

Passed by both Houses



New South Wales

Agricultural Industry Services Amendment (Interstate Arrangements) Bill 2002

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Agricultural Industry Services Act 1998 No 45	2
4 Amendment of Murray Valley Citrus Marketing Act 1989 No 155	2
5 Repeal of Murray Valley Citrus Marketing Act 1989 No 155	2
Schedule 1 Amendments	3

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2002*



New South Wales

Agricultural Industry Services Amendment (Interstate Arrangements) Bill 2002

Act No , 2002

An Act to amend the *Agricultural Industry Services Act 1998* to make provision for committees established under that Act or the corresponding Act of Victoria or another State or Territory to represent the interests of producers of agricultural commodities in New South Wales and elsewhere; to repeal the *Murray Valley Citrus Marketing Act 1989*; and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the Agricultural Industry Services Amendment (Interstate Arrangements) Act 2002.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by this section.
- (2) Section 4 commences on the date of assent.
- (3) Section 5 and Schedule 1 [6] commence on 1 July 2004, unless commenced sooner by proclamation.

3 Amendment of Agricultural Industry Services Act 1998 No 45

The Agricultural Industry Services Act 1998 is amended as set out in Schedule 1.

4 Amendment of Murray Valley Citrus Marketing Act 1989 No 155

The Murray Valley Citrus Marketing Act 1989 is amended by omitting section 46 (Poll to be taken periodically to determine whether the Board should be dissolved) and by omitting the matter “46 or” from section 45 (a).

5 Repeal of Murray Valley Citrus Marketing Act 1989 No 155

The Murray Valley Citrus Marketing Act 1989 is repealed.

Schedule 1 Amendments

(Section 3)

[1] Section 6 Content of foundation regulation

Insert “or appointed” after “elected” in section 6 (3).

[2] Section 21 Conduct of winding up

Insert “(including a body or organisation that represents the interests of primary producers in a participating jurisdiction under Part 3A)” after “organisation” where first occurring in section 21 (5) (b).

[3] Part 3A

Insert after section 32:

Part 3A Extra-territorial application of Act

Division 1 Interpretation

32A Definitions

In this Part:

agricultural industry services legislation means the agricultural industry services legislation of New South Wales or the corresponding agricultural industry services legislation of Victoria or another State or Territory.

agricultural industry services legislation of New South Wales means this Act and the regulations, orders and other instruments made under this Act.

associated laws, in relation to the agricultural industry services legislation of New South Wales or of a participating jurisdiction, means the provisions of any laws of New South Wales or that jurisdiction concerning a matter arising under that legislation relating to the following:

- (a) the jurisdiction of courts and tribunals under that legislation,
- (b) the procedure before courts and tribunals exercising jurisdiction under that legislation (including with respect to evidence, appeals and review),
- (c) the judicial review of administrative decisions under that legislation,
- (d) the jurisdiction of the Ombudsman with respect to the conduct of public officials under that legislation,
- (e) the access to information held by public officials under that legislation and the correction or amendment of that information,
- (f) the protection of the privacy of personal information held by bodies established under that legislation,
- (g) the disclosure of improper conduct by public officials under that legislation and bodies established under that legislation, the investigation of the matters disclosed and the protection of persons who make those disclosures or who may suffer reprisals in relation to those disclosures,
- (h) the provision of financial statements and annual reports by bodies established under that legislation,
- (i) the conduct of financial and performance audits of bodies established under that legislation,
- (j) the interpretation of that legislation.

corresponding agricultural industry services legislation means the provisions of an Act or an instrument under an Act of a participating jurisdiction in respect of which a declaration under section 32B (b) is in force.

grown or produced, in relation to a commodity, includes raised, packed, processed or marketed.

law includes unwritten law.

participating jurisdiction means:

- (a) Victoria, or
- (b) another State or a Territory in respect of which a declaration under section 32B (a) is in force.

recognised foundation instrument means an instrument made under an Act of a participating jurisdiction in respect of which a declaration under section 32D is in force.

Division 2 Regulations enabling extra-territorial effect

32B Declaration of participating jurisdictions and corresponding legislation

The regulations may:

- (a) declare another State or a Territory to be a participating jurisdiction for the purposes of this Act, and
- (b) declare an Act or an instrument under an Act of a participating jurisdiction relating to agricultural industry services to be corresponding agricultural industry services legislation for the purposes of this Act.

32C NSW foundation regulation with operation outside New South Wales

- (1) A foundation regulation under this Act may provide for the application of this Act and the foundation regulation:
 - (a) in the area of operations in New South Wales that is specified in the foundation regulation, and
 - (b) in an area of operations in a participating jurisdiction that is specified in the foundation regulation, and
 - (c) to and in relation to the relevant commodity specified in the foundation regulation that is grown or produced in New South Wales and in a participating jurisdiction that is specified in the foundation regulation, and
 - (d) to and in relation to the primary producers of the relevant commodity in New South Wales and in a participating jurisdiction that is specified in the foundation regulation.
- (2) The provisions of this Act and the regulations made under this Act with respect to the holding of polls and elections apply to the making of a foundation regulation referred to in subsection (1) with the following modifications:

Schedule 1 Amendments

- (a) a reference to an area includes a reference to an area in the participating jurisdiction, and
 - (b) the modifications set out in this section and section 32J.
- (3) The Minister must not direct that a poll of primary producers be held for the making of a foundation regulation referred to in subsection (1) unless the Minister responsible for administering the corresponding agricultural industry services legislation in the participating jurisdiction has agreed to the poll being held.
- (4) A foundation regulation referred to in subsection (1) may be made if the majority of votes cast in the poll of primary producers in the area of operations in New South Wales (in which more than half of the primary producers in New South Wales who are entitled to vote in the poll have cast a vote) are in favour of the making of the proposed foundation regulation.
- (5) A foundation regulation referred to in subsection (1) does not have effect unless the foundation regulation is declared to be a recognised instrument for the purposes of the participating jurisdiction in which the regulation is to have effect.
- (6) A foundation regulation referred to in subsection (1) takes effect from the date a declaration under subsection (5) is made or from such later date as is specified in the regulation.
- (7) Division 3 applies to and in relation to a foundation regulation referred to in subsection (1) from the date the regulation takes effect.

32D Declaration of recognised foundation instruments to allow interstate legislation to have effect in New South Wales

- (1) The regulations may declare an instrument made under an Act of a participating jurisdiction corresponding to this Act to be a recognised foundation instrument for the purposes of this Act.
- (2) The Minister is not to recommend the making of a regulation under subsection (1) unless the Minister is satisfied that, at a poll conducted of the primary producers in New South Wales of the commodity that is proposed to be regulated under the recognised foundation instrument:
 - (a) more than half of the primary producers entitled to vote in the poll have cast a vote, and

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- (b) the majority of the votes cast are in favour of the establishment of the committee concerned.
 - (3) A regulation under subsection (1) may declare that a recognised foundation instrument applies:
 - (a) in the area in New South Wales that is specified in the regulation, and
 - (b) to and in relation to the commodity specified in the regulation in New South Wales, and
 - (c) to and in relation to the primary producers of the relevant commodity in New South Wales.
 - (4) Division 4 applies to and in relation to a regulation under subsection (1) from the date the regulation takes effect.

**Division 3 Area transferred to control of New South
Wales with respect to specified commodity**

**32E Application of New South Wales agricultural industry services
legislation and associated laws in area outside New South Wales**

This Division has effect for the purposes of the application of the agricultural industry services legislation of New South Wales:

- (a) in the area of the participating jurisdiction described in a foundation regulation referred to in section 32C (1), and
- (b) in relation to the commodity described in that regulation that is grown or produced in that area,

as if that area were within the territorial limits of New South Wales.

32F Conferral of functions etc and jurisdiction on New South Wales

- (1) All persons who have functions conferred or imposed on them for the purposes of or in connection with the agricultural industry services legislation of New South Wales (or the associated laws of New South Wales) have and may exercise those functions for the purposes of or in connection with that legislation or those laws, as applying:

Schedule 1 Amendments

- (a) in the area of the participating jurisdiction specified in a foundation regulation referred to in section 32C (1), and
 - (b) in relation to the commodity described in that regulation that is grown or produced in that area.
- (2) The several courts and tribunals of New South Wales are invested with jurisdiction in all matters arising under the agricultural industry services legislation of New South Wales (or the associated laws of New South Wales), as applying:
 - (a) in the area of the participating jurisdiction described in a foundation regulation referred to in section 32C (1), and
 - (b) in relation to the commodity described in the regulation that is grown or produced in that area.
- (3) Charges that are required to be paid under the agricultural industry services legislation of New South Wales in relation to the commodity described in a foundation regulation referred to in section 32C (1) that is grown or produced in the area of the participating jurisdiction described in the regulation are to be treated as debts due and payable in accordance with the laws of New South Wales.

**Division 4 Area transferred to the control of a
participating jurisdiction with respect to
specified commodity**

**32G Application of participating jurisdiction's agricultural industry
services legislation and associated laws in New South Wales**

- (1) The agricultural industry services legislation of a participating jurisdiction relating to the commodity described in a regulation under section 32D (1) and the associated laws of that jurisdiction, apply:
 - (a) in the area of New South Wales described in that regulation, and

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- (b) in relation to the commodity described in that regulation that is grown or produced in that area, as if that area were within the territorial limits of the participating jurisdiction.
 - (2) The agricultural industry services legislation of New South Wales relating to the commodity described in a regulation under section 32D (1) and the associated laws of New South Wales do not apply:
 - (a) in the area of New South Wales described in that regulation, and
 - (b) in relation to the commodity described in that regulation that is grown or produced in that area of New South Wales.

32H Conferral of functions and jurisdiction on participating jurisdiction

- (1) All persons who have functions conferred or imposed on them for the purposes of or in connection with the agricultural industry services legislation of the participating jurisdiction (or the associated laws of the participating jurisdiction) have and may exercise those functions for the purposes of or in connection with that legislation or those laws, as applying in and in relation to the area of New South Wales by virtue of this Division.
- (2) The several courts and tribunals of the participating jurisdiction are invested with jurisdiction in all matters arising under the agricultural industry services legislation of the participating jurisdiction (or the associated laws of the participating jurisdiction), as applying in and in relation to the area of New South Wales by virtue of this Division.
- (3) Charges and other amounts that are required to be paid under the agricultural industry services legislation of the participating jurisdiction in relation to the commodity described in a regulation under section 32D (1) that is grown or produced in the area of New South Wales described in the regulation are to be treated as debts due and payable in accordance with the laws of the participating jurisdiction.

32I Provisions of agricultural industry services legislation of the participating jurisdiction with specific application not to apply

- (1) Nothing in this Division renders a provision of the agricultural industry services legislation of the participating jurisdiction applicable in a particular place:
 - (a) in so far as the provision is incapable of applying in or in relation to that place, or
 - (b) if that legislation expressly provides that the provision does not extend to or apply in or in relation to that place, or
 - (c) if that legislation expressly provides that the provision applies only in a specified locality that does not include that place.
- (2) A provision of the agricultural industry services legislation of the participating jurisdiction is not to be taken to be a provision to which subsection (1) applies merely because it is limited in its application to acts, matters or things within a particular part (however described) of the area described in the regulation under section 32D in the participating jurisdiction.

Division 5 Polls relating to extra-territorial committees

32J Special provisions for polls relating to extra-territorial committees

- (1) The Minister may authorise the Electoral Commissioner or a person appointed by the Electoral Commissioner to conduct a poll of primary producers:
 - (a) in the area of a participating jurisdiction specified in a draft foundation regulation referred to in section 32C, and
 - (b) referred to in section 32C (1) (d) in the area of operations in New South Wales.
- (2) In the case of a poll under section 4 (2) (b) on the question of whether a committee should be established by a foundation regulation referred to in section 32C, if the corresponding agricultural industry services legislation relating to:
 - (a) the method of enrolment of persons eligible to vote, or

- (b) the preparation of a final roll for the poll, or
- (c) whether voting in relation to the poll is compulsory, or
- (d) the method of determining the outcome of the poll in the participating jurisdiction,

is inconsistent with agricultural industry services legislation of New South Wales, the corresponding agricultural industry services legislation applies to that matter in the conduct of the poll in the production area in the participating jurisdiction (except to the extent that the Minister administering that corresponding legislation otherwise determines by notice in writing to the person conducting the poll).

[4] Section 42A

Insert after section 42:

42A Territorial application of this Act

- (1) This Act applies both within and outside New South Wales.
- (2) This Act applies outside New South Wales to the full extent of the extra-territorial legislative power of the Parliament.

[5] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Agricultural Industry Services Amendment (Interstate Arrangements) Act 2002

[6] Schedule 4

Insert after Part 2:

**Part 3 Provisions consequent on enactment of
Agricultural Industry Services Amendment
(Interstate Arrangements) Act 2002**

10 Definitions

In this Part:

Murray Valley production area means the total production area within the meaning of the repealed Act.

new committee means:

- (a) a committee established by a recognised foundation instrument of Victoria (as referred to in Part 3A of this Act) to provide for citrus fruit grown or produced in the Murray Valley production area, or
- (b) a committee established by a foundation regulation under this Act referred to in section 32C (1) to provide for citrus fruit grown or produced in the Murray Valley production area, or
- (c) a committee established by a foundation regulation under this Act to provide for citrus fruit grown or produced in that part of the Murray Valley production area that is in New South Wales,

whichever is first established.

old Board means the Murray Valley Citrus Marketing Board established under the repealed Act.

repealed Act means the *Murray Valley Citrus Marketing Act 1989*.

transitional period means the period beginning on the commencement of this Part and ending on the day that is 4 years after the commencement of the instrument establishing the new committee.

11 Transitional

- (1) On the commencement of this Part:
 - (a) the old Board is abolished and the new committee is the successor in law of the old Board, and
 - (b) the members of the old Board become the first members of the new committee and those members remain in office as members of the new committee for 12 months (or such longer period not exceeding the transitional period as the Minister determines).
- (2) Despite the repeal of the *Murray Valley Citrus Marketing Act 1989*:

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- (a) a person who, immediately before that repeal, was an approved receiver under that Act continues for the transitional period to be an approved receiver for citrus fruit grown or produced in that part of the Murray Valley production area that is in New South Wales for the purposes of the instrument establishing the new committee relating to citrus fruit and for receiving charges payable by primary producers of citrus fruit referred to in that instrument, and
 - (b) an approved receiver referred to in paragraph (a) must make payments to the new committee:
 - (i) of amounts deducted in the transitional period from the proceeds of sale of citrus fruit that was delivered to the approved receiver before that repeal, and
 - (ii) of the charges payable to the new committee that have been deducted by the approved receiver in the transitional period, and
 - (c) on and from that repeal, unless the context otherwise requires, a reference in any other Act, in any instrument made under an Act or in any document to the old Board is to be a reference to the new committee.

12 Special powers of new committee

- (1) The new committee may appoint, by instrument in writing, a person who purchases or receives citrus fruit grown or produced in the Murray Valley production area specified in the instrument establishing the new committee as an approved receiver for the term of the transitional period.
- (2) The new committee must cause a list of approved receivers to be published at least once in each year in a newspaper circulating generally in the production area specified in the instrument establishing the new committee.
- (3) The new committee must keep a list of approved receivers available for inspection at its office.

13 Duties of approved receivers

- (1) An approved receiver must pay to the new committee the charges payable to the new committee that have been deducted by the approved receiver from the proceeds of the sale of citrus fruit delivered to the approved receiver in the transitional period.

Maximum penalty: 50 penalty units.

- (2) An approved receiver must comply with any written instructions issued by the new committee relating to information to be submitted to the new committee about the amount of citrus fruit received, packed and processed by the approved receiver and the payments made to the new committee under subclause (1).

Maximum penalty: 50 penalty units.