Matching Commonwealth funding will only be provided up to the existing cap based on the gross value of production of the relevant industry.

The amendments will allow the Minister to determine, by regulations, how the matching funding for voluntary contributions will be provided to each RDC. The amendments will allow funding arrangements to be tailored to the needs of each RDC, and help to ensure that the availability of matching funding for voluntary contributions does not act as a disincentive for industries to fund the RDCs through formal levy collection.

**Removal of ministerial approval of statutory RDC annual operating plans**

Schedule 9 of the Bill will repeal section 26 of the PIERD Act so that statutory RDCs will no longer be required to submit their annual operating plans to the Minister for approval. The process of Ministerial approval has become an unnecessary burden for both RDCs and the government. Ministerial oversight will be directed toward each RDC’s overarching strategy rather than its day-to-day management. As standard business practice, annual operating plans will still be required, but ministerial approval will not.

A new section will be inserted to state that the plan comes into operation on the first day of the period to which the plan relates, and that the plan must be provided to the Minister and to the industry representative organisations of the RDC.

**Selection process for statutory RDC board members**

Schedule 6 of the Bill will amend the PIERD Act in relation to the process for selecting board members for statutory RDCs. The amendments aim to make the process more efficient and transparent.
Statutory RDC board members are currently selected by a selection committee, which invites nominations, evaluates candidates against a skills matrix and provides a recommendation to the Minister. The Minister is responsible for appointing board directors.

Amendments will be made to streamline the selection process. Selection committees will be limited to five members and the committee will be established for up to three years to remove the expense and time involved in establishing a committee for each selection process. A ‘reserve list’ of suitable candidates will be created which can be used to fill unplanned board vacancies over the following 12 months. However, if a candidate with the necessary skills to fill a specific vacancy is not available from the list, the process must be undertaken again.

The presiding member of the selection committee will recommend other selection committee members to the Minister, based on the skills and experience of the candidates and following consultation with industry groups. The Bill requires the presiding member to consider equity and diversity when making these recommendations. The presiding member should also consider any animal welfare experience relevant to the industry when making these recommendations. The selection committee must do the same when recommending candidates for the board of a statutory RDC.

**Statutory funding agreements**

Schedule 3 of the Bill will make amendments to the PIERD Act to allow the Commonwealth to enter into an agreement with a statutory RDC. Agreements will provide an important mechanism for RDCs and the Commonwealth to agree on a range of governance and performance related matters to a level of detail that is not provided for in the PIERD Act. These agreements will allow detailed arrangements to be modified over time, without legislative change, to reflect changing government and industry requirements and provide greater consistency in the Commonwealth’s relationship with all RDCs.

**Amendments relating to the Fisheries Research and Development Corporation**

Schedule 4 of the Bill will amend the PIERD Act to make two changes specific to fisheries research and development. The first will allow individual fisheries industry levies to be collected and matched subject to a relevant industry cap. The second amendment incorporates a previous Ministerial direction into the Act.

The Fisheries RDC receives funding contributions from state and territory governments, which in turn collect funding from fisheries industries through levies or fees. The Commonwealth provides matching funding for state and territory contributions, up to a cap that is based on the gross value of production (GVP) of fisheries in each jurisdiction. The amendments will create a new section of the PIERD Act to enable a statutory levy on an individual fishery industry sector, if established by that industry sector, to be matched by the government up to a cap that is based on the GVP of the particular industry sector.

The second amendment incorporates into the PIERD Act part of a long-standing and widely-supported Ministerial direction to the Fisheries RDC. The amendments will require the Fisheries RDC to spend funds raised from a particular jurisdiction or industry sector on R&D activities of relevance to that jurisdiction or industry sector.
Minor amendments

Several minor amendments will be made to improve consistency in governance between RDCs and simplify governance arrangements.

Schedule 8 of the Bill will amend section 3 of the PIERD Act (Objects of the Act) to reflect the interest of the RDCs in developing and maintaining the research workforce, and in developing the ability of primary producers to adopt the outcomes of research.

Schedule 7 of the Bill will amend the Wool Services Privatisation Act 2000 and the Dairy Produce Act 1986 to include requirements relating to Ministerial directions. The conditions under which the Bill proposes the Minister can give directions are consistent with the Ministerial direction provisions for other industry-owned RDCs. Schedule 7 of the Bill will also amend the Horticulture Marketing and Research and Development Services Act 2002, the Wool Services Privatisation Act 2000 and the Australian Meat and Livestock Industry Act 1997 to standardise the Ministerial delegation rules for the industry-owned RDCs.

Schedule 9 of the Bill will amend the Egg Industry Service Provision Act 2002 to include ‘egg products’ in the definition of permitted spending of promotion payments, and to standardise the terminology relating to marketing activities. This will clarify the scope of the Australian Egg Corporation Limited activities, and bring the terminology into line with other industry service provision legislation.

Schedule 8 of the Bill will amend the Wool Services Privatisation Act 2000 to add marketing activities to ‘category A’ permitted spending, and to allow the timing of Wool Poll to be prescribed in regulations. The first amendment will make explicit the use of ‘category A’ payments for marketing activity, where the present Act refers only to research and development and ‘other activities’. The second amendment will facilitate future changes to the timing of Wool Poll.

Technical amendments

Schedules 1, 2, 9 and 10 of the Bill make technical amendments. The Bill repeals redundant sections of the PIERD Act, including those relating to R&D Councils and R&D Funds, which no longer exist. Schedule 2 changes the name of the PIERD Act to remove “energy”. There are no energy research agencies currently covered by the Act, and energy research is now a part of the Resources, Energy and Tourism portfolio. This involves a consequential amendment to the Freedom of Information Act 1982 which is in the Attorney-General’s portfolio. Schedule 10 repeals spent transitional, consequential and amending provisions from the repealed Rural Industries Research Act 1985 to the PIERD Act, and are now obsolete.

Schedule 11 contains provisions that commence immediately after the commencement of the Sugar Research and Development Services Act 2013. Item 6 in Schedule 10 commences immediately after the commencement of schedule 4 to the Statute Law Revision Act 2013. All other provisions commence on the day that the Act receives the Royal Assent.

FINANCIAL IMPACT STATEMENT

The proposed amendments have no financial impact on the Australian Government.
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Rural Research and Development Legislation Amendment Bill 2013

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Bill

Context

This Bill is one of three companion bills designed to improve the accountability, effectiveness and efficiency of rural research and development corporations (RDCs). The accompanying bills are the Primary Industries (Excise) Levies Amendment Bill 2013 and the Primary Industries (Customs) Charges Amendment Bill 2013.

There are two types of RDCs, statutory and industry-owned.

Statutory RDCs are established under the Primary Industries and Energy Research and Development Act 1989 (the PIERD Act) and its regulations. Their function is to coordinate research, development and extension for the benefit of the primary industry that funds the RDC through a statutory levy or charge, and the Australian community generally.

Industry-owned RDCs are Corporations Act 2001 companies with which the Commonwealth has entered a statutory funding agreement under an ‘industry service provisions act’ specific to each industry sector. In addition to the research, development and extension they fund, industry-owned RDCs also undertake marketing on behalf of their levy-payers.

The Australian Government matches research and development levies with funding up to a cap set by the PIERD Act for statutory RDCs and the relevant ‘industry service provision Act’ for each industry-owned RDC.

This Bill

The Bill provides for the following changes to the existing system:

1. It requires each statutory RDC to enter into a statutory funding agreement (SFA) with the Commonwealth to bring their governance into line with the industry-owned RDCs. For over ten years, similar agreements have successfully been used to manage governance and performance aspects of the government – industry-owned RDC relationship.

2. Creating more efficient and flexible selection processes for statutory RDC board members. The importance of diversity will be emphasised for both selection committee and board appointments. Selection committee sizes are capped and their
duration is extended. A selection committee will create a reserve list of suitable candidates to reduce the time and expense associated with new selection processes for casual and unanticipated vacancies on RDC boards.

2. Each statutory RDC will be able to undertake marketing if a levy for that purpose is requested by industry and agreed by the government.

3. The existing requirement that statutory RDC annual operating plans be approved by the Minister will be removed as this places an unnecessary administrative burden on government and statutory RDCs.

4. The Bill makes arrangements for the Commonwealth to provide matching funding for voluntary contributions received by an RDC for eligible research and development. This matching funding will be subject to the existing cap on matching funding which is based on industry gross value of production.

5. Other technical and minor amendments include: standardising the requirement to comply with Ministerial directions across RDCs; standardising the Minister’s ability to delegate powers and to whom; adding ‘scientific and technical capacity building’ to the objects of the PIERD Act; minor changes to definitions in the wool and egg industries services provision acts and removing obsolete reporting requirements.

Assessment of human rights compatibility

6. This Bill promotes the general right to equality and non-discrimination in article 26 of the International Covenant on Civil and Political Rights and its equivalent provisions in articles 4 and 5 of the Convention on the Rights of Persons with Disabilities and article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination. It does this by requiring:

   a) the Presiding Member of the statutory RDC Selection Committee to have regard to diversity, including diversity of experience, expertise and gender, when nominating members to the Selection Committee in proposed sections 124(2A) and 125(4A).

   b) the Selection Committee to have regard to diversity, including diversity of experience, expertise and gender, when nominating candidates to the Minister for appointment to the statutory RDC board of directors in proposed sections 130(1) and 130(3).

These criteria may result in more diverse appointees to statutory RDC boards.

7. In requiring the Presiding Member and the Section Committee to have regard to diversity of gender when nominating board candidates, this Bill also specifically promotes articles 11 and 14(2) of the Convention on the Elimination of All Forms of Discrimination against Women on the right to equality in the field of employment and the right to equality for women in rural areas, particularly to the extent of being involved in development planning in article 14(2)(a).
Conclusion

The Bill is compatible with human rights because it promotes the right to equality and non-discrimination in board appointment processes for statutory rural research and development corporations.

Joe Ludwig, Minister for Agriculture, Fisheries and Forestry
RURAL RESEARCH AND DEVELOPMENT LEGISLATION AMENDMENT BILL 2013

NOTES ON ITEMS

Clause 1: Short Title

Clause 1 is a formal provision specifying that the short title of the Act may be cited as the "Rural Research and Development Legislation Amendment Act 2013."

Clause 2: Commencement

Clause 2 provides for the commencement of the Act.

Items 8, 9, 10 and 11 in Schedule 5 commence immediately after the Act receives the Royal Assent. Item 6 in Schedule 10 commences immediately after the commencement of schedule 4 to the "Statute Law Revision Act 2013. The provisions in Schedule 11 commence immediately after the commencement of the "Sugar Research and Development Services Act 2013. All other items commence on the day that the Act receives the Royal Assent.

Clause 3: Schedule(s)

Clause 3 provides that each Act specified in a schedule to the Act is amended or repealed as set out in the applicable items of the schedule concerned and that any other item in a schedule to the Act has effect according to its terms.

Schedule 1—Amendments to repeal provisions relating to R&D Councils and R&D Funds

Plant Health Australia (Plant Industries) Funding Act 2002

Items 1 to 4

Items 1 to 4 remove references to R&D Councils and R&D funds from the "Plant Health Australia (Plant Industries) Funding Act 2002."

R&D Councils and R&D Funds no longer exist, and the last R&D Council ceased in 2001. As such, the references to R&D Councils and Funds are obsolete.

Primary Industries and Energy Research and Development Act 1989

Items 5 to 80

Items 5 to 80 amend the Act to repeal sections that relate to R&D Councils and R&D Funds, and to remove references to R&D Councils and R&D funds from remaining sections of the Act. The amendments include repealing Part 3 of the Act, which provides for the establishment and operation of R&D Councils and Funds.
R&D Councils and R&D Funds no longer exist, and the last R&D Council ceased in 2001. As such, the sections of the Act that relate to R&D Councils and Funds are obsolete.

Schedule 2—Amendments relating to change of Act name

**Dairy Produce Act 1986**

Item 1  Subsection 3(1) (paragraphs (g), (h) and (i) of the definition of old dairy levy amounts)

This item removes “and Energy” from the references to the Primary Industries and Energy Research and Development Act 1989.

**Fisheries Administration Act 1991**

Item 2  Subsection 94E(1) (paragraph (a) of the definition of deductible component)

This item removes “and Energy” from the reference to the Primary Industries and Energy Research and Development Act 1989.

**Freedom of Information Act 1982**

Item 3  Part III of Schedule 2 – Legislation relating to agencies exempt in respect of documents in relation to their commercial activities

This item removes “and Energy” from the reference to the Primary Industries and Energy Research and Development Act 1989.

**Pig Industry Act 2001**

Items 4 to 6

These items remove “and Energy” from the references to the Primary Industries and Energy Research and Development Act 1989 in subsection 10(6), subsection 10(14) and subclause 17(2) of Schedule 1 to the Act.

**Plant Health Australia (Plant Industries) Funding Act 2002**

Items 7 to 11

These items remove “and Energy” from the references to the Primary Industries and Energy Research and Development Act 1989 in section 3, subsection 7(3), subparagraph 8(1)(b)(iii), paragraph 8(3)(b) and paragraph 9(5)(b).
Primary Industries and Energy Research and Development Act 1989

Item 12  Title

This item amends the long title of the Act to remove the reference to “energy”.

Item 13  Section 1 – Short title

This item amends the short title of the Act to remove the reference to “energy”.

Item 14  Subsection 4(1) – paragraph (b) of the definition of primary industry

This item repeals paragraph (b) of the definition of “primary industry”. This part of the definition refers to the extraction of energy from the environment, and is obsolete.

Primary Industries Levies and Charges Collection Act 1991

Item 15  Subsection 4(1) – definition of R & D Corporation

This item removes “and Energy” from the reference to the Primary Industries and Energy Research and Development Act 1989.

Schedule 3—Funding agreements

Primary Industries and Energy Research and Development Act 1989

Item 1  Subsection 4(1) – Definitions

This item inserts a definition for “funding agreement”. The funding agreement is an agreement between the Commonwealth and an R&D Corporation to specify the terms and conditions on which the money paid to the R&D Corporation by the Commonwealth will be spent.

Item 2  At the end of section 33 – Expenditure of money of R&D Corporations

This item inserts additional subsections at the end of section 33. The amendments require an R&D Corporation to enter into a funding agreement with the Commonwealth before the end of the 2013-14 financial year. The funding agreement will specify the terms and conditions on which the money paid to the R&D Corporation by the Commonwealth will be spent, and money must not be spent by the R&D Corporation unless it is in accordance with the funding agreement. The funding agreement is to be published on the website of the R&D Corporation to which it applies.
Schedule 4—Separately levied fisheries

*Primary Industries and Energy Research and Development Act 1989*

**Item 1** Subsection 4(1) – Definitions

Item 1 inserts a definition for “separately levied fishery”. A separately levied fishery is a sector of the fisheries industry (to be specified in the regulations) which has established a statutory levy that applies only to that sector. Most fisheries pay levies and/or fees and charges to state and territory governments, which then make a contribution to the Fisheries Research and Development Corporation (FRDC) on behalf of all fisheries in that state or territory. The only fishery sector that currently has a statutory levy is the farmed prawns industry.

This amendment will allow the farmed prawns industry, on amendment of the Fisheries Research and Development Corporation Regulations 1991, to be considered a separately levied fishery. Other fishery sectors for which a statutory levy is established in the future could also be declared in the regulations as separately levied fisheries.

**Item 2** After section 5

This item inserts a new section (5A) after section 5. The inserted section allows regulations to declare a part of the fisheries industry as a separately levied fishery. It also allows for a levy that is attached to an R&D Corporation to be declared by regulations as a levy on a separately levied fishery.

**Item 3** Subparagraph 25(2)(c)(iv) – Annual operational plans

This item amends subparagraph 25(2)(c)(iv), which requires the R&D Corporation, in its annual operational plan, to provide an estimate of the funds that the R&D Corporation is likely to receive during the financial year, other than funds received through a levy. The amendment includes a levy on a separately levied fishery in the exclusions for this subparagraph.

**Item 4** Section 30A – Payments to an R&D Corporation established in respect of the fishing industry

This item changes the title of section 30A to “Fishing industry payments other than separately levied fishery payments”. Payments in regard to separately levied fisheries are specified in the proposed new section 30B, described in Item 11 in this Schedule.

**Item 5** Before subsection 30A(1) – Payments to an R&D Corporation established in respect of the fishing industry

This item inserts an additional subsection before subsection 30A(1). The new subsection excludes section 30A from applying to a levy on a separately levied fishery and to amounts spent by an R&D Corporation in relation to a separately levied fishery. Any reference to the fishing industry in subsection 30A will not apply to a separately levied fishery. Payments and expenditure in relation to a separately levied fishery will be specified in the new section 30B described in Item 11 in this Schedule.
The subsection also allows a marketing component of a levy to be paid to the R&D Corporation, if the levy is attached to the R&D Corporation. Any expenditure by the R&D Corporation on marketing activities cannot be matched by the Commonwealth.

The amendment inserts a subheading “Levy payments” for subsection 30A(1). Subheadings are included in section 30A to improve the readability of the subsection.

**Item 6** Before subsection 30A(2) – Payments to an R&D Corporation established in respect of the fishing industry

This amendment inserts a subheading “Matching payments” for subsection 30A(2). Subheadings are included in section 30A to improve the readability of the subsection.

**Item 7** Subsection 30A(2) - Payments to an R&D Corporation established in respect of the fishing industry

This amendment removes a reference to subsection 30A(2A), which will be repealed by Item 10 of this Schedule.

**Item 8** Subparagraph 30A(2)(b)(ii) – Payments to an R&D Corporation established in respect of the fishing industry

This item provides that Commonwealth matching funding for a levy is provided based on the amounts spent by the R&D Corporation, as well as the amounts required to be spent. This is a minor amendment to align the wording of the subparagraph with other matching funding provisions in the section.

**Item 9** Paragraph 30A(2)(b) – Payments to an R&D Corporation established in respect of the fishing industry

This item corrects a minor punctuation error in the Act.

**Item 10** Subparagraph 30A(2)(c)(ii) – Payments to an R&D Corporation established in respect of the fishing industry

This item clarifies that Commonwealth matching funding for a levy is provided based on the amounts spent by the R&D Corporation, as well as the amounts required to be spent. This aligns the wording of the subparagraph with other matching funding provisions in the section.

**Item 11** Subsection 30A(2A) – Payments to an R&D Corporation established in respect of the fishing industry

This item repeals subsection 30A(2A). The subsection refers to a payment in the financial year 1997-98 and is obsolete.

**Item 12** After section 30A

This item inserts a new section (30B – Separately levied fisheries) after section 30A. The new section allows payments to be made in relation to a separately levied fishery. Section 30B
provides similar payment arrangements as in section 30A, but applies only to separately levied fisheries.

Subsection 30B(1) excludes expenditure by an R&D Corporation on marketing activities from being matched by the Commonwealth.

Subsection 30B(2) allows a levy on a separately levied fishery to be paid to an R&D Corporation. Currently, the farmed prawns levy is the only statutory levy in relation to the fishing industry. This levy is collected by the Commonwealth and paid to the Fisheries Research and Development Corporation. This levy may be considered, following amendment to the Fisheries Research and Development Corporation Regulations 1991, to be a levy on a separately levied fishery.

Subsection 30B(3) allows a levy on a separately levied fishery to attract matching payments from the Commonwealth. Consistent with the arrangements for levies under section 30A(2), the matching payments will be limited by one of two caps, depending on the level of expenditure of the R&D Corporation in respect of the separately levied fishery to which the levy applies. The two caps are based on the gross value of production (GVP) of the separately levied fishery. This differs from the current arrangements under section 30A, where the caps on a statutory levy are based on the GVP of Commonwealth fisheries.

If a separately levied fishery, and an associated levy, is declared as such by the regulations, the GVP for that fishery will no longer be included in the calculations of GVP for Commonwealth fisheries and state and territory fisheries, nor will it be included in the calculation of total GVP for the purposes of section 30A. The GVP for that fishery will be calculated separately. The sum of all GVPs in relation to fisheries will be the same, so the amendments will not change the overall amount of Commonwealth matching funding that is available for the fishing industry as a whole.

The remaining subsections of 30B are consistent with the arrangements currently in place for fisheries payments in section 30A. Subsections 30B(4), 30B(5) and 30B(6) allow for the adjustment between an “interim” GVP calculation and a “final” GVP calculation. Final GVP and interim GVP are defined in subsection 30B(10). Subsections 30B(7) and 30B(8) allow the Commonwealth to offset amounts owed to it by the R&D Corporation against amounts paid to the R&D Corporation. Subsection 30B(9) appropriates funds from the Consolidated Revenue Fund for the purposes of section 30B. Subsection 30B(11) allows the regulations to determine the calculation of GVP for a separately levied fishery.

**Item 13  Paragraph 33(1)(ca) – Expenditure of money of R&D Corporations**

This item includes a reference to section 30B(4) in the paragraph. This allows the R&D Corporation to pay an amount to the Commonwealth in the event that an interim GVP calculation for a separately levied fishery exceeds the final GVP calculation for a separately levied fishery, resulting in an overpayment of matching funding.

**Item 14  Before section 34 – Expenditure of money of R&D Corporations**

This item inserts two new sections (33B and 33C) before section 34. Section 33B requires the R&D Corporation to spend money received from a state or territory government, either directly or through the Commonwealth, on R&D activities of relevance to that state or
territory. The section allows a time period of five years, from the time the funds are received, for the R&D Corporation to spend an equal amount to the amount received from a state or territory government.

Section 33C requires the R&D Corporation to spend the money received under section 30B (separately levied fisheries) on activities related to that fishery.

**Item 15** Paragraphs 34(a) and (b) – Commonwealth to be paid levy expenses from R&D Corporations

This item amends paragraphs 34(a) and (b) to allow the Commonwealth to recover the cost of the collection and administration of a levy on a separately levied fishery.

**Item 16** At the end of section 35

This item amends section 35 to allow the Commonwealth to be reimbursed by an R&D Corporation for refunds for levies related to fisheries (including levies on separately levied fisheries).

**Item 17** Paragraph 37(c) – Payment of amounts of levy where levies redirected

This item amends the paragraph to include levies on separately levied fisheries in the arrangements for the redirection of levies from one R&D Corporation to another R&D Corporation.

**Schedule 5—Matching voluntary payments**

*Dairy Produce Act 1986*

**Item 1** At the end of subsection 6(3) – Appropriation for payments under funding contract etc.

This item inserts an additional paragraph at the end of subsection 6(3) to allow the regulations to specify that ‘other amounts’ may be included in the overall limit for matching payments. This amendment will allow regulations to provide matching funding for voluntary industry contributions for R&D activities related to dairy products, up to a specified amount. Matching funding will not be provided above the ‘retention limit’ set by subsection 6(4). The retention limit is the lesser of the 0.5% GVP cap and the 50% of eligible expenditure cap.

**Item 2** After subsection 6(3) – Appropriation for payments under funding contract etc.

This item inserts a subsection 6(3A) to allow the regulations to prescribe that the overall limit for matching funding (subsection 6(3)) does not apply. This amendment will allow regulations to provide matching funding for voluntary industry contributions for R&D activities related to dairy products, up to the ‘retention limit’ described in subsection 6(4).
The retention limit is the lesser of the 0.5% GVP cap and the 50% of eligible expenditure cap.

**Egg Industry Service Provision Act 2002**

**Item 3**  
Section 4 (at the end of the definition of matching amounts)

This item inserts a new paragraph into the definition of “matching amounts” to allow the regulations to specify that other amounts may be included in the amounts that can be matched by the Commonwealth. This amendment will allow regulations to provide matching funding for voluntary contributions for R&D activities related to eggs, up to a specified amount. Matching funding will not be provided above the ‘retention limit’ set by subsection 8(3). The retention limit is the lesser of the 0.5% GVP cap and the 50% of eligible expenditure cap.

**Item 4**  
After subsection 8(2) – Appropriation for payments under funding contract etc.

This item inserts a subsection 8(2A) to allow the regulations to prescribe that the overall limit for matching funding (paragraph 8(2)(c)) does not apply. This amendment will allow regulations to provide matching funding for voluntary contributions for R&D activities related to eggs, up to the ‘retention limit’ described in subsection 8(3). The retention limit is the lesser of the 0.5% GVP cap and the 50% of eligible expenditure cap.

**Forestry Marketing and Research and Development Services Act 2007**

**Item 5**  
Subsection 9(3) – Appropriation for payments under funding contract etc.

This item amends subsection 9(3) to allow the regulations to specify that “other amounts” may be included in the overall limit for matching payments. This amendment will allow regulations to provide matching funding for voluntary industry contributions for R&D activities related to forestry products, up to a specified amount. Matching funding will not be provided above the ‘annual limit’ set by subsection 9(4). The annual limit is the lesser of the 0.5% GVP cap and the 50% of eligible expenditure cap.

**Item 6**  
After subsection 9(3) – Appropriation for payments under funding contract etc.

This item inserts a subsection 9(3A) to allow the regulations to prescribe that the overall limit for matching funding (subsection 9(3)) does not apply. This amendment will allow regulations to provide matching funding for voluntary industry contributions for R&D activities related to forestry products, up to the ‘annual limit’ described in subsection 9(4). The annual limit is the lesser of the 0.5% GVP cap and the 50% of eligible expenditure cap.

**Pig Industry Act 2001**

**Item 7**  
Subsection 10(6) – Appropriation for payments under funding contract etc.

This item amends subsection 10(6) to allow the regulations to specify that other amounts may be included in the overall limit for matching payments. This amendment will allow
regulations to provide matching funding for voluntary contributions for R&D activities related to pigs, up to a specified amount. Matching funding will not be provided above the ‘retention limit’ set by subsection 10(8).

This item also inserts a new subsection (10(6A)) to allow the regulations to prescribe that the overall limit for matching funding (subsection 10(6)) does not apply. This amendment will allow regulations to provide matching funding for voluntary contributions for R&D activities related to pigs, up to the ‘retention limit’ described in subsection 10(8). The retention limit is the lesser of the 0.5% GVP cap and the 50% of eligible expenditure cap.

**Primary Industries and Energy Research and Development Act 1989**

**Item 8** paragraph 30A(2)(b) – Payments to an R&D Corporation established in respect of the fishing industry

This item amends section 30A(2)(b) which imposes a cap on matching funding provided for fisheries levies. The section applies one of two caps based on the GVP of Commonwealth fisheries (paragraphs (i) and (ii)) and also states that the amount of matching funding must not exceed the amount of levy funding paid to the R&D corporation (the ‘levies paid cap’). The amendment qualifies the ‘levies paid cap’ to allow the regulations to provide that it does not apply. This amendment will allow regulations to provide matching funding for voluntary contributions for R&D activities related to fisheries, up to the relevant GVP cap.

Once the amendments outlined in Schedule 4 of this Bill come into effect, this item will not apply to separately levied industries. However, the new section 30B makes similar arrangements for the matching of voluntary contributions in relation to a separately levied fishery.

**Item 9** at the end of subsection 30A(2) – Payments to an R&D Corporation established in respect of the fishing industry

This item inserts a paragraph at the end of subsection 30A(2) to allow the regulations to specify that other amounts may be paid to the R&D Corporation. This amendment will allow regulations to provide matching funding for voluntary industry contributions for R&D activities related to fisheries, up to a specified level. Matching funding will not be provided above the applicable GVP cap.

Once the amendments outlined in Schedule 4 of this Bill come into effect, this subsection will not apply to separately levied industries. However, the new section 30B makes similar arrangements for the matching of voluntary contributions in relation to a separately levied fishery.

**Item 10** at the end of subsection 30B(2) – Separately levied fishery payments

This item inserts a paragraph at the end of subsection 30B(2) to allow the regulations to specify that other amounts may be paid to the R&D Corporation. This amendment will allow regulations to provide matching funding for voluntary industry contributions for R&D activities related to separately levied fisheries, up to a specified level. Matching funding will not be provided above the applicable GVP cap.
Item 11  At the end of subsection 31(1) – Government matching payments not to exceed levy and certain other payments

This item inserts a paragraph at the end of subsection 31(1) to allow the regulations to specify that other amounts paid to an R&D Corporation can be included in the calculation of the cap imposed by section 31. This amendment will allow regulations to provide matching funding for voluntary industry contributions for R&D activities, up to a specified level. Matching funding will not be provided above the retention limit described in section 32.

Wool Services Privatisation Act 2000

Item 12  Subsection 31(6) – Funding contract with research body

This item amends subsection 31(6) to allow the regulations to specify that other amounts may be included in the overall limit for category B payments (matching payments). This amendment will allow regulations to be amended to provide matching funding for voluntary industry contributions for R&D activities related to wool, up to a specified level. Matching funding will not be provided above the ‘retention limit’ for category B payments set by subsection 31(7).

This item also inserts a new subsection (31(6A)) to allow the regulations to prescribe that the overall limit for category B payments (subsection 31(6)) does not apply. This amendment will allow regulations to be amended to provide matching funding for voluntary contributions for R&D activities related to wool, up to the ‘retention limit’ for category B payments described in subsection 31(7). The ‘retention limit’ is the lesser of the 0.5% GVP cap and the 50% of eligible expenditure cap.

Schedule 6—Selection committees

Primary Industries and Energy Research and Development Act 1989

Item 1  Subsection 17(3) – Appointment of directors

This item allows the directors of an R&D Corporation to be selected from a list of suitable nominees that has been provided to the Minister as a result of a previous selection process.

Under the current arrangements, a full selection process must be conducted for every board vacancy that arises for an R&D Corporation, even if the vacancy arises shortly after a selection process has been conducted. This amendment will allow a suitable candidate identified in a selection process, completed within the previous 12 months, to be nominated by the selection committee as a board director, without the selection committee conducting another full process.

Item 2  Subsection 122(1) – Presiding Members of Selection Committees

This item replaces “selection committees” with “the selection committee” as, at a given time, there is only one selection committee for each R&D Corporation.
Item 3  Subsection 123(1) – Minister may request the establishment of a Selection Committee

This item replaces “selection committees” with “the selection committee” as, at a given time, there is only one selection committee for each R&D Corporation.

Item 4  Paragraphs 123(1)(c) and (ca) – Minister may request the establishment of a Selection Committee

This item removes the requirement for the Minister to request the Presiding Member of a selection committee to ask each of the Corporation’s representative organisations to have regard to the desirability of reflecting a diversity of expertise, experience and gender among the persons nominated. The requirements relating to the consideration of expertise, experience and gender among nominees will be detailed in sections 124 and 125.

Item 5  Subsections 124(1) and (2) – Establishment of Selection Committees—R&D Corporations

This item amends the process for establishing a selection committee for an R&D Corporation. Currently, a new selection committee is established for every selection process. The new arrangements (further described under item 9) will allow a selection committee to remain in place for up to three years.

The amendments require the Presiding Member to establish a selection committee on request by the Minister. The selection committee will consist of the Presiding Member and up to four other members, appointed by the Minister.

The Presiding Member will nominate selection committee members to the Minister, following consultation with industry representative organisations. The Presiding Member must consider the desirability of reflecting diversity (including but not limited to a diversity of expertise, experience and gender) when evaluating potential members for nomination. This process replaces the current process where the representative organisations make nominations to the Minister.

The new arrangements provide representative organisations with an opportunity to propose persons for nomination, while also ensuring that the selection committee is comprised of persons with an appropriate mix of expertise, experience and diversity.

Item 6  Subsection 124(3) – Establishment of Selection Committees—R&D Corporations

This item requires the Minister to appoint the persons nominated by the Presiding Member to the selection committee of an R&D Corporation.
Item 7  **Subsections 125(2), (3) and (4) – Establishment of Selection Committees—predominantly Commonwealth funded R&D Corporations**

This item makes amendments to the process for establishing a selection committee for predominantly Commonwealth funded R&D Corporation. The amendments duplicate the process described under item 5 of this schedule.

Item 8  **Subsection 125(5) – Establishment of Selection Committees—predominantly Commonwealth funded R&D Corporations**

This item requires the Minister to appoint the persons nominated by the Presiding Member to the selection committee of a predominantly Commonwealth funded R&D Corporation.

Item 9  **Section 129 – Presiding Member to abolish Selection Committee**

This item changes the arrangements for abolishing a selection committee. Currently, the selection committee is abolished at the end of a selection process. The amendments allow the selection committee to continue for the same period of time as the Presiding Member who established the committee (up to three years). If the term of office of the Presiding Member (and therefore other committee members) ends while a selection process is underway, the selection committee may continue until that selection process is complete.

Item 10  **Subsection 130(1) – Nominations to be made by Selection Committees**

This item requires the selection committee to consider the desirability of reflecting diversity (including but not limited to a diversity of expertise, experience and gender) when making nominations to the Minister for board appointments. This is in addition to the existing statutory selection criteria. The intention of this amendment is to ensure that R&D Corporation boards are composed of persons with an appropriate mix of expertise, experience and diversity.

Item 11  **At the end of subsection 130(2) – Nominations to be made by Selection Committees**

This item requires the selection committee to provide the Minister with a list, in addition to the nominated candidates, of any other candidates that are considered suitable for nomination to the board of an R&D Corporation.

The purpose of this list is to provide additional candidates in the event that the Minister rejects a nominated candidate. The list may also be used to nominate candidates in subsequent selection processes.

Item 12  **At the end of paragraph 130(3)(b) – Nominations to be made by Selection Committees**

This item requires the selection committee, in making nominations to the Minister for board appointments, to provide the Minister with advice on how the nomination or nominations will best ensure that the directors collectively possess appropriate diversity. This is in addition to the requirement for the selection committee to provide advice to the Minister on how the
nomination or nominations will best ensure that the directors collectively possess an appropriate balance of expertise and experience in board affairs.

**Item 13  Paragraph 131(1)(m) – Selecting persons for nomination**

This item replaces ‘sociology’ with ‘communication’ in the list of fields of expertise that selection committees must refer to in making nominations for directors. This amendment more accurately reflects RDC board needs.

**Item 14  Subsection 131(1B) – Selecting persons for nomination**

This item repeals a redundant subsection that refers to nominations for appointment to R&D Councils.

**Item 15  At the end of section 131 – Selecting persons for nomination**

This item adds a subsection 131(4) to allow the selection committee to nominate a person who was listed as suitable, within the previous 12 months, in a previous selection process for a board vacancy. If there is such a list of suitable persons, a selection committee must look at the existing list to determine whether a suitable candidate could be nominated from it, before advertising the position. Paragraph 131(4)(b) states that the person nominated must not have already been nominated to the Minister in respect of the currently available position.

**Item 16  Section 132 – Selection Committee to make only one nomination**

Section 132 is re-numbered.

**Item 17  At the end of section 132 – Selection Committee to make only one nomination**

This item inserts additional subsections at the end of section 132. The additional subsections require the selection committee, when making nominations to the Minister for board appointments, to provide details of the expertise and experience of the nominees. The selection committee must also provide the Minister with a list of other persons suitable for nomination, along with details of the expertise and experience of the persons on the list. In the event that the Minister rejects a nominee, this amendment will allow the Minister to appoint another person from the list, if there is a candidate with the appropriate experience and expertise for the position.

**Items 18 and 19  Subsection 134(1) – Minister may reject nomination**

In the event that the Minister finds a nominee for a board appointment unsuitable, and the list of additional candidates does not provide a person suitable for appointment, this item allows the Minister to request another nomination from the selection committee. In this situation, the selection committee would need to run another selection process to provide the Minister with a new nomination.

**Item 20  Subsection 134(2) – Minister may reject nomination**

This item omits the reference to section 126, which is obsolete.
Item 21  Paragraph 135(1)(c) – Selection arrangements for proposed R&D Corporations

This item replaces “selection committees” with “the selection committee” as, at a given time, there is only one selection committee for each R&D Corporation.

Item 22  Section 136 – Selection arrangements for the RIR&D Corporation before its establishment

Section 136 is repealed. This section outlines selection arrangements for the Rural Industries Research and Development Corporation before its establishment, and is obsolete.

Item 23  Subsection 141(1) – Annual reports of Selection Committees

This item replaces “selection committees” with “the selection committee” as, at a given time, there is only one selection committee for each R&D Corporation.

Item 24  Subsection 141(1AA) – Annual reports of Selection Committees

This item makes a minor change to the wording of the subsection to reflect that there will be one selection committee for each R&D Corporation.

Item 25  Subsection 141(3) – Annual reports of Selection Committees

This item replaces “selection committees” with “a selection committee” as, at a given time, there is only one selection committee for each R&D Corporation.

Item 26  Partly completed selection processes

This item allows any selection processes that are ongoing when this schedule commences to continue according to the current arrangements for board appointments. Any selection process that starts after this schedule commences will follow the amended arrangements as outlined in this schedule.

Schedule 7—Delegations and directions

Part 1 – Delegations

Australian Meat and Live-stock Industry Act 1997

Item 1  Section 70 – Delegations

This item amends the delegation provisions of the Act. The amendments allow the Minister to delegate powers to either the Secretary of the Department, or an APS employee at an SES Band 1 or higher level. The Secretary of the Department may delegate powers to an APS employee at an SES Band 1 or higher level. The amendments make the delegation provisions in the Act consistent with those in other industry service provision Acts.
The exemptions on delegation powers remain unchanged. The Minister may not delegate powers or functions provided under section 69 of the Act (Ministerial directions), and the Secretary may not delegate powers or functions provided under section 49 of the Act (appointing authorised officers).

**Horticulture Marketing and Research and Development Services Act 2000**

**Item 2 Section 32 – Delegations**

This item amends the delegation provisions of the Act. The amendments allow the Minister to delegate powers to either the Secretary of the Department, or an APS employee at an SES Band 1 or higher level. The Secretary of the Department may delegate powers to an APS employee at an SES Band 1 or higher level. The amendments make the delegation provisions in the Act consistent with those in other industry service provision Acts.

The exemption on delegation powers remains unchanged. The Minister may not delegate powers or functions provided under section 29 of the Act (Ministerial directions).

**Primary Industries and Energy Research and Development Act 1989**

**Item 3 After section 143**

This item inserts a new section (143A – Delegations) to allow the Minister to delegate powers to either the Secretary of the Department, or an APS employee at an SES Band 1 or higher level. The Minister is currently able to delegate powers under the Carltona principle, however the amendment clarifies this arrangement. The Minister may not delegate powers under section 143 of the Act (Ministerial directions).

**Wool Services Privatisation Act 2000**

**Item 4 Section 38 – Delegations**

This item amends the delegation provisions of the Act. The amendments allow the Minister to delegate powers to either the Secretary of the Department, or an APS employee at an SES Band 1 or higher level. The amendments make the delegation provisions in the Act consistent with those in other industry service provision Acts.

Minister may not delegate powers or functions provided under section 33A of the Act (Ministerial directions).
Part 2 – Ministerial directions

Dairy Produce Act 1986

Item 5 After section 126

This item inserts a new section (126A) to allow the Minister to give written directions to the industry services body in certain circumstances. The industry services body is currently Dairy Australia Limited. The Ministerial direction powers are consistent with those in other industry service provision Acts.

The Minister may give a written direction if the direction is in Australia’s national interest because of exceptional and urgent circumstances and if it will not cause the body to incur expenses greater than the amounts it is paid. The Minister must give the body’s directors an adequate opportunity to discuss with the Minister the need for the proposed direction. This discussion must be in accordance with any arrangements in the body’s funding contract. It is envisaged that the funding contract will spell out details of the overall process under which consultation would occur in relation to proposed directions. The direction must be made for a purpose within the Commonwealth’s legislative powers. The industry services body must comply with the direction.

The direction must be published in the Gazette and tabled in each House of Parliament. The annual report of the industry services body must include particulars of the direction and an assessment of the impact that the direction has had on the operations of the body.

The Minister must give the industry service body’s directors an adequate opportunity to discuss with the Minister the impact of publication and tabling of the direction. The direction need not be published, tabled or included in the annual report if the Minister, on the recommendation of the body, determines that publication is likely to prejudice the commercial activities of the body. The direction also need not be published, tabled or included in the annual report if the Minister determines that this would be contrary to the public interest.

The power to make directions does not mean that the Minister is a director of the body, or that the Commonwealth is in a position to exercise control over the industry services body.

Wool Services Privatisation Act 2000

Item 6 Section 7 – Definitions

This item inserts a definition for “research body”, which is the body declared under section 30 of the Act.

Item 7 After section 33

This item inserts a new section (33A) to allow the Minister to give a written direction to the research body in certain circumstances. The research body is currently Australian Wool Innovation Limited. The Ministerial direction power is consistent with those in other industry service provision Acts.
The Minister may give a written direction if the direction is in Australia’s national interest because of exceptional and urgent circumstances and if it will not cause the body to incur expenses greater than the amounts it is paid. The Minister must give the body’s directors an adequate opportunity to discuss with the Minister the need for the proposed direction. This discussion must be in accordance with any arrangements in the body’s funding contract. It is envisaged that the funding contract will spell out details of the overall process under which consultation would occur in relation to proposed directions. The direction must be made for a purpose within the Commonwealth’s legislative powers. The research body must comply with the direction.

The direction must be published in the Gazette and tabled in each House of Parliament. The annual report of the research body must include particulars of the direction and an assessment of the impact that the direction has had on the operations of the body.

The Minister must give the research body’s directors an adequate opportunity to discuss with the Minister the impact of publication and tabling of the direction. The direction need not be published, tabled or included in the annual report if the Minister, on the recommendation of the body, determines that publication is likely to prejudice the commercial activities of the body. The direction also need not be published, tabled or included in the annual report if the Minister determines that this would be contrary to the public interest.

The power to make a direction does not mean that the Minister is a director of the body, or that the Commonwealth is in a position to exercise control over the research body.

Schedule 8—Marketing activities

Primary Industries and Energy Research and Development Act 1989

Item 1 Section 3 – Objects

This item amends the objects of the Act to include a provision for marketing activities in relation to products of primary industries. This amendment reflects the role of the R&D Corporations which has been extended to include marketing, where this has been requested by industry.

The item also includes two new subparagraphs ((iv) and (v)) in the objects of the Act to reflect the interest of the R&D Corporations in developing and maintaining the research workforce, and in developing the ability of primary producers to adopt the outcomes of research.

Item 2 Subsection 4(1) – Definitions

This item inserts definitions for “marketing activities” – which means the marketing, advertising or promotion of products of primary industries – and for “marketing component” – which means the component of a levy which is declared by the regulations to be used for marketing purposes.
Item 3  After paragraph 5(3)(a) – Levies attached to R&D Corporations

This item inserts a paragraph to require the regulations to declare, for a levy that has a marketing component, the proportion of that levy that is for marketing. This is needed so that the funds to be spent by the R&D Corporation on marketing are clearly separated from the funds that are to be spent on R&D activities.

Item 4  After paragraph 11(e) – Functions

This item inserts a paragraph into the functions of R&D Corporations to allow an R&D Corporation to undertake marketing activities, where there is a marketing levy attached to the Corporation.

Item 5  Paragraph 12(1)(a) and (b) – Powers

This item amends paragraphs 12(1)(a) and 12(1)(b) to reflect that R&D Corporations may enter into agreements with other persons for carrying out marketing activities, as well as R&D activities.

Item 6  Section 13 (heading) – Agreements for carrying out R&D activities by other persons

The title of the section is amended to reflect the change made by Item 7.

Item 7  Subsection 13(1) – Agreements for carrying out R&D activities by other persons

This item amends subsection 13(1) to allow an R&D Corporation to enter into an agreement with another person for the other person to carry out marketing activities, if there is a marketing levy attached to the R&D Corporation.

Item 8  Section 14 (heading) – Agreements for carrying out R&D activities with other persons

The title of the section is amended to reflect the change made by Item 9.

Item 9  Subsection 14(1) – Agreements for carrying out R&D activities with other persons

This item amends subsection 14(1) to allow an R&D Corporation to enter into an agreement with another person for marketing activities to be carried out by the Corporation and the other person, if there is a marketing levy attached to the R&D Corporation.

Item 10 Paragraphs 14(2)(a) to (d) – Agreements for carrying out R&D activities with other persons

This item amends paragraphs 14(2)(a) to (d) which refer to matters that may be included in agreements with other persons. In each paragraph “R&D activities” is replaced with “activities” so that the paragraphs cover marketing as well as R&D activities.
Item 11  **Paragraph 25(2)(a) – Annual operational plans**

This item amends the paragraph to require the annual operational plan for an R&D Corporation to include any marketing activities that the R&D Corporation proposes to fund during the financial year.

Item 12  **Subsection 25(3) – Annual operational plans**

This item amends the paragraph to require the annual operational plan for an R&D Corporation to include any marketing activities that the R&D Corporation is prepared to fund during the financial year.

Item 13  **After subparagraph 28(1)(a)(i) – Annual report**

This item inserts a subparagraph to require the annual report of an R&D Corporation to include the particulars of any marketing activities undertaken by the R&D Corporation.

Item 14  **Before subsection 30(1) – Payments to R&D Corporation—general**

This item inserts a subsection at the beginning of section 30. This subsection has the effect of excluding expenditure on marketing activities from the R&D expenditure that is eligible for Commonwealth matching funding.

Item 15  **At the end of paragraph 30(1)(a) – Payments to R&D Corporation—general**

This item inserts a paragraph to allow a marketing component of a levy to be paid to an R&D Corporation, if it is attached to the R&D Corporation.

Item 16  **At the end of paragraph 30A(1)(a) – Payments to R&D Corporation established in respect of the fishing industry**

This item inserts a paragraph to allow a marketing component of a levy to be paid to an R&D Corporation established in respect of the fishing industry, if that levy is attached to the R&D Corporation.

Item 17  **After section 33 – Expenditure of money of R&D Corporation**

This item inserts a new section (33A) to specify that only money collected from a marketing levy may be spent on marketing activities.

Item 18  **Paragraph 40(1)(a) – Separate accounting records**

This item replaces “R&D activities” with “activities” to allow the regulations to require an R&D Corporation to keep separate accounting records in relation to specified classes of activities, which could include marketing activities as well as R&D activities.
Item 19  Subsection 40(2) – Separate accounting records

This item replaces “R&D activities” with “activities” to allow the regulations to make provision in relation to the expenditure of marketing money for which separate accounting records are specified under Item 18.

Item 20  Subparagraph 60(1)(d)(i) – Purpose of annual general meeting

This item specifies that the proposed marketing component of a levy may not be debated or voted upon at an R&D Corporation’s annual general meeting unless the motion is moved on behalf of the Corporation to endorse a proposed Corporation recommendation to the Minister. The Act currently imposes this restriction in relation to the research component of a levy.

Item 21  Paragraph 61(e) – Regulations may provide for certain matters

This item allows the regulations to take into consideration a marketing component of the levy in prescribing the method of determining the number of votes that an eligible levy payer is entitled to cast at an annual general meeting of an R&D Corporation.

Wool Services Privatisation Act 2000

Item 22  Paragraph 31(2)(a) - Funding contract with research body

This item specifically includes “marketing activities” in the list of activities on which research body may spend “category A” payments. Category A payments relate to the wool levy, and currently may be spent on R&D activities, other activities, or both. Marketing falls within “other activities”, and category A payments can therefore already be used to fund marketing. The amendment will better reflect the fact that both R&D and marketing activities are major components of the research body’s responsibilities.

Item 23  Subsection 32(3) – Setting the rate of wool levy

This item allows the timing of Wool Levy Poll to be prescribed in regulations. At present, the Act refers to making recommendations regarding the rate of wool levy not later than “the third anniversary of the previous recommendation.” This is replaced by “the time prescribed by the regulations”. The Wool Levy Poll Regulations 2003 will be amended to specify that recommendations on the rate of the wool levy are to be made not later than the third anniversary of the previous recommendation.

The amendment will not change current practice, but would allow future changes to occur through an amendment to the regulations. This approach is consistent with the arrangements for other R&D Corporations.
Schedule 9—Miscellaneous amendments

**Egg Industry Service Provision Act 2002**

**Item 1**  **Paragraph 7(2)(a) – Funding contract**

The paragraph is amended to include ‘egg products’ in the definition of permitted spending of promotion payments, and to standardise the terminology relating to marketing activities. The Australian Egg Corporation Limited funds marketing of ‘egg products’ in the interests of the egg industry, and the amendment will clarify the permitted scope of the Corporation’s marketing activities. The term ‘marketing’ is included to bring the terminology into line with other industry service provision legislation.

**Primary Industries and Energy Research and Development Act 1989**

**Item 2**  **Subsection 4(1) (paragraph (b) of the definition of R&D activity)**

This item makes a minor change to the wording of the definition of R&D Activity, to replace ‘training’ with ‘development’ of persons to carry out research and development. This change clarifies the permitted scope of activities of the R&D Corporations.

**Item 3**  **At the end of section 7 – Representative organisations**

This item requires declarations of representative organisations in relation to an R&D Corporation to be published on the Department’s website. This will allow easier access to the declarations and increase transparency.

**Item 4**  **Paragraph 11(e) – Functions**

This item amends paragraph 11(e) to clarify the scope of functions of the R&D Corporations. R&D Corporations are permitted to disseminate and commercialise the results of research and development, as well as facilitating others to do this.

**Item 5**  **Paragraph 12(1)(c) – Powers**

This item changes the wording of the paragraph to allow R&D Corporations to make applications, including joint applications, in relation to intellectual property. The present provision is limited to patents.

**Item 6**  **Paragraph 12(1)(d) – Powers**

This item changes the wording of the paragraph to allow R&D Corporations to deal with results of research and development. The present provision is limited to patents.

**Item 7**  **Section 26 – Approval of annual operational plans**

This item repeals the section that requires annual operational plans to be approved by the Minister. This amendment removes an administrative burden, and allows the Minister to focus on the strategic direction of R&D investments, rather than on the day to day management of the statutory RDC.
The section is replaced by a new section (Commencement of annual operational plan etc.) to state that the plan comes into operation on the day of commencement of the period to which the plan relates, and that it must be provided to the Minister and the representative organisations of the RDC before it comes into effect.

**Item 8**  
*Subparagraph 28(1)(a)(iia) – Annual report*

This item repeals a reporting requirement which relates to reporting on ecologically sustainable development and has been superseded by the *Environment Protection and Biodiversity Conservation Act 2001*.

**Item 9**  
*Subparagraph 28(1)(a)(iii) – Annual report*

This item removes a reference to Ministerial approval of annual operating plans, which will be abolished by Item 7.

**Item 10**  
*Subparagraph 28(1)(d)(ii) – Annual report*

This item removes a reference to Research Funds under the *Rural Industries Research Act 1985*, which is obsolete.

**Schedule 10—Repeal of spent transitional, consequential and amending provisions**

*Primary Industries and Energy Research and Development Act 1989*

**Items 1 to 3**

These items repeal the definitions of “Research Council”, “Research Fund” and “Special Research Fund”. These definitions were carried over from the repealed *Rural Industries Research Act 1985* and are now obsolete.

**Item 4**  
*Subsection 5(3) – Levies attached to R&D Corporations or R&D Funds*

This item removes a reference to subsection 5(4) which is being repealed (relating to the levy imposed by the repealed *Wheat Levy Act 1989*).

**Item 5**  
*Subsections 5(4), (5) and (6) – Levies attached to R&D Corporations or R&D Funds*

This item repeals subsections 5(4), 5(5) and 5(6) which relate to the levy imposed by the repealed *Wheat Levy Act 1989* and are obsolete.
Item 6  Part 6 – Transitional provisions and consequential amendments

This item repeals Part 6 of the Act, which outlines transitional arrangements for research funds under the repealed *Rural Industries Research Act 1985*. These transitional provisions are no longer required.

Schedule 11—Contingent amendments

*Sugar Research and Development Services Act 2013*

Item 1  Section 4 (at the end of the definition of matching amounts)

This item only comes into effect after the commencement of the *Sugar Research and Development Services Act 2013*.

The *Sugar Research and Development Services Act 2013*, along with the *Sugar Research and Development Services (Consequential Amendments and Transitional Provisions) Act 2013*, provides for the Sugar Research and Development Corporation to be wound-up, and for a new industry-owned RDC, Sugar Research Australia, to be established.

This item inserts a new paragraph into the definition of “matching amounts” to allow the regulations to specify that other amounts may be included in the amounts that can be matched by the Commonwealth. This amendment will allow regulations to provide matching funding for voluntary contributions for R&D activities related to sugar, up to a specified amount. Matching funding will not be provided above the ‘retention limit’ set by subsection 7(4). The retention limit is the lesser of the 0.5% GVP cap and the 50% of eligible expenditure cap.

Item 2  After subsection 7(3) – Appropriation for payments under funding contract etc.

This item only comes into effect after the commencement of the *Sugar Research and Development Services Act 2013*.

This item inserts a subsection 7(3A) to allow the regulations to prescribe that the overall limit for matching funding does not apply. This amendment will allow regulations to be amended to provide matching funding for voluntary contributions for R&D activities related to sugar, up to the ‘retention limit’ described in subsection 7(4). The retention limit is the lesser of the 0.5% GVP cap and the 50% of eligible expenditure cap.