

**MARKETING OF PRIMARY PRODUCTS (AMENDMENT)
ACT, 1985, No. 82**

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 82, 1985.

An Act to amend the Marketing of Primary Products Act, 1983, with respect to the vesting of commodities in marketing boards, the powers of marketing boards and the powers of the Agricultural Marketing Finance Agency, and for other purposes. [Assented to, 4th June, 1985.]

Marketing of Primary Products (Amendment) 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Marketing of Primary Products (Amendment) Act, 1985".

Principal Act.

2. The Marketing of Primary Products Act, 1983, is referred to in this Act as the Principal Act.

Amendment of Act No. 176, 1983.

3. The Principal Act is amended in the manner set forth in Schedule 1.

Savings and transitional provisions.

4. (1) The provisions of section 164 of the Principal Act, as amended by this Act, shall be deemed to apply and to have applied to and in respect of a contract, agreement or understanding made by The Rice Marketing Board for the State of New South Wales before the commencement of this Act—

- (a) with respect to the supply of any or all paddy rice (other than that required for seed) harvested and delivered in New South Wales in 1985 to Ricegrowers' Co-operative Mills Limited; and
- (b) relating to the prices at which, and the terms and conditions upon which, the paddy rice is so supplied,

as if those provisions had been in force when the contract, agreement or understanding was made and as if the contract, agreement or understanding were of a kind prescribed under those provisions.

(2) Section 58 (1) of the Principal Act, as amended by this Act, applies to contracts made before the commencement of this Act as well as to contracts made after that commencement.

(3) A person or organisation approved and nominated as referred to in section 116 (1) of the Principal Act, as in force before the commencement of this Act, shall be deemed to be a person or organisation approved and nominated as referred to in section 116 (1) (a) of the Principal Act, as amended by this Act.

SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 57 (5)–(7)—

After section 57 (4), insert:—

(5) Notwithstanding subsection (1), where an exemption is granted on a condition referred to in subsection (4) and an amount of money specified or referred to in the condition has not been paid prior to the sale of the commodity—

(a) the exempted producer shall be deemed to act as agent for the board in respect of the portion of the commodity which on sale realizes an amount of money equal to that required to be paid to the board in accordance with the condition; and

(b) section 56 shall be deemed to remain operative in respect of that portion of the commodity,

until payment, or recovery under subsection (6), of the amount of money specified or referred to in the condition.

(6) So much of any amount of money realized by a producer acting as agent for the board under subsection (5) as does not exceed the amount of money owed to the board pursuant to a condition referred to in subsection (4) may be recovered by the board as a debt due in any court of competent jurisdiction.

(7) Nothing in subsection (5) affects the relationship between a producer referred to in that subsection and any person to whom the commodity concerned is sold.

(2) Section 58 (1)—

Omit “vested in a board by section 56 (2)”, insert instead “the subject of a proclamation under section 56 (1) whether or not the commodity has come into existence when the contract was made”.

(3) Section 113A—

Before section 114, insert:—

Marketing of Primary Products (Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

Interpretation.

113A. In this Division—

“participant” means—

- (a) a board;
- (b) a person or organisation approved and nominated under section 116 (1) (a); or
- (c) a person or organisation declared to be a participant under section 116 (1) (b);

“primary product” includes—

- (a) any grain, cereal, fruit (fresh, dried or canned), vegetable, livestock, meat, hay, chaff, poultry (live or dead), honey, beeswax or other product of agriculture, grazing, poultry-farming or bee-keeping in or outside New South Wales; and
- (b) any dairy produce (including butter and cheese) and any other article prepared directly from the produce of agriculture, grazing, poultry-farming or bee-keeping in or outside New South Wales,

and also includes wool, fresh milk, eggs or any dried fruits to which the Dried Fruits Act, 1939, for the time being applies.

(4) (a) Section 116 (1)—

Omit the subsection, insert instead:—

(1) The Agency may provide and organise finance and financial services relating to the marketing and processing of primary products to—

- (a) boards, and other persons or organisations approved by the Minister and nominated by boards in such manner as may be prescribed; and
- (b) persons or organisations which the Governor may, by proclamation, declare to be participants.

Marketing of Primary Products (Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 116 (5)—

After subsection (4), insert:—

(5) The Agency may exercise any of its functions under this Act, whether or not the function is exercised in, or the thing in respect of which the function is exercised is in or of or produced in, New South Wales.

(5) Section 164—

After section 163, insert:—

Authorisation of certain acts and things for the purposes of the Trade Practices Act 1974 of the Commonwealth.

164. (1) In this section—

“authorise” includes approve;

“the Commonwealth Act” means the Trade Practices Act 1974 of the Commonwealth, as amended and in force from time to time.

(2) The object of this section is to specifically authorise certain acts and things, or acts and things of certain kinds, for the purposes of section 51 of the Commonwealth Act, and this section has effect and shall be construed accordingly.

(3) The making by an authority, whether as principal or agent, of a contract, agreement or understanding relating to the marketing of a commodity or primary product—

(a) that is, or is of a kind that is, prescribed for the purposes of this section; or

(b) that is approved by the Minister,

and all conduct, whether as principal or agent, of the authority and all parties to the contract, agreement or understanding which relates to the proposed making of, negotiating for, making, and performance of any such contract, agreement or understanding, are hereby authorised for the purposes of section 51 of the Commonwealth Act.

Marketing of Primary Products (Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) An authority is hereby authorised in the course of exercising the functions conferred upon it by this Act to do or omit to do, whether as principal or agent, any act or thing that is, or is of a kind which would, but for the authorisation conferred by this section, be a contravention of a provision of Part IV of the Commonwealth Act.

(5) Where authorisation is conferred by this section, the contract, arrangement or understanding so authorised is lawful and the authority and all parties to the contract, arrangement or understanding are authorised by force of this Act and whether as principal or agent to enter into it, and to engage in the conduct referred to in subsection (3).

(6) Nothing in this section—

- (a) authorises an authority to do or omit to do any act or thing that it would not be empowered to do or omit to do apart from this section and the Commonwealth Act; or
- (b) affects the operation of any provision of this Act, or of any other Act, that confers or imposes functions on an authority.

(7) An approval under subsection (3) may be given subject to such conditions as the Minister determines.

In the name and on behalf of Her Majesty I assent to this Act.

J. A. ROWLAND,
Governor.

Government House,
Sydney, 4th June, 1985.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985





**MARKETING OF PRIMARY PRODUCTS (AMENDMENT)
BILL, 1985**

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are to amend the Marketing of Primary Products Act, 1983 ("the Act"), so as—

- (a) to facilitate the recovery by a board of charges imposed by the board as a condition of an exemption granted under section 57 of the Act (Schedule 1 (1));
- (b) to deem void certain contracts made in relation to a commodity not yet in existence (Schedule 1 (2));
- (c) to increase the powers of the Agricultural Marketing Finance Agency by enabling the Agency to provide and organise finance and financial services relating to the marketing of primary products to bodies declared by the Governor to be participants within the meaning of Division 2 of Part VI of the Act and to carry out its functions outside, or with respect to things outside, New South Wales (Schedule 1 (4)); and
- (d) to specifically authorise the doing of certain acts or things by authorities and thereby to ensure that, in accordance with section 51 of the Trade Practices Act 1974 of the Commonwealth, regard shall not be had to those acts or things in a determination under that Act as to whether Part IV of that Act has been contravened (Schedule 1 (5)—proposed section 164),

and to make other provisions of a minor, consequential, ancillary or transitional nature.



**MARKETING OF PRIMARY PRODUCTS (AMENDMENT)
BILL, 1985**

No. , 1985.

A BILL FOR

An Act to amend the Marketing of Primary Products Act, 1983, with respect to the vesting of commodities in marketing boards, the powers of marketing boards and the powers of the Agricultural Marketing Finance Agency, and for other purposes.

Marketing of Primary Products (Amendment) 1985

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10 Act as the Principal Act.

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Savings and transitional provisions.

4. (1) The provisions of section 164 of the Principal Act, as amended by
15 this Act, shall be deemed to apply and to have applied to and in respect of a contract, agreement or understanding made by The Rice Marketing Board for the State of New South Wales before the commencement of this Act—

(a) with respect to the supply of any or all paddy rice (other than that
20 required for seed) harvested and delivered in New South Wales in 1985 to Ricegrowers' Co-operative Mills Limited; and

(b) relating to the prices at which, and the terms and conditions upon which, the paddy rice is so supplied,

as if those provisions had been in force when the contract, agreement or
25 understanding was made and as if the contract, agreement or understanding were of a kind prescribed under those provisions.

(2) Section 58 (1) of the Principal Act, as amended by this Act, applies to contracts made before the commencement of this Act as well as to contracts made after that commencement.

(3) A person or organisation approved and nominated as referred to in
30 section 116 (1) of the Principal Act, as in force before the commencement of this Act, shall be deemed to be a person or organisation approved and nominated as referred to in section 116 (1) (a) of the Principal Act, as amended by this Act.

Marketing of Primary Products (Amendment) 1985

SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 57 (5)–(7)—

5 After section 57 (4), insert:—

(5) Notwithstanding subsection (1), where an exemption is granted on a condition referred to in subsection (4) and an amount of money specified or referred to in the condition has not been paid prior to the sale of the commodity—

10 (a) the exempted producer shall be deemed to act as agent for the board in respect of the portion of the commodity which on sale realizes an amount of money equal to that required to be paid to the board in accordance with the condition; and

15 (b) section 56 shall be deemed to remain operative in respect of that portion of the commodity,

until payment, or recovery under subsection (6), of the amount of money specified or referred to in the condition.

20 (6) So much of any amount of money realized by a producer acting as agent for the board under subsection (5) as does not exceed the amount of money owed to the board pursuant to a condition referred to in subsection (4) may be recovered by the board as a debt due in any court of competent jurisdiction.

25 (7) Nothing in subsection (5) affects the relationship between a producer referred to in that subsection and any person to whom the commodity concerned is sold.

(2) Section 58 (1)—

Omit “vested in a board by section 56 (2)”, insert instead “the subject of a proclamation under section 56 (1) whether or not the commodity has come into existence when the contract was made”.

30 (3) Section 113A—

Before section 114, insert:—

*Marketing of Primary Products (Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.***Interpretation.**

113A. In this Division—

5 “participant” means—

- (a) a board;
- (b) a person or organisation approved and nominated under section 116 (1) (a); or
- (c) a person or organisation declared to be a participant under section 116 (1) (b);

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“primary product” includes—

- (a) any grain, cereal, fruit (fresh, dried or canned), vegetable, livestock, meat, hay, chaff, poultry (live or dead), honey, beeswax or other product of agriculture, grazing, poultry-farming or bee-keeping in or outside New South Wales; and
- (b) any dairy produce (including butter and cheese) and any other article prepared directly from the produce of agriculture, grazing, poultry-farming or bee-keeping in or outside New South Wales,

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and also includes wool, fresh milk, eggs or any dried fruits to which the Dried Fruits Act, 1939, for the time being applies.

(4) (a) Section 116 (1)—

25

Omit the subsection, insert instead:—

(1) The Agency may provide and organise finance and financial services relating to the marketing and processing of primary products to—

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- (a) boards, and other persons or organisations approved by the Minister and nominated by boards in such manner as may be prescribed; and
- (b) persons or organisations which the Governor may, by proclamation, declare to be participants.

Marketing of Primary Products (Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 116 (5)—

After subsection (4), insert:—

- 5 (5) The Agency may exercise any of its functions under this Act, whether or not the function is exercised in, or the thing in respect of which the function is exercised is in or of or produced in, New South Wales.

(5) Section 164—

10 After section 163, insert:—

Authorisation of certain acts and things for the purposes of the Trade Practices Act 1974 of the Commonwealth.

164. (1) In this section—

“authorise” includes approve;

15 “the Commonwealth Act” means the Trade Practices Act 1974 of the Commonwealth, as amended and in force from time to time.

20 (2) The object of this section is to specifically authorise certain acts and things, or acts and things of certain kinds, for the purposes of section 51 of the Commonwealth Act, and this section has effect and shall be construed accordingly.

(3) The making by an authority, whether as principal or agent, of a contract, agreement or understanding relating to the marketing of a commodity or primary product—

25 (a) that is, or is of a kind that is, prescribed for the purposes of this section; or

(b) that is approved by the Minister,

30 and all conduct, whether as principal or agent, of the authority and all parties to the contract, agreement or understanding which relates to the proposed making of, negotiating for, making, and performance of any such contract, agreement or understanding, are hereby authorised for the purposes of section 51 of the Commonwealth Act.

Marketing of Primary Products (Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (4) An authority is hereby authorised in the course of exercising the functions conferred upon it by this Act to do or omit to do, whether as principal or agent, any act or thing that is, or is of a kind which would, but for the authorisation conferred by this section, be a contravention of a provision of Part IV of the Commonwealth Act.

10 (5) Where authorisation is conferred by this section, the contract, arrangement or understanding so authorised is lawful and the authority and all parties to the contract, arrangement or understanding are authorised by force of this Act and whether as principal or agent to enter into it, and to engage in the conduct referred to in subsection (3).

(6) Nothing in this section—

15 (a) authorises an authority to do or omit to do any act or thing that it would not be empowered to do or omit to do apart from this section and the Commonwealth Act; or

(b) affects the operation of any provision of this Act, or of any other Act, that confers or imposes functions on an authority.

20 (7) An approval under subsection (3) may be given subject to such conditions as the Minister determines.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985