

# **Wool Industry Restructuring Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill provides for the structural reform of the wool industry by dissolving the New Zealand Wool Board, disbursing its assets and liabilities, and resolving a number of transitional and consequential issues.

The reforms envisaged under this Bill are aimed at creating an environment where the institutional structures and processes of the wool industry can develop and grow to sustain and enhance the industry's competitiveness and make the best possible contribution to growth and innovation. Separate structures for commercial and industry-good activities should assist this.

The Bill provides for the conversion of the statutory New Zealand Wool Board into a transitional company, named Wool Board Disestablishment Company Limited, which will assume the Board's assets and liabilities. This company will satisfy the Board's residual liabilities and oversee the disbursement of the Board's net assets to growers.

The Bill provides for the Board's assets to be allocated to wool growers by the issue of exchangeable shares and redeemable preference shares in Wool Board Disestablishment Company Limited, on the basis of sheep numbers. The exchangeable shares will be exchanged for shares in Wool Equities Limited and Merino Grower Investments Limited. Growers will have the opportunity to redeem their redeemable preference shares for cash. In addition, the constitutions of these companies will prohibit the growers holding more than 5% of these companies and will restrict trading of shares to growers for the first 2 years.

The Bill requires the Wool Board to submit a restructuring plan to the Minister and to seek the Minister's approval to it.

As a transitional measure, Wool Board Disestablishment Company Limited will collect a levy on wool for industry-good purposes until 30 June 2004 or until a levy is imposed on wool under the Commodity Levies Act 1990, whichever comes first.

The Bill addresses the tax issues that will arise from the restructuring, particularly during the transition period, and as far as possible normal tax rules will apply. In particular, the issue of shares to growers in Wool Board Disestablishment Company Limited and the exchange of those shares for shares in Wool Equities Limited and Merino Grower Investments Limited, as proposed, should not have any income tax or gift duty consequences. Also, the Board's tax losses and imputation credit account debit will be transferred to the Wool Board Disestablishment Company Limited on the restructuring day. To provide equity between the growers, a share of Wool Board Disestablishment Company Limited's tax losses will be transferred to Merino Grower Investments Limited.

### **Clause by clause analysis**

*Clause 1* gives the Bill its Title.

#### **Part 1**

##### **Commencement and interpretation**

*Clause 2* provides for the commencement of the Bill on the day after the date that it receives the Royal assent, except for *sections 32 to 46* (levy), which commence on the restructuring day (**restructuring day** is defined in section 3).

*Clause 3* defines various terms and expressions used in the Bill.

*Clause 4* provides that the Act binds the Crown.

#### **Part 2**

##### **Conversion of Board**

###### *Conversion process and effect*

*Clause 5* converts the Board into a company under the Companies Act 1993, on the restructuring day. The name of the company is Wool Board Disestablishment Company Limited.

*Clause 6* lists the information and fee that the Board must deliver to the Registrar of Companies as part of the conversion process.

*Clause 7* requires the Registrar of Companies to issue a certificate of incorporation for the new company.

*Clause 8* requires the Board to publicly notify the conversion as soon as practicable after the restructuring day.

*Clause 9* requires the company to deliver an annual return to the Registrar of Companies within 20 days of the restructuring day.

*Clause 10* requires the chairperson of the outgoing Board to arrange a final report of the Board, with financial statements, as soon as reasonably practicable (but not later than 3 months) after the restructuring day.

*Clause 11* confers on the Board the capacity and powers necessary to achieve the conversion of the Board.

*Clause 12* achieves continuity by transferring the assets, rights, liabilities, and proceedings of the Board to the new company.

*Clause 13* overcomes potential obstacles that might otherwise impede conversion.

#### *Directors of company*

*Clause 14* requires the Board to appoint between 4 and 7 directors of the company before conversion.

*Clause 15* authorises the Minister to appoint a director of the company. The Minister must appoint a director if the number of directors is smaller than 4. The existing directors of the company must recommend a person for appointment by the Minister, but the Minister is not compelled to accept that recommendation.

*Clause 16* relieves persons who were directors or employees of the Board from personal responsibility for liabilities and acts or omissions of the Board before the restructuring day.

*Clause 17* denies directors of the Board compensation for loss resulting from the conversion of the Board.

### **Part 3**

#### **Restructuring of wool industry**

##### *Restructuring plan and share allocation plan*

*Clause 18* requires the Board to prepare a restructuring plan and submit it to the Minister by 16 May 2000, having consulted with Wool Equities Limited and Merino Grower Investments Limited.

*Clause 19* specifies, in broad terms, what the restructuring plan must contain. The restructuring plan must—

- specify a restructuring day:
- estimate the assets and liabilities of the Board and the values of those assets and liabilities on the restructuring day:
- provide for a portion of the assets of the Board to be allocated to growers of merino sheep:
- provide for a portion of the assets of the Board to be allocated to growers of non-merino sheep:
- assist SheepCo, an industry-good organisation, to seek a levy on wool under the Commodity Levies Act 1990 before 30 June 2004:
- contain plans for the allocation and issue of shares to growers:
- contain constitutions for Wool Board Disestablishment Company Limited, Wool Equities Limited, and Merino Grower Investments Limited.

*Clause 20* specifies the basis for allocation of shares to growers in (ultimately) Wool Equities Limited (for non-merino growers) and Merino Grower Investments Limited (for merino growers). This clause specifies the criteria for eligibility for an allocation of shares and provides that an allocation to a grower must be based on average sheep numbers farmed as at 30 June 2000, 30 June 2001, and 30 June 2002.

*Clause 21* requires the Board to ensure that the constitution of Wool Board Disestablishment Company Limited contains various obligations and restrictions.

*Clause 22* provides that the constitutions of Wool Equities Limited and Merino Grower Investments Limited must not be changed for a specified period without the written consent of the Minister.

#### *Ministerial involvement with restructuring plan*

*Clause 23* requires the Minister to approve or decline to approve the restructuring plan.

*Clause 24* allows the Minister to require the Board to prepare and submit a revised restructuring plan.

*Clause 25* facilitates approval, by the Minister, of a revised plan.

*Clause 26* allows the Minister to arrange a restructuring plan if the Board has failed to do so.

*Clause 27* requires the Minister to notify the restructuring day in the *Gazette* as soon as practicable after approving a restructuring plan.

#### *Taxation*

*Clauses 28 to 31* address various tax consequences of the restructuring.

#### *Levy*

*Clause 32* requires the Wool Board Disestablishment Company Limited to administer levy on wool until 30 June 2004, or the day before a levy becomes payable on wool under the Commodity Levies Act 1990, whichever first occurs. The levy to be administered by the company must be set on the same basis as before the Bill takes effect.

*Clause 33* allows the company to designate collection agents for the payment of levy.

*Clause 34* defines **specified activities**.

*Clause 35* imposes a levy on wool and says when the levy is payable.

*Clause 36* requires collection agents to complete returns of wool on which levy is payable and provide those returns to the company.

*Clause 37* specifies when and how levy payments must be made.

*Clause 38* permits the company to estimate the levy payable and to demand payment if a levy return is not forthcoming or the company is not satisfied with a return. Estimates by the company can be disputed.

*Clause 39* allows collection agents to recover levy money paid on wool owned by another person.

*Clause 40* requires the company to refund levy overpaid.

*Clause 41* requires records of levy payments to be kept.

*Clause 42* makes the levy a debt due to the company.

*Clause 43* confers power on an auditor appointed under *clause 44* to inspect the place of business of a collection agent and take copies of documents inspected.

*Clause 44* allows the Minister to appoint a chartered accountant as an auditor to exercise the powers in *clause 43*. The Minister must supply the auditor with a warrant of authorisation.

*Clause 45* requires an auditor exercising the powers in *clause 43* to produce proof of identity and the warrant of appointment, if requested, and requires an auditor to leave certain information in the place inspected if the occupier is absent.

*Clause 46* lists offences and penalties and addresses a person's right not to self-incriminate.

#### *Database transfer*

*Clause 47* allows the company to transfer database information to a company administering or seeking a levy on wool under the Commodity Levies Act 1990.

#### *Reporting*

*Clause 48* requires the directors of the company to report annually to the Minister on progress in implementing the restructuring plan.

*Clause 49* requires those directors to arrange a final report on the implementation of the restructuring plan as soon as practicable after the implementation is complete. That report must be given to the Minister and presented to the House of Representatives.

*Clause 50* requires the directors of Wool Board Disestablishment Company Limited to complete a report on the collection and spending of levy.

#### *Notices, repeals, revocations, and amendments*

*Clause 51* addresses how notices may be given.

*Clause 52* repeals other law.

*Clause 53* revokes certain regulations.

*Clause 54* amends other Acts.

### **Regulatory impact statement and compliance cost statement**

#### *Statement of problem and need for action*

Since the early 1990s, the New Zealand Wool Board's core functions, as embodied in the Wool Board Act 1997 (the **Act**), have been—

- market promotion and development:
- wool and sheep research:
- technology transfer:

- information collection and dissemination.

The Act provides for the Board to collect a compulsory levy on wool, paid by wool growers to fund these activities.

There has been concern in the wool industry for several years about the industry's financial performance and return to growers from levy money paid. In June 2000, McKinsey & Company completed a report for the wool industry that recommended the dissolution of the Wool Board and the establishment of new industry-good and commercial structures for the wool industry. In August 2000, 91% of grower respondents in a poll supported these recommendations. Since then, new commercial and industry-good structures have emerged and are replacing the current New Zealand Wool Board, making the latter for the most part unnecessary, with the notable exception of its levying and accountability functions.

In a referendum held in April–May 2002, 96.9% of wool grower respondents voted in favour of winding up the Wool Board. Participation rate in this referendum of 35.5% of wool growers is close to the average achieved in other referenda in the primary sector, and is not unexpected given the large size of the industry and its wide geographic spread.

The Wool Board is established under the Act, and, as long as the Act exists, the Board will be required to undertake a range of accountability and reporting functions, which currently cost the Board (and ultimately growers) several million dollars a year.

### *Statement of the public policy objective*

The overarching objective is to ensure that the institutional structures and processes of the New Zealand wool industry are appropriate to sustain and enhance its international competitiveness so that the industry can make the best possible contribution to growth and innovation in New Zealand. To achieve this, the public policy objectives are—

- to ensure that commercial activities are undertaken by organisations with incentives to make the best use of capital and maximise performance; and
- to ensure that industry-good activities are funded in a targeted way, with strong accountability to levy payers, if the industry decides to seek a compulsory levy.

### *Statement of options for achieving the desired objective*

The status quo is not a viable option, as many of the Wool Board's functions are outdated and those of its activities that have been found worth continuing can be undertaken more effectively and efficiently by non-statutory bodies. Some new commercial and separate industry-good structures have been established and are taking over some of the Board's functions. However, as long as the Act exists, the Board will be required to undertake a range of accountability and reporting functions, which currently cost the industry several million dollars a year, and the Act requires it to undertake a range of activities effectively and efficiently.

This leaves 2 possible options for achieving the desired objectives:

- retaining the Wool Board with revised functions under an amended Act; and
- abolishing the Wool Board and repealing the Act.

Amending the Act to make more appropriate Board functions, and improve the institutional structures and processes is not the preferred option. The wool industry has already established new commercial structures and has made significant progress in facilitating the establishment of an industry-good structure, under its legislation. Amending the Act would involve maintaining industry-specific legislation with no identifiable benefits relative to the organisational and functional flexibility provided by generic legislation.

Abolishing the Wool Board is preferred over amending the Act, because it will—

- give effect to the wool industry's levy payers' own decisions (96.9% of wool grower respondents voted in April–May 2002 in favour of winding up the Board) on its desired future structures, and, in so doing, enhance its ability to compete internationally;
- provide the industry with greater flexibility for commercial activities by giving it the freedom to choose to operate under existing generic legislation, such as the Companies Act 1993;
- give growers greater freedom in choosing what investments to make in the industry, including the ability to decide collectively under the Commodity Levies Act 1990 whether to fund industry-good activities and what activities to fund;
- remove the compliance costs the current legislation is imposing on the industry:



- provide for direct accountability to shareholders (under a normal commercial framework) and to levy payers (if growers support an industry proposal to collect levies under the Commodity Levies Act 1990).

Legislation is required to abolish the Wool Board, because the Board is established by an Act of Parliament. This Bill provides for—

- the Board to be converted into a limited liability company (Wool Board Disestablishment Company Limited) on the restructuring day (expected to be 1 July 2003):
- taxation consequences arising from the restructuring and the allocation of shares to growers:
- Wool Board Disestablishment Company Limited to undertake the residual functions necessary to wind up the Board:
- Wool Board Disestablishment Company Limited to collect a transitional levy on wool for a limited range of industry-good purposes (at a rate no greater than the Board's current levy rate of 2%) until 30 June 2004 or the date that a levy becomes payable on wool on all sheep under the Commodity Levies Act 1990, whichever is the earlier:
- following the Minister of Agriculture's approval of a restructuring plan (including a share allocation plan) submitted by the Board, cash reserves to be transferred to growers via 2 holding companies, 1 for merino wool growers and 1 for non-merino wool growers:
- after completing its transitional functions, Wool Board Disestablishment Company Limited to become a wholly-owned subsidiary of the grower owned company, Wool Equities Limited.

#### *Statement of the net benefit of this proposal*

The implementation of the proposal is expected to include—

- provision of incentives to subsidiaries of Wool Equities Limited and Merino Grower Investments Limited undertaking commercial activities to make better use of capital than if they were retained in a statutory board framework:
- provision of incentives for organisations undertaking commercial activities to improve performance and maximise net returns from those activities to a greater extent than if those

activities were carried out in an environment influenced by a statutory board:

- a better focus on more cost-effective investment in industry-good and commercial activities within the wool industry through separation of commercial functions from industry-good activities:
- enhanced international competitiveness of the New Zealand wool industry with a greater emphasis on clients' requirements and targeted marketing without the constraints of a statutory board framework:
- enabling increased investment in developing innovative products and utilising biotechnology, as the industry will be in a better position to attract capital from both within and outside the industry:
- the creation of an environment where growers and other industry participants will be able to make their own commercial and investment decisions and take ownership of the off-farm activities in which they become involved:
- more appropriate governance and accountability regimes under generic legislation for commercial and industry-good activities than under industry-specific statutory board legislation:
- a reduction in costs faced by growers through the removal of the Board's administrative overheads, and the associated reporting and accountability requirements (currently costing the industry several million dollars a year).

Once the Board converts into a limited liability company and the Board's liabilities have been met, wool growers should receive a total of about \$35 million in redeemable preference shares that may be redeemed for cash or converted into ordinary shares in Wool Equities Limited and Merino Grower Investments Limited. This cash will be able to be used to acquire additional shares in Wool Equities Limited and Merino Grower Investments Limited. Growers will also receive ordinary shares in these commercial entities that have been established and currently form most of the Board's non-liquid assets.

There will be one-off transaction costs of winding up the Board and disbursing its assets, as outlined below. The Board is already committed to the first of these 2 categories of costs, as it will be winding up or downsizing a good number of its activities regardless of

whether the Board is converted into a company and the Act repealed. These costs were listed in the Information Document circulated to growers in April 2002 prior to them voting in support of the proposal to wind up the Board. Ultimately, growers will meet these costs because they will reduce the amount of the Board's assets that can be distributed to growers. These 2 cost categories are—

- closing of pension schemes, redundancies, lease buy-outs, assets and investment write-downs, and legal costs; and
- contingency provisions for disbursement of the Board's assets and completing the windup process.

Estimates of benefits of the proposal cannot be easily quantified, especially given that a sizeable part of the Board's past spending has been on generic promotion and market development.

### *Consultation*

The reform proposals were developed and submitted to the Minister of Agriculture by the Wool Board. The Board undertook extensive consultation within the industry, including grower referenda in August 2000 and April–May 2002. In both referenda, grower support for the proposals was very strong.

A number of organisations' views were sought on the proposals. These organisations included: Federated Farmers of New Zealand, the Federation of Maori Authorities, Merino New Zealand Inc, the Wool Exporters Council, the National Council of New Zealand Wool Interests, the Meat Industry Association, Mid-Micron Wool NZ, and the Royal Agricultural Society of New Zealand.

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*Hon Jim Sutton*

# Wool Industry Restructuring Bill

Government Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Wool Industry Restructuring Act **2002**.

**Part 1**

**Commencement and interpretation**

**2 Commencement**

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- (1) **Sections 32 to 46** come into force on the restructuring day.
- (2) The rest of this Act comes into force on the day after the date on which this Act receives the Royal assent.

**3 Interpretation**

In this Act, unless the context otherwise requires,—

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**assets of the Board—**

- (a) means property of the Board of all kinds, both real and personal, of whatever nature and wherever situated; and
- (b) without limiting **paragraph (a)**, includes—
  - (i) property over which the Board has a power of disposition or appointment; and 15
  - (ii) copyright, patents, registered designs, trade marks, know-how, service marks, trade secrets, or other intellectual or industrial property owned by the Board; and 20
  - (iii) applications pending for patents, trade marks, copyright, and other intellectual or industrial property of the Board; and
  - (iv) choses in action and money owned by, or vested in, the Board; and 25
  - (v) the Board's goodwill; and
  - (vi) rights, interests, and claims in or to property of every kind that are exercisable by, or vested in, or capable of being made by, the Board,—

- (A) whether or not arising from, accruing under, created or evidenced by, or the subject of an instrument or other document; and
- (B) whether liquidated or unliquidated; and 5
- (C) whether actual, contingent, prospective, or vested

**Board** means the New Zealand Wool Board established under the Wool Board Act 1997

**collection agent**— 10

- (a) means a person designated under **section 33** to collect levy for the company; and
- (b) includes a person designated to collect levy for the Board under section 37(1) of the Wool Board Act 1997 on the date this Act comes into force 15

**company** means the Wool Board Disestablishment Company Limited into which the Board converts under **section 5**

**financial year of the company** means the period from 1 July in one year to 30 June in the following year

**grower** means a person engaged, in New Zealand, in the business of farming sheep, whether in conjunction with another business or not 20

**levy** means the levy imposed under **section 35** of this Act

**levy money** means the money paid or payable in respect of levy 25

**levy return** means the return required to be made under **section 36** of this Act

**liabilities of the Board** means liabilities, debts, charges, duties, and obligations of the Board of every description, whether present or future, actual or contingent, and whether payable or to be observed or performed in New Zealand or elsewhere 30

**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act 35

**restructuring day** means the date specified in the restructuring plan as the date on which the Board converts into the company

**restructuring plan** means—

- (a) the plan prepared by the Board and approved by the Minister under **Part 3**; or
- (b) the plan arranged by the Minister under **Part 3**

**rights of the Board** means all rights, powers, privileges, and immunities of the Board, whether actual, contingent, or prospective 5

**sheep** includes lambs that are 6 months old or older

**SheepCo** means Sheep Incorporated

**specified activities** means the activities specified in **section 34** 10

**wool**—

- (a) means the wool of sheep, whether greasy, scoured, washed, carbonised, fellmongered, or sliped; and
- (b) includes dag wool, wool on the skin (whether tanned or not), processed wool, and manufactured wool (including wool noils and wool waste). 15

#### **4 Act binds the Crown**

This Act binds the Crown.

## **Part 2**

### **Conversion of Board** 20

#### *Conversion process and effect*

#### **5 Board converts to company**

- (1) On the restructuring day, the Board converts into, and continues as, a company incorporated under the Companies Act 1993. 25
- (2) The name of the company into which the Board converts is Wool Board Disestablishment Company Limited.

#### **6 Steps by Board**

Before the restructuring day, the Board must deliver the following information and fee to the Registrar of Companies: 30

- (a) a copy of the constitution of the company certified by a director of the Board:
- (b) the address of the registered office and the address for service of the company:
- (c) the name and residential address of each director of the company immediately following the conversion: 35

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- (d) a document signed by each director in which the director consents to being a director and certifies that the director is not disqualified from being appointed or holding office as a director of the company:
- (e) the name and residential address of each shareholder of the company and the number of shares held by each shareholder immediately following conversion: 5
- (f) the fee payable for registration of a company.
- 7 Certificate of incorporation by Registrar**
- (1) The Registrar of Companies must issue a certificate of incorporation for the company as soon as practicable after being satisfied that the information required by **section 6(a) to (e)** is in order and the fee required by **section 6(f)** is paid. 10
- (2) The certificate of incorporation referred to in **subsection (1)**—
- (a) may be issued on or after the restructuring day; and 15
- (b) is, on issue, conclusive evidence that the Board is a company incorporated under the Companies Act 1993 from the restructuring day.
- 8 Notice of conversion**
- As soon as practicable after the restructuring day, the company must give notice that the Board has become a company with limited liability by— 20
- (a) publishing a notice in the *Gazette* and in each of the daily newspapers published in Auckland, Hamilton, Wellington, Christchurch, and Dunedin; and 25
- (b) taking all other steps for that purpose that the company considers are reasonably practicable and necessary.
- 9 Annual return**
- Within 20 working days after the restructuring day, the company must deliver to the Registrar of Companies, for registration under the Companies Act 1993, an annual return for the company that, so far as practicable, contains the information specified in the Fourth Schedule of that Act. 30
- 10 Final report of Board**
- (1) As soon as reasonably practicable but not later than 3 months after the restructuring day, the chairperson must arrange a final report of the Board. 35



- (2) The report must contain audited financial statements and an annual report—
- (a) for the financial year ending 30 June 2003; or
  - (b) if the Board has not converted into the company by 1 July 2003, for the financial year ended 30 June 2003 and for the period from 1 July 2003 to the restructuring day. 5
- (3) The report must comply with sections 26 to 29 of the Wool Board Act 1997 as if those sections still applied.
- (4) The chairperson must, on request, send a copy of the report to a person who was a grower immediately before the restructuring day. 10
- (5) The chairperson must give a copy of the report to the Minister.
- (6) As soon as reasonably practicable after receiving the report, the Minister must present it to the House of Representatives. 15
- (7) The reasonable costs incurred by the chairperson in complying with this section must be met by the company.
- (8) In this section, **chairperson** means the person who held office as the chairperson of the Board immediately before the restructuring day. 20

## 11 Powers of Board

The Board has the capacity and powers necessary to do all that is required of it, directly and incidentally, by this Part.

## 12 Effect of conversion

- (1) The company is the same person as the body established by section 4 of the Wool Board Act 1997. 25
- (2) The conversion of the Board into a company does not—
- (a) create a new entity; or
  - (b) prejudice or affect the identity of the body corporate constituted by the company or its continuity as a legal person; or 30
  - (c) affect the assets, rights, or liabilities of the company; or
  - (d) affect proceedings by or against the company.
- (3) Proceedings that could have been commenced or continued by or against the Board before its conversion may be commenced or continued by or against the company. 35

- (4) The conversion of the Board into a company does not affect rights, interests, liabilities, or obligations existing immediately before the conversion.
- (5) The assets of the Board and the liabilities of the Board existing immediately before its conversion continue as the assets and liabilities of the company without transfer, disposition, assumption, or distribution. 5
- (6) All transactions and acts of the Board before its conversion are treated as transactions and acts of the company and as having been entered into, or performed by, the company at the time they were entered into, or performed by, the Board. 10

### 13 Certain matters not affected by conversion

The things authorised and achieved by this Act and the restructuring plan, in particular the movement of assets of the Board and liabilities of the Board to the company, Wool Equities Limited, or Merino Grower Investments Limited,— 15

- (a) do not place the Crown, the Board, any member of the Board, Wool Equities Limited, or Merino Grower Investments Limited, or any other person in breach of or default under a contract, or in breach of trust or confidence, or as otherwise making any of them guilty of a civil wrong: 20
- (b) must not be regarded as conferring a right on a person to—
- (i) terminate or cancel or modify a contract, agreement, or arrangement; or 25
- (ii) enforce or accelerate the performance of an obligation or liability; or
- (iii) require the performance of an obligation not otherwise arising for performance: 30
- (c) do not release a guarantor wholly or in part from all or any obligation:
- (d) do not invalidate or discharge a contract or security.

#### *Directors of company*

### 14 Appointment of directors 35

- (1) The Board must appoint 4, 5, 6, or 7 directors of the Board immediately before its conversion as directors of the company.

- (2) The directors of the company appointed under **subsection (1)** must include—
- (a) at least 2 persons who were elected to the Board by growers; and
  - (b) at least 2 persons who were appointed to the Board by the Minister on the recommendation of the Board under section 13(2)(b) of the Wool Board Act 1997. 5
- (3) The total number of directors of the company must not exceed 7.
- 15 Ministerial appointments** 10
- (1) At any time before the Minister receives the final report on the implementation of the restructuring plan under **section 49**, the Minister—
- (a) may appoint a director of the company; and
  - (b) must appoint a director of the company if the number of directors is smaller than 4. 15
- (2) A person may not be appointed by the Minister under **subsection (1)(a)** unless the person is recommended for appointment by the directors of the company.
- (3) To facilitate appointment by the Minister under **subsection (1)(b)**, the directors of the company must recommend a person for appointment by the Minister before the number of directors is smaller than 4. 20
- (4) However, the Minister must appoint a director of the company under **subsection (1)(b)** if the directors do not make the required recommendation under **subsection (3)**. 25
- (5) The Minister may reject particular individuals recommended under **subsections (2) and (3)** and seek other recommendations.
- 16 Liability of directors and employees of Board** 30
- No person who was a director or employee of the Board is personally responsible—
- (a) for a liability of the Board prior to the restructuring day; or
  - (b) for an act done or omitted to be done by the Board or an employee of the Board, prior to the restructuring day, in good faith in performance or intended performance of a function, duty or power of the Board. 35

- 17 No compensation for loss of office**  
No director of the Board is entitled to compensation for loss of office resulting from the conversion of the Board.

### **Part 3**

## **Restructuring of wool industry** 5

### *Restructuring plan and share allocation plan*

- 18 Restructuring plan**
- (1) The Board must prepare a restructuring plan and submit it to the Minister by 16 May 2003, together with a certificate signed by at least 2 directors of the Board certifying that the plan complies with **sections 19 to 21**. 10
- (2) Before sending the restructuring plan to the Minister, the Board must consult Wool Equities Limited and Merino Grower Investments Limited.
- 19 Contents** 15
- (1) The restructuring plan must—
- (a) specify a restructuring day; and
  - (b) estimate, as at the restructuring day,—
    - (i) the assets of the Board and the liabilities of the Board; and 20
    - (ii) the value of those assets and liabilities; and
  - (c) provide and specify that a portion of the company's assets be allocated to Merino Grower Investments Limited; and
  - (d) provide and specify that a portion of the company's assets be allocated to Wool Equities Limited; and 25
  - (e) provide and specify that a portion of the company's assets be allocated to SheepCo, if a levy is imposed on wool by an order made under the Commodity Levies Act 1990, before 30 June 2004, and that levy is payable to SheepCo; and 30
  - (f) provide for payments to be made by the company to SheepCo to assist it to seek an order imposing a levy on wool under the Commodity Levies Act 1990; and
  - (g) estimate— 35
    - (i) the value of assets to be allocated to SheepCo under **paragraph (e)**, as at the restructuring day; and

- (ii) the amount of payments to SheepCo under **paragraph (f)**; and
  - (h) contain plans for the allocation and issue of shares in the company, Wool Equities Limited, and Merino Grower Investments Limited, including the criteria for eligibility for shares in the latter 2 companies; and 5
  - (i) contain constitutions for Wool Equities Limited, Merino Grower Investments Limited, and the company that comply with the requirements of this Act.
- (2) The restructuring plan may specify 2 portions for allocation under both **subsection (1)(c) and (d)**, one that assumes that the condition attaching to the allocation of assets to SheepCo referred to in **paragraph (1)(e)** is satisfied and a second that assumes that that condition is not satisfied. 10
- (3) The restructuring plan must specify that the percentage of the Board's assets that will be allocated to Merino Grower Investments Limited will be 7.2%, adjusted to account for the following items: 15
  - (a) the liabilities of the Board on or after the restructuring day: 20
  - (b) amounts held by the Board, on the day before the restructuring day, specifically for groups of growers identified by the Board who produce particular categories of wool:
  - (c) actual or committed expenditure by the Board, before the restructuring day, in funding and capitalising Merino Grower Investments Limited and Wool Equities Limited: 25
  - (d) disproportionate expenditure by the Board between 1 July 1995 and 30 June 2001 on behalf of growers farming merino sheep. 30
- (4) The constitution for Wool Equities Limited that is contained in the restructuring plan under **subsection (1)(i)** must provide that, for 2 years from the date of the first allocation of shares to growers in Wool Equities Limited,— 35
  - (a) a shareholder must not sell shares in Wool Equities Limited to a person other than another grower; and
  - (b) a person who is not a grower must not buy shares or become a shareholder in Wool Equities Limited; and

- (c) a shareholder must not acquire, directly or indirectly, in concert or otherwise, more than 5% of the total number of shares in Wool Equities Limited.
- (5) The constitution for Merino Grower Investments Limited that is contained in the restructuring plan under **subsection (1)(i)** must provide that, for 2 years from the date of the first allocation of shares to growers in Merino Grower Investments Limited,—
  - (a) a shareholder must not sell shares in Merino Grower Investments Limited to a person other than another grower; and
  - (b) a person who is not a grower must not buy shares or become a shareholder in Merino Grower Investments Limited; and
  - (c) a shareholder must not acquire, directly or indirectly, in concert or otherwise, more than 5% of the total number of shares in Merino Grower Investments Limited.

## 20 Share allocation plan

- (1) The Board must ensure that the plans for share allocation referred to in **section 19(1)(h)**—
  - (a) provide for the allocation and issue of shares in the company that may be exchanged or redeemed for redeemable preference shares, or ordinary shares—
    - (i) in Wool Equities Limited, only to growers of sheep other than merino sheep; and
    - (ii) in Merino Grower Investments Limited, only to growers of merino sheep; and
  - (b) restrict the allocation and issue of shares to growers who were farming 250 or more sheep on 30 June 2002 and who derived income or who were entitled to derive income from wool from those sheep; and
  - (c) provide that the proportion (and, therefore, number) of shares in the company to be allocated to a grower of merino sheep must be the same proportion that the average number of merino sheep of that grower (calculated under **subsection (2)**) bears to the total average number of merino sheep of all growers entitled to that allocation of shares; and
  - (d) provide that the proportion (and, therefore, number) of shares in the company to be allocated to a grower of

- sheep other than merino sheep must be the same proportion that the average number of sheep other than merino sheep of that grower (calculated under **subsection (3)**) bears to the total average number of sheep other than merino sheep of all growers entitled to that allocation of shares; and 5
- (e) provide to growers allocated redeemable preference shares in the company the opportunity to convert those shares to cash or ordinary shares in Wool Equities Limited or Merino Grower Investments Limited within a specified period; and 10
- (f) provide that shares allocated to growers in the company are issued without payment; and
- (g) specify clearly the basis of allocation.
- (2) In **subsection (1)(c)**, the average number of merino sheep of a grower entitled to an allocation of shares under **subsection (1)(b)** is to be calculated in accordance with the following formula: 15
- $$\frac{a}{b}$$
- where— 20
- a has the meaning given by **subsection (4)(a)**
- b has the meaning given by **subsection (4)(b)**.
- (3) In **subsection (1)(d)**, the average number of sheep other than merino sheep of a grower entitled to an allocation of shares under **subsection (1)(b)** is to be calculated in accordance with the following formula: 25
- $$\frac{a}{b}$$
- where—
- a has the meaning given by **subsection (5)** 30
- b has the meaning given by **subsection (4)(b)**.
- (4) In—
- (a) **subsection (2)**, a is the aggregate number of merino sheep farmed by a grower—
- (i) as at 30 June 2000, 30 June 2001, and 30 June 2002, if the grower farmed merino sheep on all 3 of those dates; or 35
- (ii) as at any 2 of the dates specified in **subparagraph (i)**, if the grower farmed merino sheep on 2 of those 3 dates; or 40

- (iii) as at 1 of the dates specified in **subparagraph (i)**, if the grower farmed merino sheep on just 1 of those 3 dates; and
- (b) **subsections (2) and (3), b** is—
- (i) 3, if the grower farmed sheep on all 3 of the dates specified in **paragraph (a)(i)**; or
- (ii) 2, if the grower farmed sheep on 2 of those 3 dates; or
- (iii) 1, if the grower farmed sheep on just 1 of those 3 dates.
- (5) In **subsection (3), a** is the aggregate number of sheep other than merino sheep farmed by a grower—
- (a) as at 30 June 2000, 30 June 2001, and 30 June 2002, if the grower farmed sheep other than merino sheep on all 3 of those dates; or
- (b) as at any 2 of the dates specified in **paragraph (a)**, if the grower farmed sheep other than merino sheep on 2 of those 3 dates; or
- (c) as at 1 of the dates specified in **paragraph (a)**, if the grower farmed sheep other than merino sheep on just 1 of those 3 dates.
- (6) The Board must take all practicable steps to identify growers for the purpose of the share allocation plan.
- (7) The Board will request information from growers to facilitate preparation of the share allocation plan. The Board may exclude a grower from the share allocation plan if the grower fails unreasonably to provide the information so requested.
- 21 Company constitution must include certain matters**
- (1) The Board must ensure that the company's constitution in the restructuring plan provides as follows, for the period specified in **subsection (2)**:
- (a) that it is the statutory and corporate duty and obligation of the company and its directors to allocate expeditiously the assets of the company in accordance with this Act;
- (b) that the directors must be appointed in accordance with **sections 14 and 15**;
- (c) that shares in the company held by Wool Equities Limited must not be sold;
- (d) that no dividends are payable to Wool Equities Limited.



- (2) The period referred to in **subsection (1)** is the period until the later of the following dates:
- (a) the date on which the Minister receives the final report on implementation of the restructuring plan under **section 49**; and 5
  - (b) the date on which the company ceases to be responsible for administering the levy.
- 22 Minister's consent needed to certain changes**
- (1) The constitutional provisions for Wool Equities Limited and Merino Grower Investments Limited required by **section 19** may not be amended or revoked, without the written consent of the Minister, until after the periods specified in that section. 10
  - (2) The provisions for the company constitution required by **section 21** may not be amended or revoked, without the written consent of the Minister, until after the period specified in that section. 15
  - (3) An amendment or revocation approved by the Minister must be consistent with the requirements in **sections 19 and 21**.
- Ministerial involvement with restructuring plan*
- 23 Approval of restructuring plan** 20
- (1) The Minister must, as soon as practicable after receiving a restructuring plan, by notice in writing to the Board,—
    - (a) approve it; or
    - (b) decline to approve it.
  - (2) The Minister may decline to approve the plan only if the Minister is not satisfied that it complies with the requirements of this Act. 25
- 24 Revision of restructuring plan**
- If the Minister declines to approve the restructuring plan,—
- (a) the Minister must indicate the grounds for declining approval; and 30
  - (b) the Minister must direct the Board to prepare and submit a revised plan; and
  - (c) the Board must submit a revised restructuring plan to the Minister, not later than 10 working days after the date on which approval was declined (or a later date that the Minister may allow), together with a certificate 35

signed by at least 2 directors of the Board certifying that the revised plan complies with **sections 19 to 21**.

- 25 Approval of revised restructuring plan**
- (1) As soon as practicable after receiving a revised restructuring plan, the Minister must— 5
- (a) approve the plan by notice in writing to the Board; or
- (b) if the Minister considers that the revised plan requires further amendment to comply with the requirements of this Act,—
- (i) make any amendments to the plan that the Minister considers necessary; and 10
- (ii) approve the plan (as amended) by notice in writing to the Board, which notice must be accompanied by a copy of the plan as approved.
- (2) Before making amendments to a restructuring plan under this section, the Minister must advise the Board of the Minister's intention to do so and must give the Board a reasonable opportunity to make submissions on the matter. 15
- 26 Failure to submit restructuring plan**
- (1) If the Board has not given a restructuring plan to the Minister by 16 May 2003, or has not given the Minister a revised restructuring plan by the date required by **section 24**, the Minister must arrange for a restructuring plan to be prepared and the Minister has the power necessary for that purpose. 20
- (2) **Sections 19 to 21 and 24** apply to a restructuring plan prepared under **subsection (1)** as if the restructuring plan were a revised restructuring plan given to the Minister by the Board. 25
- (3) the Minister and the Department that is responsible for administering this Act are entitled to be reimbursed by the Board for the costs and expenses that they incur in taking action under **subsection (1)**. 30
- 27 Minister to notify restructuring day**
- As soon as practicable after approving a restructuring plan or a revised restructuring plan, the Minister must notify the restructuring day in the *Gazette*. 35

*Taxation***28 Tax treatment of issue of shares**

- (1) The issue by the company, in accordance with the share allocation plan in the restructuring plan, of shares to a person who is a grower— 5
- (a) is not a dutiable gift for the purposes of the estate and Gift Duties Act 1968; and
  - (b) is not a dividend for the purposes of the Income Tax Act 1994; and
  - (c) is not otherwise gross income of the person for the purposes of the Income Tax Act 1994. 10
- (2) For the purposes of the Income Tax Act 1994, if the company, in accordance with the share allocation plan in the approved restructuring plan, issues shares to a grower who is not a grower of merino sheep, the grower is to be regarded as having, at all times prior to the restructuring day,— 15
- (a) held those shares; and
  - (b) subject to section OD 5(5) of the Income Tax Act 1994, held any voting interest or market interest attributable to those shares. 20
- (3) For the purposes of the definition of **available subscribed capital** in section OB 1 of the Income Tax Act 1994, the company—
- (a) is to be treated as having received an amount of \$47,720,400 in consideration for the issue of shares on the restructuring day; and 25
  - (b) the available subscribed capital that arises under **paragraph (a)** is to be treated as allocated, as available subscribed capital of and between the classes of shares of the company issued on the restructuring day to the growers, in the proportions nominated by the company if the company nominates the proportions by notice in writing to the Commissioner of Inland Revenue within 30 days after the restructuring day; and 30
  - (c) if the amount of an allocation of available subscribed capital referred to in **paragraph (b)** is not valid or an election is not received within the specified time period, the amount is to be treated as available subscribed capital in respect of the classes of shares issued on the restructuring day to growers in the same proportion as the number of shares issued in each class. 40

- (4) For the purposes of the Income Tax Act 1994, if shares in Merino Grower Investments Limited are transferred, under the restructuring plan, by the Merino Distribution Trust to a person who is a grower of merino sheep, the person is to be treated as having, at all times prior to that transfer,— 5
- (a) held those shares; and
- (b) subject to section OD 5(5) of the Income Tax Act 1994, held any voting interest or market interest attributable to those shares.
- (5) The proceeds from the sale, exchange, redemption, or other disposition of a share or other equity or similar instrument issued to, or distributed to, or acquired by, a grower as part of the restructuring process is not gross income for the purposes of the Income Tax Act 1994. 10
- (6) For the purposes of the Income Tax Act 1994, a person nominated to hold shares or rights on behalf of a grower in accordance with the approved restructuring plan, in the period between the restructuring day and the day that shares and cash are distributed by the nominee to a grower, is to be treated as a nominee. 15  
20

## 29 Net losses

- (1) For the purposes of the Income Tax Act 1994, an amount calculated in accordance with **subsection (2)** of the net losses to be carried forward by the Board immediately prior to the restructuring day is to be treated as if that amount were a net loss incurred by Merino Grower Investments Limited prior to the restructuring day and not an amount incurred by the Board. 25
- (2) The amount of the net losses to be treated as a net loss incurred by Merino Growers Investments Limited is to be calculated in accordance with the following formula: 30

$$\frac{a}{b} \times c$$

where— 35

- a is the portion of the Board's assets immediately prior to the restructuring day based on sheep numbers (calculated in accordance with **section 19**) owned by persons who are growers of merino sheep
- b is the total of the Board's assets immediately prior to the restructuring day 40

- c is the net losses to be carried forward by the Board immediately prior to the restructuring day.

### 30 Company treated as statutory producer board

- (1) The company is to be treated as a statutory producer board for the purposes of section OC 3 of the Income Tax Act 1994 for the period provided in **section 32** in which the company is responsible for administering the levy on wool imposed by **section 35**. 5
- (2) Section OC 3 of the Income Tax Act 1994 applies to expenditure of levies by the company under **section 32**. 10

### 31 Definitions

- (1) In the application of the definition of **shareholder decision making rights** in section OB 1 of the Income Tax Act 1994, **section 15** relating to the appointment of directors in the company in the period before the final report on the implementation of the restructuring plan is received by the Minister is not to be treated as being carried by shares. 15
- (2) In this subpart, **net loss** has the same meaning as in section OB 1 of the Income Tax Act 1994.

### *Levy* 20

### 32 Company responsible for levy on wool

- (1) The company is responsible for administering the levy on wool imposed under **section 35** until the earlier of the following days: 25
- (a) the day before a levy becomes payable on wool on all sheep under a levy order made under the Commodity Levies Act 1990; or
- (b) 30 June 2004.
- (2) The company must consult SheepCo on spending the levy.
- (3) The levy may be spent on— 30
- (a) research and development into sheep and wool, including research and development into—
- (i) the rearing of sheep; and
- (ii) increasing the quantity or quality of the wool produced by sheep in New Zealand; and 35
- (iii) the harvesting, handling, preparation, and processing of wool; and

- 
- (iv) the manufacture of New Zealand wool into wool products; and
    - (v) the handling, packaging, and product development of New Zealand wool and wool products; and 5
  - (b) encouraging the adoption of more efficient processes and practices for—
    - (i) the rearing of sheep in New Zealand; and
    - (ii) increasing the quantity or quality of the wool produced by sheep in New Zealand; and 10
    - (iii) the harvesting, handling, preparation, and processing of New Zealand wool; and
    - (iv) the manufacture of New Zealand wool into wool products; and
    - (v) the handling, packaging, and product development of New Zealand wool and wool products; and 15
  - (c) activities that persons are committed to provide to or for the Board under contracts in force as at the restructuring day; and 20
  - (d) collecting, processing, maintaining, and making available, information for the purposes of assisting production, investment, processing, and product development decisions on matters relevant to the New Zealand sheep and wool industries; and 25
  - (e) administering the collection and spending of the levy by the company.
- (4) The levy must be set on the basis and at the rate prescribed by the Board by the notice published in the *Gazette* that is in force on the day this Act comes into force. 30
  - (5) Levy owing to the Board at the date this section comes into force is levy owing to the company.
  - (6) The levy is taxable as income of the company.
  - (7) Levy money collected but unspent at the time the company ceases to be responsible for administering the levy must be allocated as redeemable preference shares in Wool Equities Limited and Merino Grower Investments Limited. 35

- 33 Company may designate collection agent**
- (1) The company may designate a person by written notice to collect levy for the company to assist the orderly and efficient payment of the levy.
- (2) The company may, by written notice to a collection agent, cancel that collection agent's designation. 5
- (3) A designation takes effect—
- (a) on a day (more than a month after the company gives the notice to the person) specified in the notice, if the notice specifies that day: 10
- (b) a month after the company gives the notice to the person, in any other case.
- (4) The cancellation of a designation takes effect—
- (a) on a day specified in the notice, if the notice specifies a day: 15
- (b) on the day the company gives the notice to the person, in any other case.
- (5) The company must—
- (a) keep a list of collection agents:
- (b) take all practicable steps to ensure that every collection agent is regularly given, free of charge, a copy of the list: 20
- (c) on payment of a reasonable fee fixed by the company, give a copy of the list to any other person who asks for it. 25
- 34 Specified activities**
- The following activities are **specified activities** for the purpose of this Act:
- (a) activity relating to dags containing wool crushing:
- (b) activities relating to wool and wool on the skin, carbonising, carding, combing, fellmongering, felting, knitting, needle-punching, scouring, slipping, sliver-knitting, spinning, tanning, tufting, washing, and weaving. 30
- 35 Levy on wool** 35
- (1) This section imposes a levy on wool produced in New Zealand.

- 
- (2) The levy is payable on wool when one of the following things first occurs:
- (a) when it is sold to or through a collection agent:
  - (b) when it is subjected to a specified activity by a collection agent: 5
  - (c) upon export from New Zealand.
- (3) The levy is payable in accordance with this Act.
- (4) In the following circumstances, the company may make a reasonable assessment of the value of wool:
- (a) if the transaction that attracts the payment of the levy is not a sale; and 10
  - (b) if the basis for the calculation of the levy is or includes its value.

### 36 Levy returns

- (1) Every collection agent must complete returns of wool on which the levy is payable under **section 35** and give those returns to the company. 15
- (2) A levy return must be in a form determined by the company.
- (3) A levy return must be completed and given to the company,—
- (a) monthly, within 18 days of the end of the month for which it is made; or 20
  - (b) for wool sold at auction in New Zealand, within 18 days of the day of the auction.
- (4) A levy return for wool sold at auction must include all wool sold at the auction to or through the person making the return. 25

### 37 Payment

- (1) A levy payable on wool must be paid by a collection agent in the following circumstances:
- (a) if the wool is sold through the collection agent:
  - (b) if the wool is sold to the collection agent (but not through another collection agent): 30
  - (c) if the wool is subjected to a specified activity by the collection agent.
- (2) A levy payable on wool that is exported must be paid by the exporter. If the exporter is not a collection agent, **sections 36, 39, and 41** apply to the exporter as if the exporter were a collection agent. 35
- (3) A person who makes a levy return must pay the levy—



- (a) by sending the levy amount with the levy return; or
- (b) by sending the amount to the company or paying it into the company's bank account on or before the day on which the levy return is due.

- 38 Estimate may be disputed** 5
- (1) The company may estimate the amount of levy money payable under this Act for a relevant period, and make a written demand for payment of that amount, if—
- (a) a levy return is not made by the required time; or
  - (b) the company is not satisfied that the levy return is complete and correct. 10
- (2) A person who receives a demand under **subsection (1)** may dispute the estimated amount demanded within 10 days of the demand being made; however, this applies only to the initial demand and not to a substitute demand made under **subsection (3)(c)(i)**. 15
- (3) Within 15 days of receiving a notice of dispute, the company must—
- (a) consider the matters raised in it; and
  - (b) undertake any audit of the operations of the person concerned that the company thinks appropriate and the person allows; and 20
  - (c) by written notice to the person,—
    - (i) withdraw the demand, and substitute another for it; or 25
    - (ii) withdraw the demand, and indicate that no other demand will be substituted for it; or
    - (iii) confirm the demand.
- (4) A person to whom a demand is made under **subsection (1)** must pay the amount demanded to the company, or pay it into the company's bank account,— 30
- (a) within 18 days of the demand being made or any longer period the company may allow, unless the person has, within those 18 days, disputed the estimate under **subsection (2)**; or 35
  - (b) if the initial demand is disputed, within 18 days of the demand being confirmed or substituted, or any longer period the company may allow.

- 39 Collection agents may recover from owner**
- (1) A collection agent who pays levy money on wool that the collection agent did not, at the time of payment, own may recover the amount paid, or part of it, from the owner of the wool when the levy became payable. 5
- (2) The collection agent may recover the amount under **subsection (1)** as a debt or by deducting the amount from money that is held by the agent but that belongs, or is payable to, the owner.
- 40 Refunds**
- (1) The company must refund levy money found to have been overpaid or paid in error to the appropriate person unless that person has already received reimbursement of the amount. 10
- (2) However, before paying a refund under **subsection (1)**, the company may—
- (a) require the person to be refunded to provide the company with the relevant levy returns and any other information justifying the refund and allowing the company to determine or check the amount of the refund; and 15
- (b) verify the returns and any information provided under **paragraph (a)** in any way it thinks fit. 20
- 41 Records to be kept**
- (1) Every person who makes a levy return under **section 36** or who pays levy money under **section 37** must keep accurate records of the payment and full particulars of the transaction to which the payment relates. 25
- (2) Those records must be preserved for not less than 2 years from the date they are made.
- 42 Levy to constitute debt due to company**
- (1) Payable levy is a debt due to the company and is recoverable as a debt by the company in any court of competent jurisdiction. 30
- (2) The company may assess, sue for, or recover levy money even if information has not been provided or a return has not been made.

**43 Power of inspection**

- (1) An auditor appointed under **section 44** may exercise the powers specified in **subsection (2)** at any reasonable time within business hours in order to ascertain whether the requirements of the levy provisions (**sections 32 to 42**) of this Act are being met. 5
- (2) The powers referred to in **subsection (1)** are the power to—
- (a) enter a place of business of a collection agent (that is not a dwellinghouse) where a document relating to levy money, wool, or wool product is held or is likely to be held; and 10
  - (b) inspect a document referred to in **paragraph (a)**; and
  - (c) take or make copies of, or extracts from, a document inspected, and, for that purpose, the auditor may—
    - (i) take possession of and remove a document from the place where it is held, for a reasonable period: 15
    - (ii) require a person to reproduce, or assist the appointed auditor to reproduce, in usable form, any information recorded or stored on a document electronically or by other means.

**44 Appointment of auditor** 20

- (1) The Minister may appoint a person referred to in **subsection (2)** as an auditor to exercise the powers in **section 43** if the company so requests.
- (2) A person whom the Minister may appoint as an auditor under **subsection (1)** must be a chartered accountant (as defined in section 19 of the Institute of Chartered Accountants of New Zealand Act 1996). 25
- (3) However, the Minister must not appoint a person as an auditor who is an officer or employee of—
- (a) the company; or 30
  - (b) a collection agent; or
  - (c) a person who is or may be liable to pay levy.
- (4) The Minister must supply an auditor appointed under this section with a warrant of authorisation that states the powers and duties of the auditor. 35
- (5) An auditor who holds a warrant of authorisation issued under this section must, on the termination of that auditor's appointment, surrender that warrant to the Minister.

- (6) A person appointed as an auditor is entitled to remuneration paid by the company.

#### **45 Duties of auditor**

- (1) An auditor who exercises a power under **section 43** must, at the time of initial entry and, if requested by the occupier of the place of business, at a subsequent time, produce— 5
- (a) the auditor's warrant of appointment; and
  - (b) evidence of the auditor's identity.
- (2) If an auditor inspects documents under **section 43** when an occupier of the place inspected is not present, the auditor must leave prominently in the place a notice stating— 10
- (a) the day and time of entry; and
  - (b) the purpose of entry; and
  - (c) the name and business telephone number of the auditor; and 15
  - (d) an address at which enquiries can be made.
- (3) If the auditor who inspects documents under **section 43** takes a document, article, or thing from the place inspected, the auditor must, on completing the inspection, leave prominently in the place a schedule of all documents, articles, and things taken. 20
- (4) If it is not practicable to prepare the schedule on completing the inspection, or if an occupier of the place inspected consents, the auditor who conducts the inspection must,— 25
- (a) instead of leaving the schedule, leave a notice stating that— 30
    - (i) a document, article, or thing has been taken; and
    - (ii) the schedule will be delivered to, left for, or posted to an occupier within 7 days of the inspection; and
  - (b) within 7 days of the inspection,— 35
    - (i) deliver the schedule to the occupier; or
    - (ii) leave the schedule prominently in the place; or
    - (iii) post the schedule by registered mail to the occupier.
- (5) The schedule must specify— 40
- (a) the documents, articles, and things taken; and
  - (b) the place or places where they are being held; and
  - (c) if more than 1 place is specified, the documents, articles, and things held in each place.

- (6) The auditor must report to the Minister and the company on any matters that the auditor considers relevant to the inspection.

#### **46 Offences and self-incrimination**

- (1) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$20,000, who—
- (a) intentionally makes a false or misleading levy return; or
  - (b) intentionally fails or refuses to comply with **sections 36, 37, 38(4), or 41**; or
  - (c) wilfully prevents, obstructs, or hinders a person exercising or attempting to exercise any of the powers conferred by **section 43(1) and (2)**; or
  - (d) intentionally fails or refuses to make available to any person exercising any of the powers conferred by **section 43** any document relating to levy money, wool, or wool products.
- (2) A person is not excused from answering a question or giving any information or document under this Act on the ground that to do so may incriminate or tend to incriminate that person.
- (3) A self-incriminating statement or document made or given under this Act is not admissible as evidence in criminal proceedings against that person except on the prosecution for an offence against this Act or against section 108 of the Crimes Act 1961 in relation to that statement or document.

#### *Database transfer*

#### **47 Transfer of database**

- The company may transfer the company's database containing the following information to an entity that is seeking a levy on wool or administering a levy on wool under the Commodity Levies Act 1990 for the purpose of conducting a referendum or administering a levy under that Act:
- (a) the names and addresses of growers; and
  - (b) the number of sheep farmed by those growers.

*Reporting*

- 48 Annual report on implementation of restructuring plan**
- (1) The directors of the company must provide annually to the Minister—
- (a) a report of its progress in implementing the restructuring plan; and 5
- (b) the annual return of the company under section 214 of the Companies Act 1993 until a final report has been made in accordance with **section 49**.
- (2) As soon as reasonably practicable after receiving the report and annual return, the Minister must present them to the House of Representatives. 10
- 49 Final report on implementation of restructuring plan**
- (1) As soon as reasonably practicable after the implementation of the restructuring plan is completed and all assets of the company are distributed in accordance with the plan, the directors of the company must arrange for the preparation of a final report on the implementation of the restructuring plan. 15
- (2) The report must contain audited financial statements.
- (3) The directors must send a copy of the report,— 20
- (a) on request, to a person who was a grower immediately before the restructuring day; and
- (b) to the Minister.
- (4) As soon as reasonably practicable after receiving the report the Minister must present it to the House of Representatives. 25
- 50 Report on levy**
- (1) As soon as reasonably practicable after the company has ceased to collect levy, the directors of the company must arrange for the completion of a report on the collection and spending of the levy. 30
- (2) The report must contain audited financial statements.
- (3) The directors must send a copy of the report,—
- (a) on request, to a person who was a grower during the period that the levy was payable; and
- (b) to the Minister. 35
- (4) As soon as reasonably practicable after receiving the report, the Minister must present it to the House of Representatives.

*Notices, repeals, revocations, and amendments***51 Notices**

- (1) The company may give a person a notice under this Act by causing it to be—
- (a) delivered to the person; or 5
  - (b) addressed to the person and left at the person's home or business; or
  - (c) transmitted to the person at the person's home or business by facsimile; or
  - (d) transmitted to the person at the person's home or business by or through any other device or system of devices from or through which the person might reasonably be expected to receive it; or 10
  - (e) posted in a letter addressed to the person at the person's home or business. 15
- (2) For the purposes of **subsection (1)**, a person's home or business—
- (a) is the person's usual or last known place of abode or business; but
  - (b) includes any place whose address is specified by the person (for the purpose of communication) in any application, notice, or other document received from the person by the company. 20
- (3) If a notice is posted to a person by registered letter, it is to be treated as having been given to the person when it would have been delivered in the ordinary course of post; and, in proving delivery, it is sufficient to prove that the letter was properly addressed and posted. 25

**52 Repeals**

- The following Acts are repealed on the restructuring day: 30
- (a) the Wool Board Act 1997 (1997 No 107);
  - (b) the Wool Testing Authority Dissolution Act 1988 (1988 No 166).

**53 Revocations**

- The following regulations and orders are revoked on the restructuring day: 35
- (a) the Wool Board Regulations 1998 (SR 1998/135);
  - (b) the Wool Testing Authority Dissolution Act Commencement Order 1988 (SR 1988/319):

- (c) the Wool Testing Authority Dissolution Act Commencement Order 1989 (SR 1989/154).

**54 Amendments to other Acts**

- (1) On the restructuring day, the First Schedule of the Official Information Act 1982 is amended by omitting the item relating to the New Zealand Wool Board. 5
- (2) On the restructuring day, Schedule 15 of the Income Tax Act 1994 is amended by omitting the item relating to the New Zealand Wool Board.
- (3) On the restructuring day, section 37F of the Statistics Act 1975 is amended by omitting the item relating to the New Zealand Wool Board. 10