



New South Wales

Marketing of Primary Products Amendment (Rice Marketing Board) Bill 1998

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Marketing of Primary Products Act 1983* so as to make further provision with respect to the following:

- (a) the appointment, by the Rice Marketing Board for the State of New South Wales constituted under that Act, of authorised agents and authorised buyers,
 - (b) agreements between that Board and those agents and buyers,
 - (c) the granting of exemptions by that Board under section 57 of that Act,
 - (d) the authorisation of certain things for the purposes of section 51 of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*.
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Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Marketing of Primary Products Act 1983* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [5] gives effect to the objects referred to above by inserting proposed Schedule 6 in the *Marketing of Primary Products Act 1983 (the Act)*. The proposed Schedule contains clauses 1–7.

Clauses 1–3 specify the purpose and application of the proposed Schedule, and define a term used in it.

Clause 4 (1) provides that the authorised agents and authorised buyers that the Rice Marketing Board for the State of New South Wales (*the Board*) appoints under the Act may exercise their functions as such for the term (not exceeding 4 years) specified in the order of appointment, unless the order is rescinded before the term expires.

Clause 4 (2) and (3) provides that the unexpired term of each appointment may, by annual written agreement between the Board and the appointee, be extended by one year, unless the order of appointment is sooner rescinded.

Clause 4 (4) provides that the Board's appointment of an authorised agent or an authorised buyer may be rescinded only with the approval of the Minister (which, by operation of section 150 of the Act, must be in writing).

Clause 5 (1)–(4) makes similar provision in relation to the agreements that the Board may enter into with authorised agents and buyers.

Clause 6 (1)–(4) makes further similar provision in relation to the exemption that the Board may grant under section 57 of the Act (that is, an exemption from the operation of section 56, which provides for the vesting of a commodity in the board constituted under the Act in respect of the commodity).

Clause 6 (5) applies the restriction on revocation of an exemption (imposed by proposed clause 6 (4)) to and in respect of the exemption granted by means of the Notice of Exemption signed for and on behalf of the Board by

its Chairman and Secretary on 10 February 1998 and published in Gazette No 52 of 13 March 1998 at page 1537. That Notice “exempts from the operation of section 56 of the Act all sales of the commodity rice from producers to the Ricegrowers’ Co-operative Ltd (Co-operative), as the authorised buyer appointed by the Board under section 51 of the Act purchasing directly from its members (and others requested by the Board to sell to it as an authorised buyer) and on its own account under the terms of any current or future agreement between the Board and the Co-operative relating or extended or amended to relate to rice harvested during the period from and including 31 January 1998 up to and including 31 January 2004”.

Clause 7 authorises (for a finite period) certain things for the purposes of section 51 of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*. Things authorised for those purposes are to be disregarded in deciding whether a person has contravened Part 4 of the *Trade Practices Act 1974*. The things authorised are:

- (a) anything done, by or on behalf of the Board or any appointee of the Board under Part 3, in the exercise of any function in accordance with that Part or proposed Schedule 6, and
- (b) anything done under any agreement or arrangement entered into by or with the Board under Part 3 or proposed Schedule 6, and
- (c) anything done under the agreement made on 17 December 1985 between the Board and Ricegrowers’ Co-operative Limited (relating to the whole of the annual New South Wales rice crop), as renewed and in force from time to time.

Schedule 1 [2] inserts proposed section 67B, which gives effect to proposed Schedule 6.

Schedule 1 [1] amends the heading to Division 5 of Part 3 of the Act in consequence of the insertion of proposed section 67B.

Schedule 1 [3] and **[4]** amend Schedule 4 (Savings, transitional and other provisions) to the Act. Schedule 1 [3] allows the making of regulations of a savings and transitional nature consequent on the enactment of the proposed Act. Schedule 1 [4] makes it clear that the provisions of proposed Schedule 6 do not apply to, and do not affect the validity or duration of, any appointment made, agreement entered into or renewed, or exemption granted before the commencement of the provisions concerned (except as specifically provided in the proposed Schedule).

First print

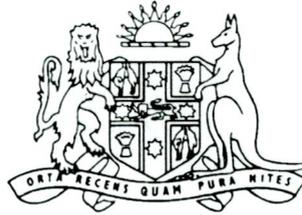


New South Wales

Marketing of Primary Products Amendment (Rice Marketing Board) Bill 1998

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New South Wales

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No. , 1998

A Bill for

An Act to amend the *Marketing of Primary Products Act 1983* to make further provision with respect to the functions of the Rice Marketing Board constituted under that Act; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Marketing of Primary Products Amendment (Rice Marketing Board) Act 1998*.

2 Commencement

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This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Marketing of Primary Products Act 1983 No 176

The *Marketing of Primary Products Act 1983* is amended as set out in Schedule 1.

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Schedule 1 Amendments

(Section 3)

[1] Part 3, Division 5

Omit "Wine Grapes Marketing Board" from the heading to the Division.

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Insert instead "certain boards".

[2] Section 67B

Insert after section 67A:

67B Special provisions relating to Rice Marketing Board

Schedule 6 has effect.

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[3] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1A (1):

Marketing of Primary Products Amendment (Rice Marketing Board) Act 1998

[4] Schedule 4, Part 6

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Insert after Part 5:

Part 6 Provisions consequent on enactment of Marketing of Primary Products Amendment (Rice Marketing Board) Act 1998

16 Previous appointments, agreements and exemptions not affected

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Except as specifically provided in Schedule 6, no provision of that Schedule applies to, or affects the validity or duration of:

(a) any appointment made, or

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(b) any agreement entered into or renewed, or

(c) any exemption granted,

before the commencement of the provision concerned.

[5] **Schedule 6**

Insert after Schedule 5:

**Schedule 6 Special provisions relating to Rice
Marketing Board**

(Section 67B) 5

Part 1 Preliminary

1 Purpose of Schedule

The purpose of this Schedule is to make further provision with respect to the exercise of functions by the Rice Marketing Board for the State of New South Wales as a marketing board under Part 3 of this Act. 10

2 Definitions

In this Schedule:

Board means the Rice Marketing Board for the State of New South Wales constituted as a board under this Act. 15

3 Application

- (1) This Act (other than this Schedule) and, in particular, Part 3 of this Act, have effect subject to this Schedule.
- (2) The provisions of this Act (other than this Schedule) that apply with respect to the Board apply with such modifications as are necessary for the purposes of this Schedule and with such modifications (if any) as may be prescribed by the regulations. 20

Part 2 General functions of Board

4 Appointment of authorised agents and buyers 25

- (1) A person appointed as:
 - (a) an authorised agent by an order of the Board under section 50 (1), or

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- (b) an authorised buyer by an order of the Board under section 51 (1),
- may exercise the functions of authorised agent or authorised buyer (as the case may be) for such term (not exceeding 4 years) as may be specified in the order, unless the order is rescinded before the expiration of that term. 5
- (2) The unexpired term of an order under section 50 (1) or 51 (1) may, by written agreement between the Board and the appointee, be extended by one year: 10
- (a) in the case of an order specifying a term of one year or less:
- (i) at any one time before the expiration of the term, and
- (ii) on the first (and each subsequent) anniversary of the date on which the term is extended under subparagraph (i), and 15
- (b) in the case of an order specifying a term exceeding one year—on the first (and each subsequent) anniversary of the date of the order, 20
- unless the order is sooner rescinded.
- (3) A fresh agreement is required for each extension.
- (4) An order of the Board under section 50 (1) or 51 (1) is not to be rescinded unless the Minister approves of the proposed rescission. 25
- 5 Agreements between Board and authorised agent or buyer**
- (1) An agreement that the Board enters into under section 50 (4) with an authorised agent, or section 51 (4) with an authorised buyer, may be for such term (not exceeding 4 years) as is specified in the agreement. 30

- (2) The unexpired term of an agreement under section 50 (4) or 51 (4) may, by further written agreement between the parties, be extended by one year:
- (a) in the case of an agreement specifying a term of one year or less: 5
 - (i) at any one time before the expiration of the term, and
 - (ii) on the first (and each subsequent) anniversary of the date on which the term is extended under subparagraph (i), and 10
 - (b) in the case of an agreement specifying a term exceeding one year—on the first (and each subsequent) anniversary of the date of the agreement, 15
 - unless the agreement is sooner terminated.
- (3) A fresh further agreement is required for each extension.
- (4) An agreement under section 50 (4) or 51 (4) is not to be terminated unless the Minister approves of the proposed termination.
- 6 Exemption by Board** 20
- (1) An exemption granted by the Board under section 57 may be granted for such term (not exceeding 4 years) as may be specified in the instrument of exemption.
 - (2) The unexpired term of an exemption granted under section 57 may be extended by one year: 25
 - (a) in the case of an exemption granted for a term of one year or less:
 - (i) at any one time before the expiration of the term, and
 - (ii) on the first (and each subsequent) anniversary of the date on which an extension is granted under subparagraph (i), and 30

- (b) in the case of an exemption granted for a term exceeding one year—on the first (and each subsequent) anniversary of the date of the granting of the exemption,

unless the exemption is sooner revoked. 5

- (3) The Board is to grant any such extension by notification published in the Gazette or in a newspaper circulating in the area of the Board, or by a notice in writing to the exempted producer.

- (4) Despite section 57 (3), an exemption granted by the Board under section 57 is not to be revoked unless the Minister approves of the proposed revocation. 10

- (5) Subclause (4) extends to apply to and in respect of the exemption granted by means of the Notice of Exemption signed for and on behalf of the Board by its Chairman and Secretary on 10 February 1998 and published in Gazette No 52 of 13 March 1998 at page 1537. 15

7 Specific authorisation for section 51 of Trade Practices Act 1974 (Cth) and Competition Code

Without affecting the generality of section 164 (Authorisations for section 51 of Trade Practices Act 1974 (Cth) and Competition Code), the following are, up to and including 31 January 2004, specifically authorised by this Act for the purposes of section 51 of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*: 20 25

- (a) anything done, by or on behalf of the Board or any appointee of the Board under Part 3, in the exercise of any function in accordance with that Part or this Schedule, and 30

- (b) anything done under any agreement or arrangement entered into by or with the Board under Part 3 or this Schedule, and

Schedule 1 Amendments

- (c) anything done under the agreement made on 17 December 1985 between the Board and Ricegrowers' Co-operative Limited (relating to the whole of the annual New South Wales rice crop), as renewed and in force from time to time.

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