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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

WOOL LEGISLATION AMENDMENT BILL 1990

WOOL TAX (NOS 1-5) FURTHER AMENDMENT BILLS 1990

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Primary
Industries and Energy, the Hon John Kerin MP
and the Treasurer, the Hon PJ Keating MP)

WOOL LEGISLATION AMENDMENT BILL 1990
WOOL TAX (NOS 1-5) FURTHER AMENDMENT BILLS 1990

GENERAL OUTLINE

The Bills amend the Wool Marketing Act 1987, the Wool Tax (Administration) Act 1964 and the Wool Tax Acts (Nos 1-5) 1964 to give effect to the Government's decisions on the Australian Wool Corporation's (AWC) Business Plan for 1990-91.

The amendments:

- . increase the rate of wool tax to 25% from 4 October 1990;
- . provide that the rate of wool tax can at a future time be increased to a maximum of 30%;
- . provide for the imposition at a future time of a wool tax surcharge at a rate not exceeding 20%;
- . reduce the rate of wool tax on carpet wool to 3.85% from 4 October 1990;
- . provide for the registration of carpet wool co-operatives and carpet yarn manufacturers;
- . provide for the issuing by registered carpet wool co-operatives and carpet yarn manufacturers of certificates specifying that the wool purchased by them is for use in carpet yarn manufacture;
- . exempt carpet wool from the Reserve Price Scheme for wool;
- . allow for a variation during a financial year of the apportionment of wool tax between the components of market support, promotion and research and development;
- . enable refund periods for the market support portion of wool tax to be other than complete financial years;
- . enable the AWC to make payments from the Market Support Fund for
 - schemes for the disposal of sheep
 - a scheme to make payments to woolgrowers whose wool was not able to be marketed until after 30 June 1990 because of the floods in Queensland and New South Wales in April/May 1990;
- . enable the AWC to hold meetings by telephone, closed-circuit television or other means of communication.

MAIN FEATURES OF THE AMENDMENTS

Increase in the maximum rate that can be set for wool tax and the actual rate of tax now imposed on wool

(refer to clauses 4 and 7 of the Wool Tax (Nos 1-5) Further Amendment Bills)

The Wool Tax Acts impose tax at the rate of 20% or a rate lower than 20% prescribed by regulation (currently 18%). The maximum rate at which tax can be imposed is, therefore, 20%. The Wool Tax (Nos 1-5) Further Amendment Bills increase the maximum rate to 30% with effect from 4 October 1990.

The Bills also increase the actual rate of tax now imposed on wool, other than carpet wool, from 18% to 25% with effect from 4 October 1990.

Reduced rate of tax for carpet wool

(refer to clauses 15 to 18 of the Wool Legislation Amendment Bill, and clauses 6 and 7 of the Wool Tax (Nos 1-5) Further Amendment Bills)

Effective from 4 October 1990 the Bills will amend the Wool Tax Administration Act and the Wool Tax Acts to reduce the rate of tax on carpet wools from 18% to 3.85%. The wool tax rate comprises 3 components. The major component is that part of the tax paid for market support. From 4 October 1990 the market support component of wool tax will not be payable by purchasers of carpet wool which results in the rate of tax on carpet wool reducing to 3.85%.

Carpet wool will be wool certified by a wool testing laboratory to be 32.0 microns or more in thickness, or wool purchased by a wool-dealer, carpet wool co-operative or a carpet yarn manufacturer that is for use in the manufacture of carpet yarn.

Exemption of carpet wool from the Reserve Price Scheme

(refer clause 13 of the Wool Legislation Amendment Bill)

Effective from 4 October 1990, the Australian Wool Corporation will no longer be obliged to offer to buy or tender for carpet wool under the Reserve Price Scheme.

New wool tax surcharge

(refer to clause 5 of the Wool Tax (Nos 1-5) Bills)

The Bills also provide for a wool tax surcharge to be imposed, if it is necessary to do so, up to a maximum amount of 20%. An amount of surcharge less than 20% can be prescribed by regulation.

Expenditure on sheep disposal schemes and "flood affected wool"

(refer clause 9 of the Wool Legislation Amendment Bill)

Effective from 4 October 1990, the Australian Wool Corporation will be able to use moneys in the Market Support Fund for the implementation of

- schemes for the disposal of sheep
- a scheme for making a payment to woolgrowers whose wool was not able to be marketed until after 30 June 1990 because of the floods in Queensland and New South Wales in April/May 1990.

Other amendments

As a result of the above main features of the Bills, consequential amendments are being made to the specified Acts.

The notes that follow explain the clauses of the Bills in more detail.

FINANCIAL IMPACT STATEMENT

There will be no net effect on revenue arising from the amendments in these Bills. While the amendments to the Wool Tax Acts (Nos 1-5) 1964 will result in an increase in revenue, this will be offset by a corresponding increase in expenditure because the wool tax collected is passed on to the Australian Wool Corporation.

NOTES ON CLAUSESWOOL LEGISLATION AMENDMENT BILL 1990

PART 1 - PRELIMINARY

Clause 1 : Short Title

1. The Act will be called the Wool Legislation Amendment Act 1990.

Clause 2 : Commencement

2. Provides for commencement of the legislation on the day it receives the Royal Assent, except for the specified sections which are to be taken to have commenced on 4 October 1990, which is to be the date of effect of the increase in the operative rate of wool tax from 18% to 25%.

PART 2 - AMENDMENTS OF THE WOOL MARKETING ACT 1987

Clause 3 : Principal Act

3. Defines the "Principal Act" as the Wool Marketing Act 1987.

Clause 4 : Interpretation

4. Clause 4 Provides for insertion in subsection 3(1) of the Principal Act of a definition of carpet wool which has the same meaning as the definition of carpet wool in the Wool Tax (Administration) Act 1964 (refer to later notes).

Clauses 5 and 6 : Meetings of Corporation

5. Clause 5 amends the Principal Act by omitting subsection 25(10).

6. Clause 6 inserts a new section 25A in the Principal Act which provides for the Corporation to regulate its proceedings as it considers appropriate; for the Corporation Chairperson to permit Corporation directors to participate in meetings of the Corporation by telephone, closed-circuit television, or any other means of communication; and for directors who participate in meetings in such ways to be considered to have been present at the meeting. The current provisions of the Principal Act refer to in-person meetings and to resolutions being made by correspondence.

Clause 7 : Determination of apportionment of wool tax

7. Subclause 7(a) inserts the words "other than carpet wool" in paragraph 46(1)(a) of the Principal Act, so that carpet wool is exempted from the market support portion of wool tax.

8. Subclauses 7(b) and (c) replace "that value" with "the sale value of shorn wool" in paragraphs 46(1)(b) and (c) of the Principal Act so that all shorn wool is liable to pay the promotion and research and development portions of the wool tax on the sale value of that wool. The amendment is necessary because of the amendment in subclause 7(a).

9. Subclause 7(d) omits subsection 46(2) and inserts new subsections which allows for variations, during a financial year, of determinations already made regarding apportionment of wool tax. The proposed subsection 46(1A) enables the Wool Council, at any time after it has determined percentages of apportionment of the wool tax for a particular financial year, to subsequently vary those percentages before the end of the same financial year. The proposed subsection 46(2) provides that the apportionment as determined or as varied must not be less than certain minimum percentages - in the case of shorn wool other than carpet wool, the apportionment for market support and promotion must not be less than 2.5% each; for carpet wool the apportionment for promotion must not be less than 2.5%; and for all shorn wool the apportionment must not be less than 0.25%. In addition, the total of the apportionments for a particular type of wool must be equal to the percentage rate of tax, other than additional tax, imposed for that wool under a Wool Tax Act.

10. Subclause 7(e) provides that the Wool Council shall take into consideration the recommendations of the Corporation before determining or varying the apportionment of wool tax.

11. Subclause 7(f) omits subsections 46(4) and (5) and inserts three new subsections. Proposed subsection 46(4) requires that Wool Council, as soon as practicable after determining or varying percentages of apportionment, must give to the Minister and the Corporation details of the apportionment. Proposed subsection 46(5) requires the Minister, as soon as practicable after receiving details of a determination or variation of the percentages of apportionment, to cause those details to be published in the Gazette. Proposed subsection 46(6) enables a variation of a percentage to take effect on the day (which may be a day before the day of variation) fixed by the Minister and published in the Gazette, and to continue in effect until the end of the financial year or if, during that financial year the percentage is again varied, until the next variation takes place. This subsection recognises that a particular rate of wool tax may be prescribed from a certain date and that the apportionment of that rate will be subsequently published and will take effect from the same date as the prescribed rate.

Clause 8 : Payments to Corporation

12. Clause 8 amends section 47 of the Principal Act by omitting subsection 47(1) and inserting a new subsection 47(1) which provides that where all the tax and additional tax imposed on particular shorn wool by the Wool Tax Acts has been received by the Commonwealth, the amounts as specified are payable to the Corporation. The "additional tax" referred to in proposed paragraph 47(1)(d) is the proposed tax to be imposed under the Wool Tax Acts.

Clause 9 : Dealings with Market Fund

13. Subclause 9(a) provides for amounts paid to the Corporation under paragraph 47(1)(a) (market support portion of wool tax on shorn wool other than carpet wool) and under paragraph 47(1)(d) (additional tax on shorn wool other than carpet wool) to be credited to the Market Support Fund.

14. Subclause 9(b) provides for Market Support Fund money to be used for the implementation of schemes for the disposal of sheep.

15. Subclause 9(c) provides for Market Support Fund money to be used, with the agreement of Wool Council, for the implementation of a scheme for making payments to woolgrowers for wool, the marketing of which was delayed until after 30 June 1990 by the flooding that occurred in April and May 1990 in Queensland and New South Wales.

16. Subclause 9(d) inserts two new subsections. Proposed subsection 49(5) provides that the Corporation is not authorised to provide from the Market Support Fund, in a particular financial year, more money for sheep disposal schemes than the amount approved by the Minister for that year. Proposed subsection 49(6) provides that the payment for "flood affected" wool only applies to wool produced during 1989-90 which, in the Corporation's opinion, would normally have been offered for auction sale in 1989-90 had the flooding not occurred.

Clause 10 : Refund Periods

17. The amendments in clauses 10 (a) to (d) provide for refund periods to be any specified period of time and not limited to financial years as currently specified in section 50 of the Principal Act. Subclause 10(e) inserts three new subsections. Proposed subsection 50(3) provides that refund periods in the specified subsections relate to the market support portion of the wool tax paid to the Corporation under paragraph 47(1)(a) of the Principal Act or section 84A of the Wool Industry Act 1972. This allows refunds to be made at some future date of wool tax contributed in the period since 1 July 1985. Refunds for periods prior to that date have already been made. Proposed subsections 50(4) and (5) provide that the Minister may by notice in the Gazette declare a refund period for the amount of additional tax paid to the Corporation under paragraph 47(1)(d) and that, before making such a declaration, the Minister must take into consideration any recommendations regarding the period which have been made by the Corporation.

Clause 11 : Copy of Registers under Administration Act to be given to Corporation

18. Clause 11 provides for a copy of the register of carpet wool co-operatives and carpet yarn manufacturers (section 16A of the Administration Act) to be given to the Corporation, in addition to copies of the registers of manufacturers and exporters already given to the Corporation.

Clause 12 : Information relating to wool tax to be given to Corporation

19. Clause 12 amends section 51B by deleting reference to "section 5 of" (a Wool Tax Act) so that information on all tax payable under a Wool Tax Act (which includes additional tax, if any, imposed) can be given to the Corporation.

Clause 13 : Special Provision regarding carpet wool

20. Clause 13 provides for exclusion of carpet wool from the reserve price scheme, by releasing the Corporation from any obligation to buy or tender for carpet wool, when carpet wool attracts a rate of wool tax (other than additional tax which is not imposed on carpet wool) lower than a rate of tax for other shorn wool.

Clause 14 : Deferral of Sales

21. Clause 14 corrects an inadvertent omission of the word "section" in a previous amendment to the Act.

PART 3 - AMENDMENTS OF THE WOOL TAX (ADMINISTRATION) ACT 1964

Purpose of Part 3 of the Bill

The purpose of this Part is to amend the Wool Tax (Administration) Act to ensure that wool is only eligible for the reduced rate of tax on carpet wool if the thickness of the wool is 32.0 microns or more, or the wool is actually used to manufacture carpet yarn.

Clause 15 : Principal Act

22. This clause provides for the Wool Tax (Administration) Act 1964 to be referred to in Part 3 of the Bill as the 'Principal Act'.

Clause 16 : Interpretation

23. Clause 16 of the Bill amends the interpretation provisions in section 4 of the Principal Act. The clause will insert four new definitions - "carpet wool", "registered carpet wool co-operative", "registered carpet yarn manufacturer" and "registered laboratory" and three new subsections (6) to (8) concerning certification of wool that is for use in the manufacture of carpet yarn.

24. The definitions are inserted by paragraph (a) of clause 16 and have the following meanings:

"carpet wool" means -

(a) shorn wool (a term defined to mean unprocessed, apart from scouring or carbonising, sheep's wool or lambs' wool obtained by shearing) of a quantity that is not less than a bale that has been certified by a registered laboratory (also a defined term - refer later notes on this clause) to be not less than 32.0 microns in thickness, or

(b) shorn wool purchased by a registered carpet wool co-operative or a registered carpet yarn manufacturer (both of which are defined terms - refer to later notes on this clause) and only used to manufacture carpet yarn, or

(c) shorn wool purchased by a wool-dealer who is registered under the Principal Act, for sale to a registered carpet wool co-operative or registered carpet yarn manufacturer.

"registered carpet wool co-operative" means -

a carpet wool co-operative registered under proposed section 16A inserted into the Principal Act by clause 17 of the Bill (refer to later notes on that clause).

"registered carpet yarn manufacturer" means -

a carpet yarn manufacturer registered under proposed section 16A inserted into the Principal Act by clause 17 of the Bill (refer to later notes on that clause).

"registered laboratory" means -

a laboratory registered under regulations prescribed for the purposes of the definition of registered laboratory in section 3 of the Wool Marketing Act 1987.

25. Paragraph (b) of clause 16 adds three new subsections, (6), (7), and (8), to section 4 of the Principal Act.

26. Proposed subsection (6) relates to the requirement in paragraph (b) of the definition of carpet wool (refer earlier notes on this clause explaining that definition) that to be carpet wool for the purposes of the Principal Act wool purchased by a carpet wool co-operative or a carpet wool manufacturer must be used only to manufacture carpet yarn. Under new subsection (6), for wool to be taken to be only for use in the manufacture of carpet yarn, the purchaser must give a certificate to the seller stating that the wool is purchased for use exclusively in the manufacture of carpet yarn (paragraph (a)) or for processing for use in the manufacture of carpet yarn (paragraph (b)).

27. Paragraph (c) of the definition of carpet wool dealt with earlier in these notes, provides that carpet wool includes shorn wool purchased by a wool-dealer for sale to a carpet wool co-operative or manufacturer.

28. By new subsection (7) the wool will not be taken to be carpet wool unless the wool-dealer gives the seller a certificate that the wool is purchased for sale to a registered carpet wool co-operative or registered carpet yarn manufacturer and for use only to manufacture carpet yarn.

29. New subsection (8) provides that the reference in paragraph (a) of the definition of carpet wool (refer earlier notes on this clause) to a certificate issued by a registered laboratory will be to the last certificate issued before the wool is sold. This will overcome difficulties that may arise if more than one certificate is issued in respect of a quantity of shorn wool.

Clause 17 : Registration of carpet wool co-operatives and manufacturers of carpet yarn

30. Clause 17 inserts proposed section 16A into the Principal Act. This section sets out the procedures for registering as a carpet wool co-operative or a manufacturer of carpet yarn.

31. Subsection (1) of proposed section 16A requires the application for registration to be made in writing in a form approved by the Commissioner of Taxation (paragraph (a)) and in the manner prescribed under the Wool Tax (Administration) Regulations (paragraph (b)).

32. On receipt of the application for registration the Commissioner is required by subsection (2) of the proposed section to immediately register the name of the applicant in a register of co-operatives if the applicant is a co-operative (paragraph (a)) or a register of manufacturers if the applicant is a manufacturer (paragraph (b)).

33. Where a person, organisation or body has been registered under subsection (2), subsection 3 of the proposed section requires the Commissioner to notify the person, organisation or body, in writing, of the registration.

34. Where a carpet wool co-operative is dissolved, subsection (4) of proposed section 16A provides that registration of the co-operative ceases immediately and requires the Commissioner to remove the name from the register.

35. Where a registered manufacturer dies, or, in the case of a company, is dissolved, by subsection (5) of the new section registration of the manufacturer ceases immediately and the Commissioner is required to remove the name of the manufacturer from the register.

36. Subsection (6) of proposed section 16A requires the Commissioner to cancel the registration of a carpet wool co-operative or a manufacturer that applies in writing to the Commissioner, in the form prescribed under the Wool Tax (Administration) Regulations, for cancellation of the registration. The subsection also requires the Commissioner to notify the co-operative or manufacturer when the registration is cancelled.

Clause 18 : Certificates by registered carpet wool co-operatives, registered carpet yarn manufacturers and registered wool-dealers

37. Clause 18 inserts proposed sections 22A and 22B into the Principal Act. Section 22A sets out requirements concerning notification of the Commissioner where a person is authorised to sign a certificate, on behalf of a carpet wool co-operative or manufacturer, that wool is purchased exclusively for use in the manufacture of carpet yarn.

38. Where a carpet wool co-operative authorises a person to sign a certificate on its behalf, subsection (1) of proposed section 22A will require the co-operative to immediately notify the Commissioner and to provide him with a specimen signature.

39. Subsection (2) of proposed section 22A requires a carpet wool manufacturer to immediately notify the Commissioner and send the Commissioner a specimen signature if a person is authorised to sign a certificate on the manufacturer's behalf.

40. Where a carpet wool co-operative or manufacturer cancels the authority of a person to sign such certificates, proposed subsection (3) provides that the co-operative or manufacturer must notify the Commissioner of the cancellation as soon as is reasonably practicable. Failure to provide such notification may result in a penalty of \$1000.

41. New section 22B, which is also inserted by this clause, sets out requirements concerning notification to the Commissioner where a person is authorised to sign a certificate, on behalf of a wool-dealer, that wool is purchased for sale to a registered carpet wool co-operative or a registered carpet yarn manufacturer.

42. Proposed subsection (1) requires a wool-dealer who authorises a person to sign certificates on the wool-dealer's behalf to immediately notify the Commissioner to provide the Commissioner with a specimen signature.

43. Where an authorisation referred to in subsection (1) is cancelled, the wool-dealer is required by proposed subsection (2) to notify the Commissioner as soon as possible. Failure to so notify the Commissioner may result in a penalty of \$1,000.

WOOL TAX (NOS 1-5) FURTHER AMENDMENT BILLS 1990

44. Wool tax is imposed by five separate Acts, namely the Wool Tax Acts (Nos 1-5) 1964. Each Act provides for tax to be imposed in five different situations.

- Wool Tax Act (No 1) 1964 - imposes tax on shorn wool produced in Australia and sold by a wool-broker.
- Wool Tax Act (No 2) 1964 - imposes tax on shorn wool produced in Australia and purchased by a registered wool-dealer from a person other than a wool-broker.
- Wool Tax Act (No 3) 1964 - imposes tax on shorn wool produced in Australia and subjected by a manufacturer to a process of manufacture.
- Wool Tax Act (No 4) 1964 - imposes tax on shorn wool produced in Australia and subjected by a manufacturer to a process of manufacture.
- Wool Tax Act (No 5) 1964 - imposes tax on shorn wool, produced in, and exported from Australia.

45. As the provisions in each of the Wool Tax (Nos 1-5) Further Amendment Bills 1990 are expressed in similar terms, the corresponding clauses of each are dealt with collectively in the following notes.

Clause 1 : Short title, etc

46. Subclause (1) of clause 1 of each of the Bills provides for the amending Act to be cited as the relevant Wool Tax Further Amendment Act 1990.

47. Subclause (2) of clause 1 provides that in each of the amending Acts a reference to the Principal Act means a reference to the relevant Wool Tax Act.

Clause 2 : Commencement

48. By clause 2 of each of the Bills, the amending Acts are to be taken to have commenced on 4 October 1990. But for this clause the amending Acts would - by reason of subsection 5(1A) of the Acts Interpretation Act 1901 - come into operation on the twenty-eighth day after the date of Royal Assent.

Clause 3 : Imposition of tax

49. Clause 3 of the Bills will amend section 4 of each of the Principal Acts. Section 4 of each Act imposes tax on all shorn wool produced in Australia and - depending on which Act applies to the transaction, act or operation - sold by a wool-broker, purchased by a wool-dealer or a manufacturer, subjected to a process of manufacture or exported from Australia. This clause amends subsection (1) of section 4 by replacing the words "a tax" with the word "tax". This amendment is made necessary by the introduction of the wool tax surcharge (refer later notes on Clause 5).

Clause 4 : Rate of Tax

50. Clause 4 of each of the Bills will amend section 5 of each of the Principal Acts which declares the rate of tax imposed on wool by the Acts.

51. Paragraph (a) of clause 4 amends section 5 by replacing the words "the tax" with the words "tax, other than additional tax" (refer to notes on clause 5 of the Bills which explain the proposed surcharge).

52. Paragraph (b) of clause 4 amends paragraph (a) of section 5 to increase the maximum rate of wool tax that can be imposed from 20% to 30%.

53. Paragraph (c) of clause 4 of the Bills replaces existing paragraph (b) of section 5 of the Principal Acts with a new paragraph (b). New paragraph (b) and related amendments made to the regulation making power in section 6 of each of the Principal Acts by clause 6 of the Bills (refer later notes on that clause) will enable different rates of tax to be declared for carpet wool and shorn wool other than carpet wool.

Clause 5 : Surcharge in respect of certain wool

54. This clause inserts proposed new section 5A into each Principal Act.

55. Subsection (1) of proposed section 5A provides for the imposition of an additional tax surcharge, on shorn wool other than carpet wool, from a date fixed by regulation.

56. Under proposed subsection (2) the maximum rate of additional tax surcharge that can be imposed is limited to 20% (paragraph (a)). Paragraph (b) provides for a lower rate of tax to apply if it is prescribed by regulation.

Clause 6 : Regulations

57. In each Bill this clause repeals section 6 of each of the relevant Principal Acts and inserts a new section 6.

58. New section 6 authorises the making of regulations for the purposes of each of the Acts.

59. Proposed subsection (1) of clause 6 of each Bill is a general regulation making power. It provides that the Governor-General may make regulations that are not inconsistent with the Act. The regulations may prescribe matters required or permitted by the relevant Act to be prescribed (paragraph (a)), or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act (paragraph (b)).

60. Proposed subsection (2) requires that a rate prescribed for paragraph 5(b) or paragraph 5(2)(b) of the Principal Acts be a particular percentage of the sale value of shorn wool on which tax is payable.

61. By new subsection (3) regulations may be made for the purposes of paragraph 5(b) that declare different rates of tax for shorn wool other than carpet wool (paragraph (a)) and carpet wool (paragraph (b)) or only a rate for shorn wool other than carpet wool or only a rate for carpet wool.

62. If, for example, a rate of 3.85% was declared for carpet wool and no rate was prescribed for other wool, wool other than carpet wool would be subject to tax at the maximum rate of 30% but carpet wool would only be subject to a rate of 3.85%.

63. New subsection (4) provides that a rate of tax that may be prescribed under subsection (1) must not be:

- . less than 5.25% for shorn wool that is not carpet wool (paragraph (a)); and
- . less than 2.75% for carpet wool (paragraph (b)); and
- . different from the percentage prescribed for the purposes of paragraph 5(b) of another Wool Tax Act for the same kind of wool.

64. Under proposed subsection (5), before the Governor-General makes regulations to prescribe a rate of tax he is required to take into consideration:

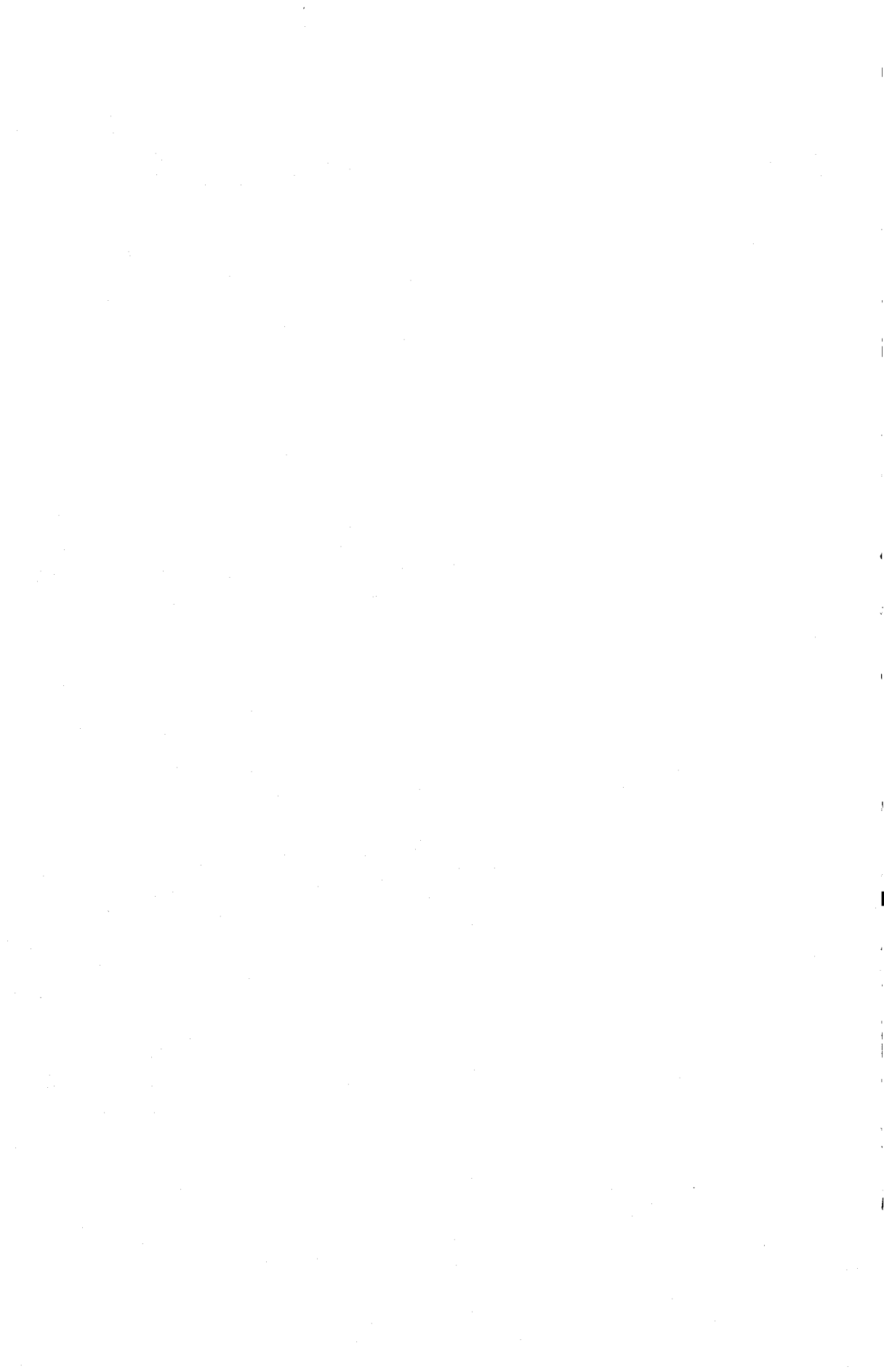
- . any recommendations made to the Minister by the Wool Council of Australia in respect of a rate to be prescribed for the purpose of paragraph 5(b), and

- . any recommendation made to the Minister by the Australian Wool Corporation in respect of a rate of tax surcharge to be prescribed for the purpose of paragraph 5A(2)(b) of the Principal Act.

Clause 7 : Temporary fixing of rate of tax

65. Subclause (1) provides that a rate of wool tax of 25% will apply to shorn wool, other than carpet wool, from 4 October 1990 (paragraph (a)) and until such time as another rate of tax is prescribed (paragraph (b)).

66. Subclause (2) provides for a rate of wool tax of 3.85% to apply to carpet wools from 4 October 1990 (paragraph (a)) and until such time as another rate of tax is prescribed (paragraph (b)).





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