

## **Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Bill 2005**

### **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The *Poultry Meat Industry Act 1986* currently regulates the relationship between poultry growers and poultry processors by means of a scheme under which poultry grown by a poultry grower for processing by a poultry processor (being poultry grown in batches of 1,000 or more):

- (a) must be grown under an agreement that is in a form approved by the Poultry Meat Industry Committee established under that Act, and
- (b) except in relation to poultry grown under an approved efficiency incentive scheme, must be paid for by the poultry processor at rates that are equal to or greater than the base rates determined by that Committee.

The object of this Bill is to amend the *Poultry Meat Industry Act 1986* so as:

- (a) to replace the scheme described above with a scheme:
  - (i) that establishes matters to be addressed by any poultry growing agreement entered into between a poultry grower and a poultry processor, and
  - (ii) that establishes standard provisions (from which the poultry grower and poultry processor may opt out) for inclusion in any such agreement, and
  - (iii) that provides statutory authority for collective bargaining by poultry growers in their negotiations with poultry processors, and
- (b) to vary the constitution and functions of the Poultry Meat Industry Committee:
  - (i) by abolishing the positions currently held by poultry growers and poultry processors, and
  - (ii) by giving the Committee a role in developing the prescribed matters and standard provisions referred to in paragraph (a), and
- (c) to provide for the constitution and function of a Poultry Meat Industry Advisory Group, and
- (d) to enact minor, consequential and ancillary provisions, and provisions of a savings or transitional nature.

#### Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides that, with a specified exception, the proposed Act is to commence on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Poultry Meat Industry Act 1986* set out in Schedule 1.

### **Schedule 1 Amendments**

#### **Amendments with respect to poultry growing agreements**

**Schedule 1 [9]** omits Part 3 (Regulation of the poultry meat industry) and Part 4 (Payments to growers) and replaces them with proposed Part 3 (Poultry growing agreements). The new Part contains the following provisions:

**Proposed section 7** requires a poultry growing agreement to address such matters as may be prescribed by the regulations, which it may do by including the appropriate standard provisions so prescribed or by including alternative provisions that are expressed to be included in compliance with the proposed section. Alternative provisions may, but need not, be to the same effect as the standard

provisions. Failure to comply with the proposed section in relation to any matter will result in the appropriate standard provision being imputed into the agreement.

**Proposed section 8** requires a poultry processor to notify the Director-General of the Department of Primary Industries within one month after entering into a poultry growing agreement with a poultry grower and to pay a notification fee. The notice will identify the poultry grower under the agreement, and each address at which poultry is to be grown under the agreement, and will indicate the date on which the agreement was entered into and the period for which the agreement is to remain in force. The notification fee will be determined in accordance with a scheme under which the revenue derived from notification fees is sufficient to cover the costs and expenses of the Poultry Meat Industry Committee and the Poultry Meat Industry Advisory Group. Failure to comply with the requirements of the proposed section will attract a penalty of 10 penalty units (currently \$1,100).

**Proposed section 9** is a provision that, for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*, specifically authorises collective bargaining by poultry growers in their negotiations with poultry processors.

### **Amendments with respect to the Poultry Meat Industry Committee**

**Schedule 1 [3]** amends section 4 so as to reduce the membership of the Committee from 15 to 3, abolishing the 12 positions currently held by poultry growers and poultry processors.

**Schedule 1 [7]** substitutes section 6. The proposed section 6 gives the Committee the following functions:

- (a) to establish codes of practice and contract guidelines to assist in the negotiation and formation of poultry growing agreements,
- (b) to recommend matters that poultry growing agreements should be required to address and standard provisions with respect to those matters,
- (c) to conduct inquiries and report to the Minister on a variety of matters,
- (d) to facilitate the resolution of disputes between poultry growers and poultry processors,
- (e) to exercise other prescribed functions.

In relation to the functions referred to in paragraphs (a) and (b), the Committee will be required to seek advice from, and have regard to the views of, the Poultry Meat Industry Advisory Group to be established under proposed Part 2A.

### **Amendments with respect to the Poultry Meat Industry Advisory Group**

**Schedule 1 [8]** inserts proposed Part 2A. The new Part contains the following provisions:

**Proposed section 6A** provides for the establishment of the Advisory Group, comprising 7 members (3 poultry growers, 3 poultry processors and one independent Chairperson).

**Proposed section 6B** provides that the Advisory Group is to have the function of furnishing advice to the Committee on the following matters:

- (a) codes of practice for use in the conduct of negotiations between poultry growers and poultry processors,
- (b) contract guidelines as to the matters that poultry growing agreements should be encouraged to address,
- (c) matters that poultry growing agreements should be required to address,
- (d) standard provisions for inclusion in poultry growing agreements in relation to the matters referred to in paragraph (c),
- (e) such other matters with respect to the poultry meat industry as the Advisory

Group considers appropriate for advice.

## **Other amendments**

**Schedule 1 [11]** omits section 18, a provision that enables the Poultry Meat Industry Committee to settle disputes between poultry growers and poultry processors. The Committee will continue to have a role in dispute resolution, but only by way of offering the services of its members as mediators and arbitrators.

**Schedule 1 [12]** substitutes section 19. The essential nature of the new section is the same as that of the old: that a certificate as to whether statutory notice of the making of a poultry growing agreement has been duly furnished is admissible in evidence as to the matters stated in the certificate in that regard.

**Schedule 1 [13]** amends section 23 so as to enable regulations to be made prescribing matters that poultry growing agreements must address, and standard provisions for inclusion in poultry growing agreements in relation to such matters.

**Schedule 1 [16]** amends clause 3 of Schedule 1 so as to allow a member of the Poultry Meat Industry Committee or Poultry Meat Industry Advisory Group to be appointed for a term not exceeding 2 years rather than, as at present, for a term of 2 years.

**Schedule 1 [1], [2], [4], [14], [15], [17]–[19] and [21]–[26]** amend sections 3 and 4, and Schedules 1 and 2, as a consequence of the other amendments made by the proposed Act.

**Schedule 1 [5], [6], [10] and [20]** amend sections 4, 5 and 13, and clauses 2 and 9 of Schedule 1, by way of minor law revision.

**Schedule 1 [27] and [28]** insert savings and transitional provisions consequent on the enactment of the proposed Act, and authorise the making of further savings and transitional provisions by regulation.