

**EGG INDUSTRY (REPEAL AND DEREGULATION) ACT 1989**  
**No. 99**

NEW SOUTH WALES



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**EGG INDUSTRY (REPEAL AND DEREGULATION) ACT 1989**  
No. 99

NEW SOUTH WALES



**Act No. 99, 1989**

An Act to provide for the dissolution of the New South Wales Egg Corporation, the repeal of the Egg Industry Act 1983 and the deregulation of the egg industry, and for other purposes. [Assented to 8 August 1989]

**The Legislature of New South Wales enacts:**

**PART 1 - PRELIMINARY**

**Short title**

1. This Act may be cited as the Egg Industry (Repeal and Deregulation) Act 1989.

**Commencement**

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).

(2) Section 12 (4) and (5) and section 38 (3) commence on the date of assent to this Act.

**Objects**

3. The objects of this Act are:

- (a) to deregulate the egg industry by dismantling the system of control over the production, supply and marketing of eggs and egg products established under the Egg Industry Act 1983 by repealing that Act; and
- (b) to make provision for the continued wholesomeness and purity of eggs and egg products in the interests of public health; and
- (c) to provide a scheme for giving financial assistance to certain persons affected, either directly or indirectly, by the abolition by this Act of the State Hen Quota established under the repealed Act; and
- (d) to enable a reconstituted New South Wales Egg Corporation to trade in eggs and other products on a competitive basis until such time as it is sold or finally dissolved.

**Definitions**

4. (1) In this Act:

"**Board**" means the New South Wales Egg Corporation Board constituted by this Act;

"**Committee**" means the Hen Quota Committee constituted by this Act;

"**Corporation**" means the New South Wales Egg Corporation established by this Act;

"egg" means a hen egg or a 1 egg of a prescribed class or description;

"egg products" includes:

- (a) egg pulp and all forms of unprocessed and processed whole egg, egg white, egg yolk or egg in shell (whether in full form or with additives); and
- (b) dried or frozen egg products; and
- (c) any prescribed things or things of a prescribed class or description;

"hen" means a female domesticated fowl of the genus *Gallus* that is not less than 6 months old;

"marketing" includes buying, selling, financing, collecting, packing, treating, carrying, storing, warehousing, re-handling, distributing (by wholesale or retail), delivering and promoting;

"officer", in relation to the Corporation, includes an employee of the Corporation and any other person of whose services the Corporation makes use;

"repealed Act" means the Egg Industry Act 1983;

"sell" means sell by wholesale or by retail, and includes barter, supply for profit, offer or expose for sale, receive for sale, have in possession for sale, send, forward or deliver for sale and cause, suffer or allow to be sold, offered or exposed for sale.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

## **PART 2 - REPEALS AND DISSOLUTION OF CORPORATION CONSTITUTED UNDER REPEALED ACT**

### **Repeals**

- 5. The following Act and instruments are repealed:
  - Egg Industry Act 1983;
  - Egg Industry Regulation 1983;

Egg Industry (Savings and Transitional Provisions) Regulation 1983.

**Dissolution of Egg Corporation and Licensing Committee**

6. The New South Wales Egg Corporation and the Poultry Farmer Licensing Committee constituted under the Egg Industry Act 1983 are dissolved.

**PART 3 - RECONSTITUTION OF CORPORATION  
AND FUNCTIONS UNDER THIS ACT**

**Division 1 - Constitution of Corporation**

**The Corporation**

7. (1) There is constituted by this Act a corporation with the corporate name of the New South Wales Egg Corporation.

(2) The Corporation is, for the purposes of any Act, a statutory body representing the Crown.

(3) The Corporation is a continuation of, and the same legal entity as, the dissolved Corporation.

**Division 2 - Functions of Corporation**

**General functions of Corporation**

8. The Corporation has:

- (a) such functions in relation to the marketing of eggs, egg products and other products; and
- (b) such other functions,

as are conferred or imposed on it by or under this Act or any other legislation.

**Commercial functions**

9. (1) The Corporation may market or arrange for the marketing of eggs and egg products and other products and do all acts, matters and things necessary or expedient to carry out those functions.

(2) The Corporation may:

- (a) establish and conduct storage facilities for eggs, egg products and other products; and

- (b) establish and conduct processing or manufacturing facilities for eggs, egg products and other products; and
- (c) process or manufacture products from or based on eggs or other products; and
- (d) market any of the products so processed or products so manufactured or any by-products resulting from that processing or manufacturing.

**Miscellaneous functions**

**10.** (1) Without limiting any of its other functions, the Corporation may:

- (a) make such arrangements as it considers necessary with regard to sales of eggs, egg products and other products for export or for consignment to other countries or other parts of Australia; and
- (b) enter into insurance contracts relating to eggs, egg products and other products; and
- (c) promote and encourage the use, sale or consumption of eggs and egg products and other products; and
- (d) enter into agreements for the use, within New South Wales or elsewhere, of any trade mark of which it is, or is entitled to be, registered as proprietor; and
- (e) establish and maintain laboratories and carry out research and make investigations into matters relating to eggs and egg products and other products with which the Corporation is associated (including chemical, physical, bacteriological and economic research and investigations); and
- (f) devise and initiate as far as may be practicable improved methods of producing, marketing and using eggs, egg products and any other products; and
- (g) devise and initiate as far as may be practicable means to prevent or eliminate wasteful, unnecessary or unhygienic methods, practices, costs or charges in connection with marketing or using eggs, egg products or other products; and
- (h) publish reports, information and advice concerning the producing, marketing or use of eggs, egg products and other products.

(2) The Corporation may, with the approval of the Minister, manufacture or contract for the manufacture of cartons, trays and

other articles or things for use in connection with its marketing functions.

- (3) Without limiting any of its other functions, the Corporation may:
- (a) enter into agreements with any person for or in connection with its functions, including agreements for the carrying out of works or the performance of services or the supply of goods or materials in connection with any of its functions; and
  - (b) with the approval of the Minister, enter into agreements with any person for the use of any of the equipment, machinery or facilities of the Corporation for a purpose not itself otherwise connected with the functions of the Corporation.

### **Compensation for egg carrier**

11. (1) The Corporation must, within 28 days after the commencement of this Part, set up an arbitration panel to determine the cases, if any, in which compensation is to be payable to sub-contract carriers:

- (a) employed by, or under contract to, the Corporation dissolved by section 6, the Egg Marketing Board abolished by section 73 of the repealed Act or Thomas Nationwide Transport for the purpose of carrying produce for or on behalf of the dissolved Corporation; and
- (b) making a claim for compensation under this section.

(2) The arbitration panel is to consist of 3 persons appointed by the Corporation, of whom:

- (a) 1 is to be a person nominated by the Corporation; and
- (b) 1 is to be a person nominated by the Transport Workers Union (New South Wales Branch) as a representative of that trade union; and
- (c) 1 is to be an arbitrator appointed in accordance with rules made under the District Court Act 1973.

(3) The arbitration panel may, if it considers necessary, make an award for payment of compensation to a sub-contract carrier who has suffered or may suffer loss as a result of the enactment of this Act.

(4) In determining whether compensation is payable and the amount of payment, the arbitration panel is to have regard to:

- (a) the type of contract the sub-contract carrier had with the dissolved Corporation, the abolished Board or Thomas Nationwide Transport; and
  - (b) the duration of the contracts with all or any of those bodies; and
  - (c) the likelihood of the carrier being able to utilise the motor vehicle used to carry the dissolved Corporation's produce for some other commercial purpose; and
  - (d) the loss suffered or likely to be suffered by the carrier as a consequence of the enactment of this Act; and
  - (e) any previous decisions regarding legal proceedings conducted by the carrier in relation to the contracts concerned; and
  - (f) any other factor it considers relevant.
- (5) If the arbitration panel determines that compensation is to be paid to a claimant under this section and the 3 members of the panel are unable to agree on the sum of compensation to be paid, then the amount to be paid to the claimant under the award of the panel is to be the highest average sum as determined by 2 of the members.
- (6) The award of the arbitration panel is binding on the Corporation.
- (7) Payment of compensation is to be made out of:
- (a) money borrowed by the Corporation; or
  - (b) money provided by Parliament.
- (8) Sections 50 - 60 apply to claims for compensation under this section in the same way as they apply to claims made under the Hen Quota Payment Scheme.

### **Division 3 - Management of Corporation**

#### **Board**

12. (1) There is to be a New South Wales Egg Corporation Board.
- (2) The Board is to consist of:
- (a) the Managing Director of the Corporation; and
  - (b) 3 members appointed by the Minister.
- (3) Schedules 1 and 2 have effect with respect to the Board.
- (4) For the purpose only of enabling the Corporation to be constituted in accordance with this Act on or after (but not before) the commencement of subsection (1), appointments may be made under this Act and any other act, matter or thing may be done before that

commencement as if the whole of this Act commenced on the date of assent to this Act.

(5) No appointment as Managing Director of the Corporation or as a member of the Board as so constituted takes effect before the commencement of subsection (1).

#### **Board to determine policies of Corporation**

13. The Board of the Corporation has the function of determining the policies of the Corporation.

#### **Managing Director**

14. (1) There is to be a Managing Director of the Corporation.

(2) The Managing Director is to be appointed by the Minister.

(3) Schedule 3 has effect with respect to the Managing Director.

#### **Managing Director to manage Corporation**

15. (1) The Corporation is to be managed and controlled by the Managing Director of the Corporation in accordance with the policies of the Board and the directions of its Chairperson.

(2) Any act, matter or thing done in the name of, or on behalf of, the Corporation by the Managing Director is to be taken to have been done by the Corporation.

#### **Ministerial control**

16. The Board is, in the exercise of its functions, subject to the control and direction of the Minister.

#### **Corporation to supply information to Minister**

17. The Corporation must, when required to do so by the Minister, furnish to the Minister within a time specified by the Minister a report containing such information relating to the operations of the Corporation as the Minister may direct.

#### **Delegation of functions of Corporation**

18. (1) The Corporation may delegate to any person any functions of the Corporation, other than this power of delegation.

(2) A delegate may sub-delegate to an authorised person any function delegated by the Corporation if the delegate is authorised in writing to do so by the Corporation.

(3) In this section, "authorised person" means:

- (a) an officer of the Corporation; or
- (b) a person of a class prescribed by the regulations.

#### **Division 4 - Staff**

##### **Employment of staff**

19. The Corporation may employ such staff as it requires to exercise its functions.

##### **Salary, conditions etc. of staff**

20. The Corporation may fix the salary, wages and conditions of employment of its staff in so far as they are not fixed by or under any other Act or law.

##### **Regulations relating to staff**

21. (1) The regulations may make provision for or with respect to the employment of the staff of the Corporation, including the conditions of employment and the discipline of any such staff.

(2) Any such regulations relating to the conditions of employment or the discipline of staff:

- (a) have effect subject to any relevant award made by a competent industrial tribunal and to any industrial agreement to which the Corporation is a party; and
- (b) have effect despite any determination of the Corporation under section 20 (Salary, conditions etc. of staff).

##### **Use of staff or facilities of Departments etc.**

22. (1) The Corporation may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government department, an administrative office or a public or local authority.

(2) For the purposes of this Act, a person whose services are made use of under this section is a member of the staff of the Corporation.

### **Consultants**

23. The Corporation may engage such consultants as the Corporation requires to exercise its functions.

## **PART 4 - SALE OF CORPORATION'S BUSINESS UNDERTAKING AND DISSOLUTION OF CORPORATION**

### **Division 1 - Definitions**

#### **Definitions**

24. In this Part:

"**assets**" means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes choses in action and documents;

"**business undertaking**", in relation to the Corporation, means all assets, rights and liabilities of the Corporation;

"**instrument**" means an instrument (other than this Act) which creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order and process of a court;

"**liabilities**" means all liabilities, debts and obligations (whether present or future and whether vested or contingent);

"**rights**" means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent);

"**subsidiary company**" means a subsidiary company referred to in section 28.

### **Division 2 - Sale of business undertaking**

#### **Minister may enter into agreement for sale of Corporation's business undertaking**

25. The Minister may enter into an agreement in writing with any person (including a corporation) for the sale of all or part of the Corporation's business undertaking in accordance with:

- (a) section 27 (Sale by means of direct sale of undertaking); or
- (b) section 28 (Sale by means of transfer of undertaking to subsidiary companies and sale of relevant shares).

**Manner of conducting sale etc.**

26. (1) The sale of the Corporation's business undertaking is (subject to this Act) to be conducted in such manner as the Minister thinks fit.

(2) The sale shall be publicly advertised.

(3) A memorandum containing information about the Corporation's business undertaking shall be given to persons who express an interest in the sale.

(4) The Chairperson of the Board is to be the Minister's agent for the purposes of the sale, but the Chairperson may not make an order, or enter into an agreement for sale, under this Act.

**Sale by means of direct sale of undertaking**

27. (1) The Minister may sell part or all of the Corporation's business undertaking by means of an agreement for the sale of the undertaking directly to a purchaser.

(2) In any such sale:

(a) the whole undertaking may be sold to one purchaser; or

(b) one part of the undertaking may be sold to one purchaser and the other part may be sold to another purchaser; or

(c) one such part of the undertaking only may be sold to a purchaser in accordance with this section (if the other part is to be sold in accordance with section 28).

**Sale by means of transfer of undertaking to subsidiary companies and sale of relevant shares**

28. (1) In this section:

"subsidiary company" means a company:

(a) in which the Minister and any other person on behalf of the Crown have a controlling interest by virtue of their shareholding in the company; and

(b) which is declared by the Minister, by order published in the Gazette, to be a subsidiary company for the purposes of this Act.

(2) The Minister may sell the Corporation's business undertaking by means of an agreement for the sale of the shares held by the Minister (and by any other person on behalf of the Crown) in a subsidiary

company to which the undertaking, or a part of the undertaking, has been or is to be transferred.

(3) The Minister may, with a view to a sale in accordance with this section, direct by order in writing that:

- (a) the whole of the Corporation's business undertaking be transferred to a subsidiary company specified in the order; or
- (b) one part of that undertaking be transferred to one subsidiary company so specified and the other part be transferred to another subsidiary company so specified; or
- (c) one such part of that undertaking only be transferred to a subsidiary company so specified (if the other part is to be sold in accordance with section 27).

(4) The Minister may, by order in writing, direct that any assets transferred to a subsidiary company under this section are to be allocated to capital and reserves in such amounts and in accordance with such requirements as are specified in the order.

(5) Any shares issued in accordance with a direction under subsection (4) are to be taken to have been issued in consideration of the vesting in the subsidiary company under section 29 of the assets allocated to capital.

(6) Until the sale under this section of shares in a subsidiary company, the company is, for the purposes of any Act, a statutory body representing the Crown.

(7) For the purposes of this section, the Minister or any other person may, on behalf of the Crown, acquire shares in a company or subscribe to issues of shares by a company, and may dispose of or otherwise deal with those shares.

#### **Vesting of undertaking etc. in connection with sale**

29. (1) In this section:

"**transferee**" means a purchaser to whom any part of the Corporation's business undertaking is sold in accordance with section 27 or a subsidiary company to which any part of that undertaking is transferred in accordance with section 28.

(2) When any part of the Corporation's business undertaking is sold in accordance with section 27 or transferred to a subsidiary company in accordance with section 28, the following provisions have effect (subject to the agreement for sale or the order directing the transfer):

- (a) the assets of the Corporation comprised in that part of the undertaking vest in the transferee by virtue of this section and without the need for any conveyance, transfer, assignment or assurance;
  - (b) the rights and liabilities of the Corporation comprised in that part of the undertaking become by virtue of this section the rights and liabilities of the transferee;
  - (c) all proceedings relating to that part of the undertaking commenced before the sale or transfer by or against the Corporation and pending immediately before the sale or transfer are to be taken to be proceedings pending by or against the transferee;
  - (d) any act, matter or thing done or omitted to be done in relation to that part of the undertaking before the sale or transfer by, to or in respect of the Corporation is (to the extent that that act, matter or thing has any force or effect) to be taken to have been done or omitted to be done by, to or in respect of the transferee;
  - (e) a reference in an instrument of any kind to the Corporation is (to the extent that it relates to that part of the undertaking) to be read as a reference to the person to whom, or company to which, that part of the undertaking is sold or transferred.
- (3) Neither the operation of this section nor the sale by the Minister of shares in a subsidiary company under section 28 is to be regarded:
- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or
  - (c) as giving rise to any remedy by a party to an instrument because of a change in the beneficial or legal ownership of any asset, right or liability.
- (4) No attornment to the transferee by a lessee from the Corporation is required.
- (5) A reference in this section to a part of the Corporation's business undertaking includes a reference to both parts of that undertaking if they are sold or transferred as a single undertaking.

**Division 3 - Miscellaneous provisions relating to sale**

**Staff of Corporation**

30. (1) A person who is employed by the Corporation immediately before the date that the Corporation's business undertaking is sold to a person or transferred to a subsidiary company (as the case requires) becomes, on that date, if the Minister so determines by order in writing, an employee of the person or subsidiary company.

(2) If the Corporation's business undertaking is to be sold to different persons or transferred to different subsidiary companies, the Minister is to determine before the sale or transfer, by order in writing, the allocation of employees among the different persons or companies.

(3) Service by an employee with the Corporation (including any service which is taken to be service with the Corporation) is to be regarded as service with the person to whom or company to which the employee is transferred by this section.

**Cash payment from Corporation to Treasurer before sale**

31. The Corporation is to pay to the Treasurer for payment into the Consolidated Fund, within such time before the sale of the whole or any part of the Corporation's business undertaking as the Treasurer directs by notice in writing to the Corporation, such amount (if any) as is specified in the notice, being the amount which the Treasurer determines is surplus to the Corporation's requirements.

**Corporation Fund in Special Deposits Account**

32. (1) In this section:

"Fund" means the Egg Corporation Fund established in the Special Deposits Account in the Treasury.

(2) The Minister may, for the purposes of the sale of the Corporation's business undertaking, direct that money standing to the credit of the Corporation in the Fund be transferred to an account or accounts in the name of the Corporation or of a subsidiary company.

(3) After payments are made from the Fund in accordance with any such direction and the Fund is exhausted, the Fund is abolished.

**Proceeds of sale**

33. (1) The proceeds of the sale of the Corporation's business undertaking must be paid into the Consolidated Fund.

(2) There may be deducted from the proceeds of sale before payment into the Consolidated Fund such amount, as the Treasurer approves, to meet the expenses reasonably incurred in connection with the sale.

### **Stamp duty**

**34. (1)** The Minister may not enter into an agreement for the sale of the whole or any part of the Corporation's business undertaking to a purchaser in accordance with section 27 unless satisfied that arrangements have been made for the payment to the Crown of the amount of stamp duty forgone.

(2) The amount of stamp duty forgone is the amount of stamp duty that would have been payable if the assets transferred by the sale had been transferred by instrument in writing executed by the parties to the transfer instead of by the operation of section 29.

(3) Any instrument executed only for:

(a) a purpose ancillary to or consequential on the operation of section 29; or

(b) the purpose of giving effect to that section,  
is not chargeable with stamp duty.

(4) Nothing in this section affects any stamp duty payable on the sale in accordance with section 28 of shares in a subsidiary company.

### **Disclosure of information etc.**

**35. (1)** A disclosure of information made for the purposes of the sale of the Corporation's business undertaking (including a disclosure in any memorandum of information given to persons expressing an interest in the sale or a disclosure in any response to an inquiry made by a prospective purchaser) is not to be regarded:

(a) as a breach of contract or confidence or otherwise as a civil wrong; or

(b) as a contravention of section 79 (Disclosure of information) or of any provision of an Act regulating companies.

(2) Subsection (1) applies to a disclosure made by the Minister or the Minister's agent (or by a person acting at the direction or with the authority of the Minister or the Minister's agent), but does not apply to a disclosure made by a prospective purchaser or other person to whom the information has been given.

(3) Subsection (1) applies to a disclosure whether made before or after the commencement of this section.

(4) A person who:

(a) is given information in connection with the sale of the Corporation's business undertaking; and

(b) undertakes in writing not to disclose the information to others, is guilty of an offence if the person contravenes the undertaking without lawful excuse.

Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.

#### **Division 4 - Dissolution of Corporation**

##### **Dissolution of Corporation**

36. (1) On the commencement of this section, the Corporation is dissolved.

(2) The assets, rights and liabilities (if any) of the Corporation immediately before its dissolution under this section are transferred to the Crown, and section 29 (Vesting of undertaking etc. in connection with sale) applies to that transfer in the same way as it applies to the transfer of the Corporation's business undertaking to a subsidiary company.

##### **Board and Managing Director to vacate office**

37. (1) A person who, immediately before the dissolution of the Corporation, held office as a member of the Board or Managing Director of the Corporation:

(a) ceases to hold office as such; and

(b) except as provided by subsection (2), is not entitled to any remuneration or compensation because of the loss of that office.

(2) Part 8 of the Public Sector Management Act 1988 applies to a person who so ceases to hold office as a member of the Board or Managing Director of the Corporation in the same way as it applies to a person removed from office under that Part.

## **PART 5 - HEN QUOTA COMMITTEE**

### **Committee**

38. (1) There is constituted by this Act a Hen Quota Committee.

(2) The Committee has and may exercise the functions conferred or imposed on it by or under this or any other Act.

(3) The provisions of section 12 (4) and (5) apply to and in respect of the appointment of members of the Committee in the same way that they apply to and in respect of the appointment of a member of the Board.

(4) The Committee is, by virtue of this subsection, a corporation.

### **Staff of the Committee**

39. (1) The Committee may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of the Corporation, a government department, an administrative office or a public or local authority.

(2) For the purposes of this Act, a person whose services are made use of under this section is a member of the staff of the Committee.

### **Constitution of Committee**

40. (1) The Committee is to consist of:

- (a) 3 members appointed by the Minister; and
- (b) the Director-General of the Department of Agriculture and Fisheries or a nominee of the Director-General.

(2) Of the persons appointed by the Minister, one is to be a barrister or solicitor and one is to have qualifications or experience in the field of finance.

(3) A person who has a hen quota or who leases out a hen quota is not eligible for appointment to the Committee.

(4) Schedule 4 has effect with respect to the constitution and procedure of the Committee.

### **Principal function of Committee**

41. (1) The principal function of the Committee is to administer the Hen Quota Payment Scheme constituted under Part 6.

(2) In exercising its functions, the Committee is to endeavour to determine claims under the Scheme as informally and expeditiously as possible.

### **Dissolution of Committee**

42. (1) On the commencement of this section, the Committee is dissolved.

(2) A person who, immediately before the dissolution of the Committee, held office as a member of the Committee:

- (a) ceases to hold office as such; and
- (b) is not entitled to any remuneration or compensation because of the loss of that office.

## **PART 6 - HEN QUOTA PAYMENT SCHEME**

### **Division 1 - Preliminary**

#### **Definitions**

43. In this Part:

"**hen quota**" means the hen quota (not being a hen quota specified as nil) specified in a licence;

"**licence**" means licence in force under the repealed Act on the relevant day;

"**producer**", in relation to a licence, means a producer at the place to which the licence relates;

"**Register of Licences**" means the Register of Licences kept under the repealed Act;

"**relevant day**" means the day on which notice was given for introduction of the Bill for this Act.

### **Division 2 - The Scheme**

#### **The Scheme**

44. (1) There is constituted a Scheme called the "Hen Quota Payment Scheme".

(2) Under the Scheme, the Committee is to arrange for payments to be made to claimants who satisfy the eligibility criteria for such financial assistance in respect of hen quota abolished by the repeal of the Egg Industry Act 1983.

(3) No right of compensation enforceable against the State arises because of the abolition of the State Hen Quota.

### **Eligibility criteria**

45. (1) Where the Register of Licences shows that a licence was in force in relation to a hen quota on the relevant day:

- (a) the person shown as producer is eligible for payment under the Scheme as regards the quota, except so much of the quota as is being leased on that day to the producer by another person (in this section called a "lessor"); and
- (b) such a lessor is eligible for payment under the Scheme as regards so much of the quota as is being leased on that day to the producer by the lessor and as is not leased by the lessor from another person.

(2) If a person is specified in the Register of Licences as the producer shown on the licence specifying the hen quota in respect of which the claim is made, the person is, unless shown to be leasing the hen quota concerned from a lessor or to be otherwise ineligible during the Committee's investigations, to be taken to be eligible for payment under the Scheme.

(3) A payment may be made to an eligible person only if the person has made a claim in accordance with this Act and the other provisions of this Act regarding payment have been satisfied.

(4) The regulations may contain provisions of an ancillary nature relating to the eligibility criteria set out in this section and that are necessary to give effect to the intent of the Scheme.

### **Transfer of hen quota before relevant day**

46. (1) In this section:

"**transfer agreement**" means an agreement (whether or not in writing) for the transfer of hen quota entered into before the relevant day.

(2) A person who would have been eligible for payment under the Scheme if a transfer agreement had taken effect before the relevant day is to be taken to be eligible if, immediately before that day, the Committee dissolved under section 6 had approved an application for the surrender and re-issue of a licence under the repealed Act disclosing the price paid, or proposed to be paid, for the transfer of the hen quota concerned.

**Reference date**

47. The Minister may, by order published in a newspaper circulating generally throughout the State, specify a date by which all claims made under this Part must, unless the subject of an appeal under section 60, be determined.

**Persons eligible to make claims**

48. A claim may be made under the Scheme by or on behalf of any person who claims eligibility for payment under the Scheme in respect of the whole or part of a hen quota.

**Making of claims**

49. Claims under the Scheme are to be made in the form and the manner determined by the Committee.

**Time for making claims**

50. (1) The Committee is to determine a date by which claims under the Scheme must be made in order for the claimants to be eligible for a payment under the Scheme.

(2) The Committee is to publish notice, in a newspaper circulating generally throughout the State, of the date by which, and the form and manner in which, claims must be made.

**Supporting evidence**

51. (1) The Committee may give a claimant not less than 14 days' written notice requiring the claimant:

- (a) to supply such particulars in connection with the claim; and
- (b) to produce or deliver to it any documents (including statutory declarations) or securities necessary or available to support the claim or establish the claimant's rights against any other claimant in respect of the hen quota concerned,

as are specified in the notice.

(2) If a claimant fails without reasonable excuse to comply with the notice, the Committee may disallow the claim.

**Determination of claim**

**52.** (1) If a claim is made, the Committee is:

- (a) to investigate the claim; and
- (b) to determine whether to wholly or partly allow or disallow the claim.

(2) In reaching a determination, the Committee may take into account any records (including records indicating the existence of a leasing or other arrangement in respect of the hen quota concerned) of the Committee dissolved under section 6 relating to hen quotas or payments made for or in respect of hen quotas.

(3) The Committee may wholly disallow a claim:

- (a) if, in its opinion, the claimant is not eligible for payment under the Scheme; or
- (b) if there is insufficient documentary or other evidence to support the claim; or
- (c) if a person other than the claimant is, in the opinion of the Committee, eligible for payment in respect of the hen quota concerned.

(4) The Committee may partly disallow a claim if, in its opinion, another person is eligible for payment under the Scheme in respect of part of the hen quota concerned.

(5) The Committee may disallow all claims in respect of any hen quota.

(6) A determination to allow (whether wholly or partly) a claim is not to be taken as an admission of liability to the claimant with respect to loss of the hen quota (or part of a hen quota) concerned.

**Notification of determination**

**53.** (1) If the Committee determines that a claim is to be wholly allowed it is to notify the claimant and the Minister accordingly.

(2) If the Committee determines otherwise, it must, as soon as practicable, give the claimant written notice of its determination.

(3) Notice of a determination must:

- (a) set out any findings on material questions of fact; and
- (b) refer to any evidence or other material on which its determination was based; and

- (c) give reasons for the determination.

#### **Request for review of determination**

**54.** (1) A claimant who is dissatisfied with a determination of the Committee may request the Committee to review its determination.

(2) A request to review a determination is to be made in writing within 21 days after the date on which notice of the determination was given.

(3) The Committee must review a determination if requested to do so.

#### **Form of review**

**55.** (1) A review is to be carried out by reconsideration of the evidence on which the determination was based.

(2) If the Committee considers it necessary to do so following reconsideration of the evidence, it may conduct a hearing into any determination it is requested to review.

(3) New evidence (including fresh evidence) in addition to or in substitution for the evidence considered by the Committee on its review may be given at a hearing.

(4) A claimant may appear personally at a hearing or may be represented by a legal practitioner or, with the leave of the Committee, by any other person.

(5) The Committee is to give written notice of its decision on review to the claimant and the Minister.

### **Division 3 - Hearings of Committee**

#### **Proceedings generally**

**56.** In proceedings before it, the Committee is not bound to observe the rules of law governing the admission of evidence, but may inform itself of any matter in such manner as it thinks fit.

#### **Hearings**

**57.** Unless the Committee otherwise directs, a hearing is to be held in the absence of the public.

**Powers to summon witnesses and take evidence**

58. (1) A member of the Committee may summon a person to appear at a hearing to give evidence and to produce such documents (if any) as are referred to in the summons.

(2) The member of the Committee presiding at a hearing may require a person appearing at the hearing to produce a document.

(3) The Committee may, at a hearing, take evidence on oath or affirmation and, for that purpose:

(a) a member of the Committee may require a person appearing at the hearing to give evidence, to take an oath or to make an affirmation in a form approved by the member of the Committee presiding at the hearing; and

(b) a member of the Committee may administer an oath or affirmation to a person so appearing at the hearing.

(4) A person served with a summons to appear at a hearing to give evidence must not, without reasonable excuse:

(a) fail to attend as required by the summons; or

(b) fail to attend from day to day unless excused, or released from further attendance, by a member of the Committee.

Maximum penalty: 20 penalty units.

(5) A person appearing at a hearing to give evidence must not, without reasonable excuse:

(a) when required to take an oath or make an affirmation - refuse or fail to comply with the requirement; or

(b) refuse or fail to answer a question that the person is required to answer by the member of the Committee presiding at the hearing; or

(c) refuse or fail to produce a document that the person is required to produce by a summons served under this section.

Maximum penalty: 20 penalty units.

**Power to obtain documents**

59. (1) A member of the Committee may, by notice in writing served on a person, require the person:

(a) to attend, at a time and place specified in the notice, before a person specified in the notice, being a member of the

Committee or a person authorised by the Committee in that behalf; and

(b) to produce, at that time and place, to the person so specified a document specified in the notice.

(2) A person must not, without reasonable excuse, refuse or fail to comply with a notice served on the person under this section.

Maximum penalty: 20 penalty units.

#### **Division 4 - Appeals**

##### **Appeals on questions of law**

60. (1) A claimant who is or has been a party to a hearing under section 55 may, in accordance with rules of court, appeal to the Supreme Court against any decision of the Committee on a question of law.

(2) On the hearing of an appeal under this section, the Supreme Court may:

(a) remit the matter to the Committee for determination by the Committee in accordance with the decision of the Supreme Court; or

(b) make such other order in relation to the appeal as seems fit.

(3) Any appeal against a decision of the Committee must be made within 21 days after the date on which notice of the decision was given.

#### **Division 5 - Payments**

##### **Nature of payment**

61. (1) The Committee may determine and, with the approval of the Minister, arrange for payments to be made under the Scheme.

(2) Without limiting subsection (1), payments under the Scheme may be made out of:

(a) money borrowed by the Corporation or the Committee; or

(b) money provided by Parliament.

(3) Payments must not be made in respect of a total number of hen quota exceeding in aggregate the State Hen Quota established under the repealed Act on the commencement of this section.

(4) Only one payment is to be made in respect of each hen quota, although the payment may be made in instalments.

(5) The payment to be made is to be calculated by multiplying the basic rate by the hen quotas (or fraction of hen quotas) in respect of which the claimant is eligible for payment and deducting any amounts owed to the Corporation by the claimant.

(6) In this section, a reference to amounts owed to the Corporation includes a reference to any amounts to be paid to the Corporation under an undischarged liability to pay a levy arising under the Commonwealth Levy Acts.

(7) In this section:

"basic rate" means \$15;

"Commonwealth Levy Acts" means the following Acts of the Commonwealth:

- (a) the Poultry Industry Levy Act 1965;
- (b) the Poultry Industry Levy Collection Act 1965;
- (c) the Egg Industry Research (Hen Quota) Levy Act 1987;
- (d) the Egg Industry Research (Hen Quota) Levy Collection Act 1987.

### **Payments generally**

62. (1) Payments under the Scheme may be made progressively as each claim is determined or only after all claims have been determined.

(2) The Committee is to make such arrangements as may be necessary to transfer to the Corporation an amount equivalent to any amounts to be deducted in calculating the payment to be made to a claimant.

(3) The Committee may require a claimant to execute an agreement in a form satisfactory to the Committee releasing the Corporation from all claims, rights of action and obligations relating to hen quotas or levies before any payment to the claimant concerned is made under the Scheme.

### **Proceedings against Committee**

63. A determination of the Committee is not liable to be challenged, appealed against, reviewed, quashed or called into question by any court or administrative body.

## **PART 7 - EGGS AND EGG PRODUCTS**

### **Definitions**

**64.** In this Part:

"**consumer**" means a person who buys an egg from a supplier, where the egg is bought, or held out as being bought, for a purpose other than:

- (a) resale; or
- (b) consuming it by, or transforming it by, a process of manufacture or production;

"**retailer**" means a person who buys an egg, in the course of business, for resale directly to a consumer;

"**premises**" includes any place, vehicle, vessel or aircraft.

### **Offence**

**65.** A person must not sell to a consumer or retailer an egg which fails to comply with a standard prescribed for eggs for the purposes of this Part.

Maximum penalty: 50 penalty units.

### **Regulations**

**66. (1)** The Governor may make regulations with respect to prescribing standards relating to the description, wholesomeness and purity or quality of eggs or egg products.

**(2)** Without limiting subsection (1), regulations may be made for or with respect to:

- (a) the ascertainment of whether eggs and egg products are of the prescribed standards; and
- (b) the marketing of eggs and egg products not meeting the prescribed standards; and
- (c) the making and keeping of records relating to the marketing of eggs and egg products, the inspection of those records and their production in any legal proceedings.

**(3)** A regulation made under this Part may create an offence punishable by a penalty not exceeding 5 penalty units.

### **Inspectors**

67. (1) Inspectors may be employed in the Department of Agriculture and Fisheries for the purposes of this Part.

(2) Each inspector is to be issued with a certificate of identification in a form approved by the Director-General of the Department of Agriculture and Fisheries.

### **Powers of inspectors**

68. (1) An inspector may:

- (a) enter and remain on or in any land, premises or place which is or are, or which the inspector believes on reasonable grounds is or are, being used in relation to the marketing of eggs and egg products; and
- (b) examine any eggs or egg products found in or on the land, premises or place; and
- (c) seize and detain, or take possession of, samples of any eggs or egg products in respect of which the inspector reasonably believes an offence against this Part or the regulations is being committed.

(2) Nothing in this section empowers an inspector to enter any premises without the consent of the owner or occupier of the premises except under the authority of a search warrant issued under section 69.

### **Search warrants**

69. (1) In this section:

"authorised justice" means:

- (a) a Magistrate; or
- (b) a justice of the peace employed in the Attorney General's Department.

(2) An inspector may apply to an authorised justice for a warrant to search any premises if the inspector has reasonable grounds for believing:

- (a) that a provision of this Act or the regulations has been or is being contravened in any premises; or
- (b) that there are in any premises impure or unwholesome eggs or egg products which are intended for sale.

(3) An authorised justice to whom the application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising the inspector to enter and search the premises.

(4) An inspector executing a search warrant issued under this section may seize any eggs or egg products the inspector has reasonable grounds for believing are impure or unwholesome.

(5) Part 3 of the Search Warrants Act 1985 applies to a search warrant issued under this section.

(6) A person must not, without reasonable excuse, obstruct or hinder a person executing a warrant issued under this section.

Maximum penalty: 20 penalty units.

(7) Without limiting the generality of section 18 of the Search Warrants Act 1985, a member of the Police Force may accompany an inspector executing a search warrant issued under this section and take all reasonable steps to assist the inspector in the exercise of the inspector's functions under that Act.

## **PART 8 - FINANCE**

### **Egg Corporation Fund**

70. The Corporation is to establish a fund to be known as the Egg Corporation Fund.

### **Payments into Fund**

71. There is to be paid into the Fund all money received by or on account of the Corporation.

### **Payments from Fund**

72. There is to be paid from the Fund all amounts required to meet expenditure incurred in the administration of this Act.

### **Investment**

73. The Corporation may invest money held by it:

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power to invest money held by the Corporation:

- (i) in accordance with and subject to the Trustee Act 1925;  
or
- (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

### **Banking**

74. All money received on account of the Fund is to be paid into a bank or banks in New South Wales.

### **Financial year**

75. (1) The financial year of the Corporation is the year commencing on 1 July.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

## **PART 9 - MISCELLANEOUS**

### **Personal liability**

76. No matter or thing done by:

- (a) the Corporation or the Managing Director of the Corporation;  
or
- (b) the Committee or a member of that Committee; or
- (c) any person acting under the direction of the Corporation or the Committee,

is, if the matter or thing was done in good faith for the purposes of executing this or any other Act, to subject the Managing Director, member or a person so acting personally to any action, liability, claim or demand.

### **Service of documents**

77. (1) A document may be served on the Corporation by leaving it at, or by sending it by post to:

- (a) the office of the Corporation; or
- (b) if it has more than one office - any one of its offices.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Corporation in any other manner.

### **Recovery of charges etc. by Corporation**

78. Any charge, fee or money due to the Corporation may be recovered by the Corporation as a debt in a court of competent jurisdiction.

### **Disclosure of information**

79. A person must not disclose any information obtained in connection with the administration or execution of this Act unless the disclosure is made:

- (a) with the consent of the person from whom the information was obtained; or
- (b) in connection with the administration or execution of this Act; or
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) with other lawful excuse.

Maximum penalty: 10 penalty units or imprisonment for 12 months, or both.

### **Proceedings for offences**

80. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

### **Regulations**

81. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the regulations may make provision for or with respect to the following:

- (a) any of the functions conferred or imposed on the Minister, the Corporation or the Committee by or under this Act;
- (b) the business, proceedings and meetings of the Corporation or the Committee;
- (c) the control and management and expenditure of the funds of the Corporation and the Committee.

(3) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

**Savings, transitional and other provisions**

82. Schedule 5 has effect.

**Amendment of Search Warrants Act 1985 No. 37, s. 10 (Definitions)**

83. The Search Warrants Act 1985 is amended by inserting in the definition of "search warrant" in section 10 in alphabetical order of Acts the following matter:

section 69 of the Egg Industry (Repeal and Deregulation) Act 1989;

**Amendment of Public Authorities (Financial Arrangements) Act 1987 No. 33, Sch. 1 (Authorities)**

84. The Public Authorities (Financial Arrangements) Act 1987 is amended by inserting in Schedule 1 in alphabetical order the following matter:

Hen Quota Committee.  
New South Wales Egg Corporation.

**Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No. 4), Sch. 2 (Public Offices)**

85. The Statutory and Other Offices Remuneration Act 1975 is amended by inserting in Part 1 of Schedule 2 after the matter relating to the Managing Director of the New South Wales Egg Corporation the following matter:

Full-time Chairperson of the New South Wales Egg Corporation Board, other than the Managing Director of the Corporation.

**Amendment of Schedule 3 relating to Senior Executive Service**

86. Schedule 3 is amended:

(a) by inserting after clause 2 the following clause:

**Employment of Managing Director**

3. The employment of the Managing Director is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

(b) by omitting clauses 3 - 8.

**Amendment of Ombudsman Act 1974 No. 68, Sch. 1 (Excluded conduct of public authorities)**

**87.** The Ombudsman Act 1974 is amended by inserting at the end of Schedule 1 the following item:

22. Conduct of the Hen Quota Committee where exercising functions under the Egg Industry (Repeal and Deregulation) Act 1989.

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**SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS OF  
THE BOARD**

(Sec. 12)

**Definitions**

1. In this Schedule:

"**appointed member**" means a member of the Board other than the Managing Director of the Board;

"**Board**" means the Board of the Corporation.

**Chairperson**

2. (1) Of the members of the Board, one is (in and by the member's instrument of appointment as a member or in and by another instrument executed by the Minister) to be appointed as Chairperson of the Board.

(2) The Chairperson may be appointed as a full-time or as a part-time Chairperson.

(3) The Minister may remove a member from the office of Chairperson at any time.

(4) A person who is a member and Chairperson vacates office as Chairperson if the person:

(a) is removed from that office by the Minister; or

(b) resigns that office by instrument in writing addressed to the Minister; or

(c) ceases to be a member.

**Deputies of members**

3. (1) The Managing Director of the Corporation may, from time to time, appoint a person to be his or her deputy, and the Managing Director or the Minister may revoke any such appointment.

(2) The Minister may, from time to time, appoint a person to be the deputy of an appointed member and the Minister may revoke any such appointment.

SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS  
OF THE BOARD - *continued*

- (3) In the absence of a member, the member's deputy:
- (a) is, if available, to act in the place of the member; and
  - (b) while so acting, has all the functions of the member and is to be taken to be a member.

(4) The deputy of a member who is Chairperson of the Board has the member's functions as Chairperson.

(5) A person while acting in the place of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

**Terms of office**

4. Subject to this Schedule, an appointed member holds office for such period (not exceeding 3 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

**Full-time Chairperson**

5. A full-time Chairperson must devote the whole of his or her time to the duties of the office, except to the extent permitted by this Act or by the Minister.

**Remuneration**

6. (1) A full-time Chairperson is entitled to be paid:
- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act 1975; and
  - (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of the Chairperson.

(2) A part-time appointed member (including a part-time Chairperson) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Vacancy in office of member**

7. (1) The office of an appointed member becomes vacant if the member:

SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS  
OF THE BOARD - *continued*

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or
- (e) being a full-time Chairperson of the Board, is absent from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister or unless the absence is occasioned by illness or other unavoidable cause; or
- (f) being a part-time member, is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings; or
- (g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (h) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (i) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or
- (j) being a full-time Chairperson of the Board, engages in any paid employment outside the duties of the office, except with the consent of the Minister.

**SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS  
OF THE BOARD - *continued***

(2) The Minister may remove an appointed member from office at any time.

**Filling of vacancy in office of appointed member**

8. If the office of an appointed member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

**Effect of certain other Acts**

9. (1) The Public Sector Management Act 1988 does not apply to the appointment of an appointed member and an appointed member is not, as a member, subject to that Act (except Part 8).

(2) If by or under any Act provision is made:

(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or

(b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as such a member.

(3) The office of an appointed member is not, for the purposes of any Act, an office or place of profit under the Crown.

**SCHEDULE 2 - PROVISIONS RELATING TO THE PROCEDURE  
OF THE BOARD**

(Sec. 12)

**General procedure**

1. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

**Quorum**

2. The quorum for a meeting of the Board is 3 members, of whom one must be the Chairperson.

SCHEDULE 2 - PROVISIONS RELATING TO THE  
PROCEDURE OF THE BOARD - *continued*

**Presiding member**

3. (1) The Chairperson of the Board is to preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

**Voting**

4. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

**First meeting**

5. The Minister is to call the first meeting of the Board in such manner as the Minister thinks fit.

**Disclosure of pecuniary interests**

6. (1) If:

(a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and

(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a member at a meeting of the Board that the member:

(a) is a member, or is in the employment, of a specified company or other body; or

(b) is a partner, or is in the employment, of a specified person; or

(c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the interest in any matter relating to that company or other body or to that person which may arise after the date

**SCHEDULE 2 - PROVISIONS RELATING TO THE  
PROCEDURE OF THE BOARD - *continued***

of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause are to be recorded by the Board in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.

(4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Board otherwise determines:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in the making by the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

(7) This clause does not apply to or in respect of an interest of a member (being the provision of goods or services to the member by the Board) if the goods or services are, or are to be, available to members of the public on the same terms and conditions.

**SCHEDULE 3 - MANAGING DIRECTOR**

(Sec. 14)

**Definitions**

1. In this Schedule:

SCHEDULE 3 - MANAGING DIRECTOR - *continued*

"Managing Director" means the Managing Director of the Corporation.

**Acting Managing Director**

2. (1) The Minister may, from time to time, appoint a person to act in the office of the Managing Director during the illness or absence of the Managing Director, and the person, while so acting, has all the functions of the Managing Director and is to be taken to be the Managing Director.

(2) The Minister may, at any time, remove any person from an office to which the person was appointed under this clause.

(3) A person while acting in the office of the Managing Director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(4) For the purposes of this clause, a vacancy in the office of the Managing Director is to be regarded as an absence from office of the Managing Director.

**Term of office**

3. Subject to this Schedule, the Managing Director holds office for such period (not exceeding 3 years) as may be specified in the Managing Director's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

**Managing Director to be full-time**

4. The Managing Director is to devote the whole of his or her time to the duties of his or her office, except to the extent permitted by this Act or by the Minister.

**Remuneration**

5. The Managing Director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the Managing Director.

SCHEDULE 3 - MANAGING DIRECTOR - *continued*

**Vacancy in office of Managing Director**

6. (1) The office of the Managing Director becomes vacant if the Managing Director:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) retires or is removed from office by the Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or
- (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (f) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (g) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or
- (h) engages in any paid employment outside the duties of his or her office, except with the consent of the Minister.

(2) The Managing Director may, after reaching the age of 60 years, be retired from office by the Governor.

**Filling of vacancy in office**

7. If the office of Managing Director becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

SCHEDULE 3 - MANAGING DIRECTOR - *continued*

**Public Sector Management Act 1988 not to apply**

8. The Public Sector Management Act 1988 does not apply to the appointment of the Managing Director and the Managing Director is not, as a Managing Director, subject to that Act (except Part 8).

**SCHEDULE 4 - PROVISIONS RELATING TO THE  
CONSTITUTION AND PROCEDURE OF THE COMMITTEE**

(Sec. 40)

**Members of Committee**

1. Schedule 1 applies to and in respect of the members of the Committee in the same way as it applies to and in respect of an appointed member (other than a full-time Chairperson) of the Board.

**Procedure of Committee**

2. Schedule 2 applies to and in respect of the Committee and the members of the Committee in the same way as it applies to and in respect of the Board and the members of the Board.

**SCHEDULE 5 - SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS**

(Sec. 82)

**Definitions**

1. In this Schedule:

"**appointed day**" means the day appointed under section 2 for the commencement of section 5 (Repeals);

"**dissolved Committee**" means the Committee dissolved under section 6;

"**dissolved Corporation**" means the Corporation dissolved under section 6.

**Regulations**

2. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS - *continued*

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**Members of dissolved Committee**

3. (1) A person who, immediately before the appointed day, held office as a member of the dissolved Committee:

- (a) ceases to hold that office; and
- (b) is eligible (if otherwise qualified) to be appointed as a member of the Committee.

(2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.

**Members of the dissolved Corporation**

4. (1) A person who, immediately before the appointed day, held office as a member of the dissolved Corporation:

- (a) ceases to hold that office; and
- (b) is eligible (if otherwise qualified) to be appointed as Managing Director of the Corporation; and
- (c) except as provided by subclause (2), is not entitled to any remuneration or compensation because of the loss of that office.

(2) Part 8 of the Public Sector Management Act 1988 applies to a person who so ceases to hold office as Managing Director of the dissolved Corporation in the same way as it applies to a person removed from office under that Part.

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS - *continued*

**Members of Union Consultative Committee**

5. A person who, immediately before the appointed day, held office as a member of the Union Consultative Committee constituted under the repealed Act:

- (a) ceases to hold that office; and
- (b) is not entitled to any remuneration or compensation because of the loss of that office.

**Continuity of existing staff of Corporation**

6. Any members of the staff of the dissolved Corporation employed under the repealed Act immediately before the appointed day are to be taken to be members of the staff of the Corporation employed under this Act.

**Preservation of rights of existing staff**

7. (1) This clause applies to a person who was a member of the staff of the dissolved Corporation under the repealed Act immediately before the appointed day.

- (2) Subject to the terms of the person's appointment, the person:
  - (a) is to retain any rights accrued or accruing to him or her as an employee of the dissolved Corporation; and
  - (b) is to be subject to the same conditions of employment; and
  - (c) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as a member of the staff of the Corporation; and
  - (d) is entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if the person had continued to be an employee during his or her service as a member of the staff of the Corporation.

(3) Service as a member of staff of the Corporation is to be regarded as service as an officer or employee for the purposes of any law under which any such rights accrued or were accruing, under which he or she continues to contribute to any such superannuation scheme or by which any such entitlement is conferred.

SCHEDULE 5 - SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS - *continued*

(4) The person is to be regarded as an officer or employee, and the Corporation is to be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.

(5) If the person would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme:

- (a) he or she will not be so entitled on becoming (whether on appointment as a member of staff of the Corporation or at any later time while such an employee) a contributor to any other superannuation scheme; and
- (b) the provisions of subclause (4) cease to apply to or in respect of him or her and the Corporation in any case where he or she becomes a contributor to any such other superannuation scheme.

(6) Subclause (5) does not prevent the payment to the member of staff (on his or her ceasing to be a contributor to a superannuation scheme) of such amount as would have been payable to him or her if he or she had ceased, by reason of resignation, to be an officer or employee for the purposes of the scheme.

**References to Managing Director**

8. On and from the appointed day, a reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to the Managing Director under the repealed Act is to be read as a reference to the Managing Director of the Corporation.

**Remuneration of Managing Director**

9. Until a determination is made in respect of the Managing Director under the Statutory and Other Offices Remuneration Act 1975, the Managing Director is entitled to be paid such salary and allowances as those to which the Managing Director of the dissolved Corporation was entitled under that Act immediately before the appointed day.

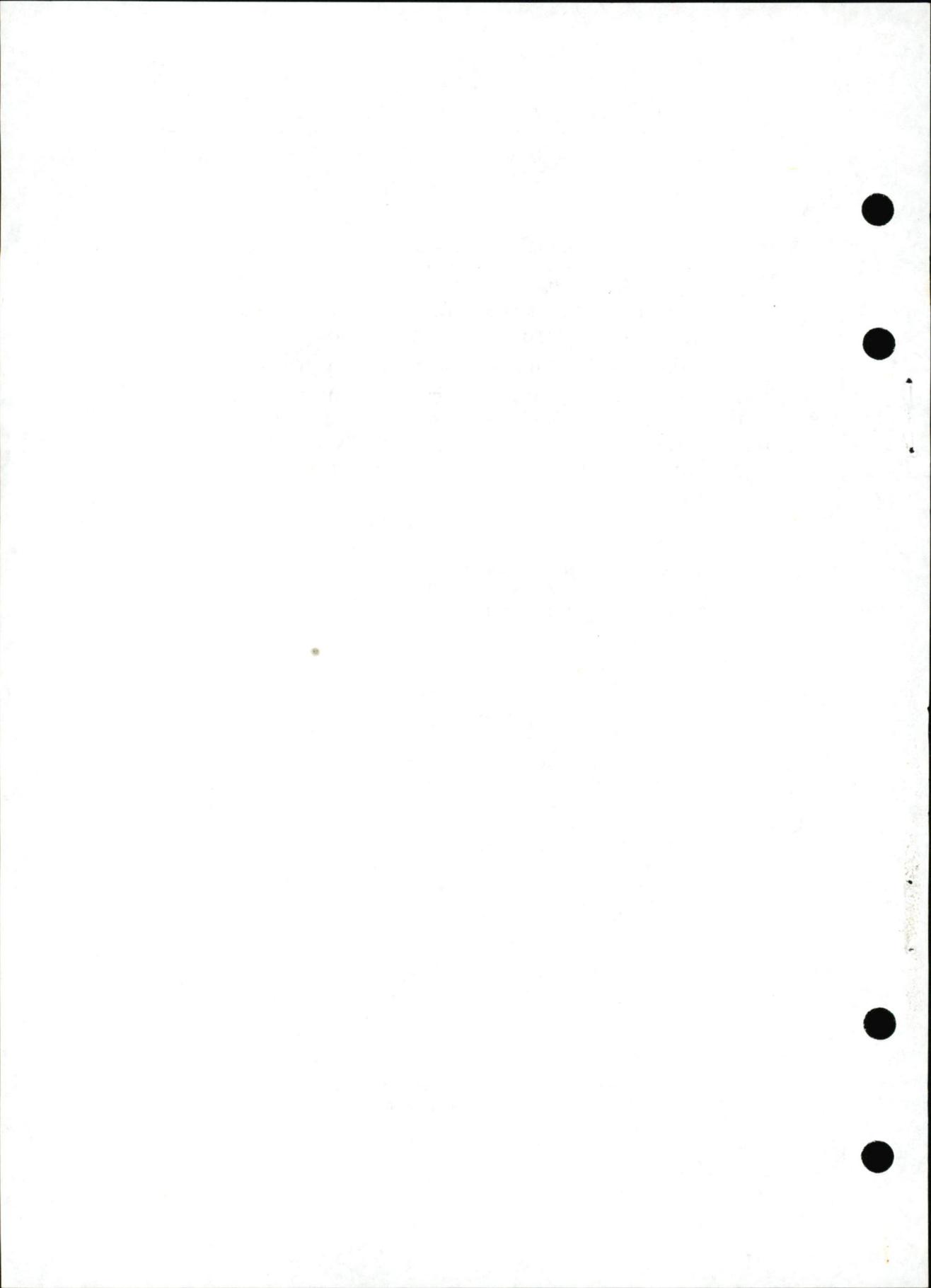
SCHEDULE 5 - SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS - *continued*

**Personal liability of Managing Director etc.**

10. No matter or thing done by:
- (a) the dissolved Corporation or any person acting under the direction of the dissolved Corporation; or
  - (b) the dissolved Committee or a member of that Committee,
- is, if the matter or thing was done in good faith for the purpose of executing the repealed Act, or the exercise of his or her functions, to subject any of those persons so acting personally to any action, liability, claim or demand.

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[*Minister's second reading speech made in -  
Legislative Assembly on 1 August 1989  
Legislative Council on 2 August 1989*]



FIRST PRINT

## EGG INDUSTRY (REPEAL AND DEREGULATION) BILL 1989

NEW SOUTH WALES



### EXPLANATORY NOTE

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

The objects of this Bill are set out in clause 3 of the Bill. They are:

- (a) to deregulate the egg industry by dismantling the system of control over the production, supply and marketing of eggs and egg products established under the Egg Industry Act 1983 by repealing that Act; and
- (b) to provide for the continued wholesomeness and purity of eggs and egg products in the interests of public health; and
- (c) to provide a scheme for giving financial assistance to certain persons affected by the abolition by the proposed Act of the State Hen Quota established under the repealed Act; and
- (d) to enable a reconstituted New South Wales Egg Corporation to trade in eggs and other products on a competitive basis until such time as it is sold or finally dissolved.

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### PART 1 - PRELIMINARY

This Part provides for certain preliminary matters, and includes provisions:

- (a) specifying the short title of the proposed Act (clause 1); and
- (b) providing for the commencement, with minor exceptions, of the proposed Act on a day or days to be appointed by proclamation (clause 2); and
- (c) specifying the objects of the proposed Act (clause 3); and
- (d) defining certain expressions, including "marketing", for the purposes of the proposed Act (clause 4).

**PART 2 - REPEALS AND DISSOLUTION OF  
CORPORATION CONSTITUTED UNDER  
REPEALED ACT**

This Part provides for the repeal of the Egg Industry Act 1983 and the regulations under it (clause 5) and for the dissolution of the New South Wales Egg Corporation and the Poultry Farmer Licensing Committee (clause 6).

**PART 3 - RECONSTITUTION OF CORPORATION  
AND FUNCTIONS UNDER THIS ACT**

This Part, which contains 4 Divisions, provides for the administration of the reconstituted Corporation and specifies its functions. The Corporation will no longer have a monopoly over the marketing of eggs but will be able to market eggs competitively and carry out functions in relation to eggs, egg products and other products so that its resources are utilised until it is sold or finally dissolved.

Division 1 contains clause 7 which constitutes the Corporation and provides that it is a continuation of, and the same legal entity as, the dissolved Corporation.

Division 2 specifies the functions of the Corporation, and includes provisions:

- (a) providing that the Corporation is to have such functions as may be conferred or imposed on it under the proposed or any other Act (clause 8); and
- (b) specifying the extent of the Corporation's marketing functions (clause 9); and
- (c) specifying further ancillary functions to those already enumerated (clause 10).

Division 3 sets out the managerial structure of the Corporation, and includes provisions:

- (a) constituting a New South Wales Egg Corporation Board consisting of the Managing Director and 3 other members appointed by the Minister (clause 11); and
- (b) specifying that the function of the Board is to determine the policies of the Corporation (clause 12); and
- (c) providing that there is to be a Managing Director of the Corporation appointed by the Minister (clause 13); and
- (d) specifying that the function of the Managing Director is to manage and control the Corporation in accordance with the policies of the Board and the directions of its Chairperson (clause 14); and
- (e) providing that the Board is subject to the control and direction of the Minister for Agriculture and Rural Affairs (clause 15); and
- (f) requiring the Corporation to supply certain information to the Minister if required to do so (clause 16); and

- (g) enabling the Corporation to delegate its functions (clause 17).

Division 4 deals with the staff of the Corporation. Staff formerly employed by the Corporation to be dissolved by the proposed Act are to automatically become staff of the new Corporation (clause 6, Schedule 5). The Division includes provisions:

- (a) enabling the Corporation to employ staff (clause 18); and
- (b) enabling the Corporation to fix the salary, wages and conditions of employment of its staff (clause 19); and
- (c) enabling regulations to be made relating to the employment of the staff (clause 20); and
- (d) enabling the Corporation to use the staff or facilities of various bodies (clause 21); and
- (e) enabling the Corporation to engage consultants (clause 22).

**PART 4 - SALE OF CORPORATION'S BUSINESS  
UNDERTAKING AND DISSOLUTION OF  
CORPORATION**

This Part authorises the sale of the business undertaking of the Corporation. It authorises the Minister to sell the whole or part of the undertaking. The sale may be effected by a direct sale of assets etc. to a purchaser or by the sale of the shares in a subsidiary company controlled by the Minister to which the assets etc. have been transferred. The proceeds of the sale are to be paid into the Consolidated Fund.

The Part also provides for the dissolution of the Corporation after the sale or if no sale is effected.

Division 1 contains clause 23 which defines certain expressions, including "assets" and "business undertaking", for the purposes of the proposed Part.

Division 2 sets out the 2 alternative procedures for sale of the Corporation, and includes provisions:

- (a) authorising the Minister to enter into an agreement for the sale of all or part of the Corporation's business undertaking (clause 24); and
- (b) enabling the Minister to determine the manner in which the sale is to be conducted and providing that the Chairperson of the Board is to be the agent for the sale (clause 25); and
- (c) authorising the sale of the whole or part of the undertaking directly to a purchaser (clause 26); and
- (d) authorising the sale by means of a sale of shares in a subsidiary company to which the whole or part of the undertaking has been transferred (clause 27); and
- (e) providing for the vesting of the Corporation's assets, rights and liabilities in the purchaser to whom the undertaking is sold or the subsidiary company to which the undertaking is transferred prior to the sale (clause 28);

(The proposed clause is intended to facilitate the sale by avoiding the necessity for extensive documentation and the exercise by third parties of

## *Egg Industry (Repeal and Deregulation) 1989*

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rights to renegotiate loans etc. as a result of the change in ownership of the undertaking).

Division 3 makes provision for matters ancillary to or consequential on the sale, and includes provisions:

- (a) providing for employment of the staff of the Corporation in some instances by the person or company that acquires the business undertaking (clause 29); and
- (b) enabling the Treasurer to require the Corporation to pay from its cash reserves into the Consolidated Fund an amount determined by the Treasurer to be surplus to its requirements (clause 30); and
- (c) providing for the closure of the Egg Corporation Fund in the Special Deposits Account (clause 31); and
- (d) requiring the proceeds of sale (after deducting the costs of the sale) to be paid into the Consolidated Fund (clause 32); and
- (e) providing that stamp duty may be paid on a sale of the undertaking to a purchaser despite the statutory vesting (associated documents to give effect to the statutory vesting are not to be dutiable and the payment of stamp duty on the transfer of shares in a subsidiary company is preserved) (clause 33); and
- (f) providing that the disclosure of information for the purposes of the sale is not to be regarded as a breach of contract or confidence or other civil wrong or as a contravention of certain statutory provisions relating to secrecy (clause 34).

Division 4 provides for the dissolution of the Corporation following the sale or if there is no sale, and includes provisions:

- (a) providing for the dissolution (clause 35); and
- (b) providing that the persons who, before the dissolution, held office as members of the Board of the Corporation cease to hold office and are not entitled to any remuneration or compensation because of that loss (with the exception of the Managing Director who is to be entitled to the same compensation as statutory officers removed under Part 8 of the Public Sector Management Act 1988) (clause 36).

### **PART 5 - HEN QUOTA COMMITTEE**

This Part establishes a Hen Quota Committee which is to administer the Hen Quota Payment Scheme proposed to be established by the Act, and includes provisions:

- (a) constituting the Committee and providing that it has the functions conferred on it by the proposed or any other Act (clause 37); and
- (b) enabling the Committee to arrange for the use of staff of various bodies (including the Corporation) (clause 38); and
- (c) providing that the Committee is to consist of 3 members appointed by the Minister (one of whom is to have legal qualifications and one of whom is to have qualifications or experience in the field of finance) and the

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- Director-General of the Department of Agriculture and Fisheries or a nominee (clause 39); and
- (d) ensuring that none of the members of the Committee have a personal interest in payments under the Scheme (clause 39 (3)); and
  - (e) specifying the principal function of the Committee (clause 40); and
  - (f) providing for the dissolution of the Committee once it has fulfilled that function (clause 41).

### **PART 6 - HEN QUOTA PAYMENT SCHEME**

This Part, which contains 5 Divisions, sets up a Scheme to provide financial assistance to certain persons shown to be producers on the Register of Licences or to be lessors of hen quotas, following the abolition by the proposed Act of the State Hen Quota. The Scheme recognises the practice within the egg industry of regarding hen quota as a form of property capable of being leased or otherwise dealt with.

Payments are to be made to persons determined to be eligible under the Scheme at a basic rate of \$15 per hen quota, less any amounts owed to the Corporation by the claimant (including any amounts owed to the Corporation as collecting agent for the Commonwealth of levies payable under the Poultry Industry Levy Act 1965 of the Commonwealth).

Division 1 contains clause 42 which defines certain expressions for the purposes of the Part.

Division 2 sets out the basic features of the Scheme, and includes provisions:

- (a) constituting the Scheme and specifying its purpose (clause 43); and
- (b) specifying the eligibility criteria for payment under the Scheme and providing that the Committee may generally rely on the Register of Licences in determining eligibility (clause 44); and
- (c) making transitional arrangements in relation to agreements to transfer hen quota approved by the Poultry Farmer Licensing Committee under the Egg Industry Act 1983 before the relevant day for the purpose of determining eligibility under the proposed Scheme (clause 45); and
- (d) enabling the Minister to specify a final date for determination of claims under the Scheme (clause 46); and
- (e) specifying the persons eligible to make a claim under the Scheme (clause 47); and
- (f) providing for the Committee to determine how claims are to be made (clause 48); and
- (g) enabling the Committee to set a date by which claims must be made and requiring them to publicise the date (clause 49); and
- (h) enabling the Committee to require a claimant to provide evidence to support a claim or to assist in establishing entitlement to a particular hen quota (clause 50); and

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- (i) requiring the Committee to investigate all claims and enabling them to allow or disallow any particular or all claims (clause 51); and
- (j) requiring the Committee to notify a claimant of its determination (clause 52); and
- (k) enabling the claimant to seek a review of the determination (clause 53); and
- (l) requiring the Committee to review its earlier determination by reconsidering the evidence on which it was based and enabling the Committee to formally hear the matter if it believes a hearing is necessary (clause 54).

Division 3 contains provisions specifying the manner of holding hearings and the powers of the Committee in regard to such matters as the summoning of witnesses and taking of evidence (clauses 55-58).

Division 4 contains clause 59 which enables a claimant to appeal to the Supreme Court on a question of law arising out of a hearing within 21 days of receiving notice of the Committee's decision on its review of a determination under the Scheme.

Division 5 provides details as to the payments to be made under the Scheme, and includes provisions:

- (a) specifying the manner of calculating payments (clause 60); and
- (b) describing the nature of the payments and enabling the Committee to require a claimant to execute an agreement in the nature of a release before receiving any payment (clause 61); and
- (c) ousting any challenges, appeals or similar actions regarding determinations of the Committee under the proposed Part (clause 62).

### **PART 7 - EGGS AND EGG PRODUCTS**

The Egg Industry Act 1983 provided for complete regulation of all aspects of the egg industry, including matters relating to the purity and wholesomeness of eggs and egg products. This Part will provide for limited regulation of the sale of hen eggs in the interests of public health, and includes provisions:

- (a) defining certain expressions for the purposes of the proposed Part (clause 63); and
- (b) creating an offence of persons (other than wholesalers or manufacturers) selling eggs which fail to comply with the health standards to be prescribed for eggs under the proposed Part (clause 64); and
- (c) enabling regulations to be made prescribing those standards and for related purposes (clause 65); and
- (d) providing for the employment of inspectors to ensure the standards are complied with (clause 66); and

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- (e) specifying the powers of inspectors (clause 67); and
- (f) providing for the issue of search warrants to inspectors (clause 68).

### **PART 8 - FINANCE**

This Part contains financial provisions relating to the Corporation, and includes provisions:

- (a) establishing an Egg Corporation Fund (clause 69); and
- (b) providing for the payment into the Fund of money received by or on account of the Corporation (clause 70); and
- (c) providing for the payment from the Fund of all amounts required for the administration of the Act (clause 71); and
- (d) enabling the Corporation to invest money (clause 72); and
- (e) providing for the banking of money received on account of the Fund (clause 73); and
- (f) providing for the financial year of the Corporation (clause 74).

### **PART 9 - MISCELLANEOUS**

This Part deals with miscellaneous matters, and includes provisions:

- (a) excluding certain persons from personal liability for matters or things done in good faith for the purpose of executing the proposed Act (clause 75); and
- (b) providing for the manner of service of documents on the Corporation (clause 76); and
- (c) providing for the recovery of charges, fees and money by the Corporation (clause 77); and
- (d) making it an offence to disclose certain information obtained in connection with the administration and execution of the proposed Act (clause 78); and
- (e) providing that proceedings for offences against the proposed Act or regulations are to be dealt with summarily before a Magistrate (clause 79); and
- (f) enabling the Governor to make regulations for the purposes of the proposed Act, including regulations imposing penalties not exceeding 5 penalty units (\$500) (clause 80); and
- (g) providing for the enactment of savings and transitional provisions (clause 81); and
- (h) amending the Search Warrants Act 1985 to apply its provisions to search warrants sought by inspectors under proposed Part 7 (clause 82); and
- (i) amending the Public Authorities (Financial Arrangements) Act 1987 to enable the Corporation or Hen Quota Committee to borrow in accordance with that Act (clause 83); and
- (j) amending the Statutory and Other Offices Remuneration Act 1975 to provide for the determination of the salary of a full-time Chairperson of the Board (clause 84); and

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- (k) providing for the amendment of Schedule 3 to the proposed Act if the proposed Senior Executive Service is established (clause 85); and
- (l) amending the Ombudsman Act 1974 to ensure that the actions of the Committee cannot be challenged under that Act (clause 86).

**SCHEDULES**

**Schedule 1** contains provisions relating to members of the Board.

**Schedule 2** contains provisions relating to the procedure of the Board.

**Schedule 3** contains provisions relating to the Managing Director.

**Schedule 4** applies appropriate provisions of Schedules 1 and 2 to the Committee and its members.

**Schedule 5** contains savings and transitional provisions, including a provision that enables the regulations under the proposed Act to make further provision of a savings or transitional nature as a consequence of the enactment of the proposed Act.

FIRST PRINT

**EGG INDUSTRY (REPEAL AND DEREGULATION) BILL 1989**

NEW SOUTH WALES



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**EGG INDUSTRY (REPEAL AND DEREGULATION) BILL 1989**

NEW SOUTH WALES



No. , 1989

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**A BILL FOR**

An Act to provide for the dissolution of the New South Wales Egg Corporation, the repeal of the Egg Industry Act 1983 and the deregulation of the egg industry, and for other purposes.

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Egg Industry (Repeal and Deregulation) 1989

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The Legislature of New South Wales enacts:

**PART 1 - PRELIMINARY**

**Short title**

1. This Act may be cited as the Egg Industry (Repeal and Deregulation) Act 1989.

**Commencement**

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).

(2) Section 11 (4) and (5) and section 37 (3) commence on the date of assent to this Act.

**Objects**

3. The objects of this Act are:

- (a) to deregulate the egg industry by dismantling the system of control over the production, supply and marketing of eggs and egg products established under the Egg Industry Act 1983 by repealing that Act; and
- (b) to make provision for the continued wholesomeness and purity of eggs and egg products in the interests of public health; and
- (c) to provide a scheme for giving financial assistance to certain persons affected by the abolition by this Act of the State Hen Quota established under the repealed Act; and
- (d) to enable a reconstituted New South Wales Egg Corporation to trade in eggs and other products on a competitive basis until such time as it is sold or finally dissolved.

**Definitions**

4. (1) In this Act:

- "Board" means the New South Wales Egg Corporation Board constituted by this Act;
- "Committee" means the Hen Quota Committee constituted by this Act;
- "Corporation" means the New South Wales Egg Corporation established by this Act;
- "egg" means a hen egg or an egg of a prescribed class or description;

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"egg products" includes:

- (a) egg pulp and all forms of unprocessed and processed whole egg, egg white, egg yolk or egg in shell (whether in full form or with additives); and
- (b) dried or frozen egg products; and
- (c) any prescribed things or things of a prescribed class or description;

"hen" means a female domesticated fowl of the genus Gallus that is not less than 6 months old;

"marketing" includes buying, selling, financing, collecting, packing, treating, carrying, storing, warehousing, re-handling, distributing (by wholesale or retail), delivering and promoting;

"officer", in relation to the Corporation, includes an employee of the Corporation and any other person of whose services the Corporation makes use;

"repealed Act" means the Egg Industry Act 1983;

"sell" means sell by wholesale or by retail, and includes barter, supply for profit, offer or expose for sale, receive for sale, have in possession for sale, send, forward or deliver for sale and cause, suffer or allow to be sold, offered or exposed for sale.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**PART 2 - REPEALS AND DISSOLUTION OF  
CORPORATION CONSTITUTED UNDER  
REPEALED ACT**

**Repeals**

5. The following Act and instruments are repealed:  
Egg Industry Act 1983;  
Egg Industry Regulation 1983;  
Egg Industry (Savings and Transitional Provisions) Regulation 1983.

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**Dissolution of Egg Corporation and Licensing Committee**

6. The New South Wales Egg Corporation and the Poultry Farmer Licensing Committee constituted under the Egg Industry Act 1983 are dissolved.

**PART 3 - RECONSTITUTION OF CORPORATION  
AND FUNCTIONS UNDER THIS ACT**

**Division 1 - Constitution of Corporation**

**The Corporation**

7. (1) There is constituted by this Act a corporation with the corporate name of the New South Wales Egg Corporation.

(2) The Corporation is, for the purposes of any Act, a statutory body representing the Crown.

(3) The Corporation is a continuation of, and the same legal entity as, the dissolved Corporation.

**Division 2 - Functions of Corporation**

**General functions of Corporation**

8. The Corporation has:

- (a) such functions in relation to the marketing of eggs, egg products and other products; and
  - (b) such other functions,
- as are conferred or imposed on it by or under this Act or any other legislation.

**Commercial functions**

9. (1) The Corporation may market or arrange for the marketing of eggs and egg products and other products and do all acts, matters and things necessary or expedient to carry out those functions.

(2) The Corporation may:

- (a) establish and conduct storage facilities for eggs, egg products and other products; and
- (b) establish and conduct processing or manufacturing facilities for eggs, egg products and other products; and
- (c) process or manufacture products from or based on eggs or other products; and

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- (d) market any of the products so processed or products so manufactured or any by-products resulting from that processing or manufacturing.

**Miscellaneous functions**

10. (1) Without limiting any of its other functions, the Corporation may:

- (a) make such arrangements as it considers necessary with regard to sales of eggs, egg products and other products for export or for consignment to other countries or other parts of Australia; and
- (b) enter into insurance contracts relating to eggs, egg products and other products; and
- (c) promote and encourage the use, sale or consumption of eggs and egg products and other products; and
- (d) enter into agreements for the use, within New South Wales or elsewhere, of any trade mark of which it is, or is entitled to be, registered as proprietor; and
- (e) establish and maintain laboratories and carry out research and make investigations into matters relating to eggs and egg products and other products with which the Corporation is associated (including chemical, physical, bacteriological and economic research and investigations); and
- (f) devise and initiate as far as may be practicable improved methods of producing, marketing and using eggs, egg products and any other products; and
- (g) devise and initiate as far as may be practicable means to prevent or eliminate wasteful, unnecessary or unhygienic methods, practices, costs or charges in connection with marketing or using eggs, egg products or other products; and
- (h) publish reports, information and advice concerning the producing, marketing or use of eggs, egg products and other products.

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(2) The Corporation may, with the approval of the Minister, manufacture or contract for the manufacture of cartons, trays and other articles or things for use in connection with its marketing functions.

(3) Without limiting any of its other functions, the Corporation may:

- (a) enter into agreements with any person for or in connection with its functions, including agreements for the carrying out of works or the performance of services or the supply of goods or materials in connection with any of its functions; and
- (b) with the approval of the Minister, enter into agreements with any person for the use of any of the equipment, machinery or facilities of the Corporation for a purpose not itself otherwise connected with the functions of the Corporation.

### Division 3 - Management of Corporation

#### Board

11. (1) There is to be a New South Wales Egg Corporation Board.

(2) The Board is to consist of:

- (a) the Managing Director of the Corporation; and
- (b) 3 members appointed by the Minister.

(3) Schedules 1 and 2 have effect with respect to the Board.

(4) For the purpose only of enabling the Corporation to be constituted in accordance with this Act on or after (but not before) the commencement of subsection (1), appointments may be made under this Act and any other act, matter or thing may be done before that commencement as if the whole of this Act commenced on the date of assent to this Act.

(5) No appointment as Managing Director of the Corporation or as a member of the Board as so constituted takes effect before the commencement of subsection (1).

**Board to determine policies of Corporation**

12. The Board of the Corporation has the function of determining the policies of the Corporation.

**Managing Director**

13. (1) There is to be a Managing Director of the Corporation.

(2) The Managing Director is to be appointed by the Minister.

(3) Schedule 3 has effect with respect to the Managing Director.

**Managing Director to manage Corporation**

14. (1) The Corporation is to be managed and controlled by the Managing Director of the Corporation in accordance with the policies of the Board and the directions of its Chairperson.

(2) Any act, matter or thing done in the name of, or on behalf of, the Corporation by the Managing Director is to be taken to have been done by the Corporation.

**Ministerial control**

15. The Board is, in the exercise of its functions, subject to the control and direction of the Minister.

**Corporation to supply information to Minister**

16. The Corporation must, when required to do so by the Minister, furnish to the Minister within a time specified by the Minister a report containing such information relating to the operations of the Corporation as the Minister may direct.

**Delegation of functions of Corporation**

17. (1) The Corporation may delegate to any person any functions of the Corporation, other than this power of delegation.

(2) A delegate may sub-delegate to an authorised person any function delegated by the Corporation if the delegate is authorised in writing to do so by the Corporation.

- (3) In this section, "authorised person" means:
- (a) an officer of the Corporation; or
  - (b) a person of a class prescribed by the regulations.

#### **Division 4 - Staff**

##### **Employment of staff**

18. The Corporation may employ such staff as it requires to exercise its functions.

##### **Salary, conditions etc. of staff**

19. The Corporation may fix the salary, wages and conditions of employment of its staff in so far as they are not fixed by or under any other Act or law.

##### **Regulations relating to staff**

20. (1) The regulations may make provision for or with respect to the employment of the staff of the Corporation, including the conditions of employment and the discipline of any such staff.

(2) Any such regulations relating to the conditions of employment or the discipline of staff:

- (a) have effect subject to any relevant award made by a competent industrial tribunal and to any industrial agreement to which the Corporation is a party; and
- (b) have effect despite any determination of the Corporation under section 19 (Salary, conditions etc. of staff).

##### **Use of staff or facilities of Departments etc.**

21. (1) The Corporation may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government department, an administrative office or a public or local authority.

(2) For the purposes of this Act, a person whose services are made use of under this section is a member of the staff of the Corporation.

**Consultants**

22. The Corporation may engage such consultants as the Corporation requires to exercise its functions.

**PART 4 - SALE OF CORPORATION'S BUSINESS  
UNDERTAKING AND DISSOLUTION OF CORPORATION****Division 1 - Definitions****Definitions**

23. In this Part:

"**assets**" means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes choses in action and documents;

"**business undertaking**", in relation to the Corporation, means all assets, rights and liabilities of the Corporation;

"**instrument**" means an instrument (other than this Act) which creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order and process of a court;

"**liabilities**" means all liabilities, debts and obligations (whether present or future and whether vested or contingent);

"**rights**" means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent);

"**subsidiary company**" means a subsidiary company referred to in section 27.

**Division 2 - Sale of business undertaking****Minister may enter into agreement for sale of Corporation's business undertaking**

24. The Minister may enter into an agreement in writing with any person (including a corporation) for the sale of all or part of the Corporation's business undertaking in accordance with:

- (a) section 26 (Sale by means of direct sale of undertaking); or

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- (b) section 27 (Sale by means of transfer of undertaking to subsidiary companies and sale of relevant shares).

**Manner of conducting sale etc.**

25. (1) The sale of the Corporation's business undertaking is (subject to this Act) to be conducted in such manner as the Minister thinks fit.

(2) The sale may be publicly advertised.

(3) A memorandum containing information about the Corporation's business undertaking may be given to persons who express an interest in the sale.

(4) The Chairperson of the Board is to be the Minister's agent for the purposes of the sale, but the Chairperson may not make an order, or enter into an agreement for sale, under this Act.

**Sale by means of direct sale of undertaking**

26. (1) The Minister may sell part or all of the Corporation's business undertaking by means of an agreement for the sale of the undertaking directly to a purchaser.

(2) In any such sale:

- (a) the whole undertaking may be sold to one purchaser; or
- (b) one part of the undertaking may be sold to one purchaser and the other part may be sold to another purchaser; or
- (c) one such part of the undertaking only may be sold to a purchaser in accordance with this section (if the other part is to be sold in accordance with section 27).

**Sale by means of transfer of undertaking to subsidiary companies and sale of relevant shares**

27. (1) In this section:

"subsidiary company" means a company:

- (a) in which the Minister and any other person on behalf of the Crown have a controlling interest by virtue of their shareholding in the company; and

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(b) which is declared by the Minister, by order published in the Gazette, to be a subsidiary company for the purposes of this Act.

(2) The Minister may sell the Corporation's business undertaking by means of an agreement for the sale of the shares held by the Minister (and by any other person on behalf of the Crown) in a subsidiary company to which the undertaking, or a part of the undertaking, has been or is to be transferred.

(3) The Minister may, with a view to a sale in accordance with this section, direct by order in writing that:

- (a) the whole of the Corporation's business undertaking be transferred to a subsidiary company specified in the order; or
- (b) one part of that undertaking be transferred to one subsidiary company so specified and the other part be transferred to another subsidiary company so specified; or
- (c) one such part of that undertaking only be transferred to a subsidiary company so specified (if the other part is to be sold in accordance with section 26).

(4) The Minister may, by order in writing, direct that any assets transferred to a subsidiary company under this section are to be allocated to capital and reserves in such amounts and in accordance with such requirements as are specified in the order.

(5) Any shares issued in accordance with a direction under subsection (4) are to be taken to have been issued in consideration of the vesting in the subsidiary company under section 28 of the assets allocated to capital.

(6) Until the sale under this section of shares in a subsidiary company, the company is, for the purposes of any Act, a statutory body representing the Crown.

(7) For the purposes of this section, the Minister or any other person may, on behalf of the Crown, acquire shares in a company or subscribe to issues of shares by a company, and may dispose of or otherwise deal with those shares.

**Vesting of undertaking etc. in connection with sale**

28. (1) In this section:

"transferee" means a purchaser to whom any part of the Corporation's business undertaking is sold in accordance with section 26 or a subsidiary company to which any part of that undertaking is transferred in accordance with section 27.

(2) When any part of the Corporation's business undertaking is sold in accordance with section 26 or transferred to a subsidiary company in accordance with section 27, the following provisions have effect (subject to the agreement for sale or the order directing the transfer):

- (a) the assets of the Corporation comprised in that part of the undertaking vest in the transferee by virtue of this section and without the need for any conveyance, transfer, assignment or assurance;
- (b) the rights and liabilities of the Corporation comprised in that part of the undertaking become by virtue of this section the rights and liabilities of the transferee;
- (c) all proceedings relating to that part of the undertaking commenced before the sale or transfer by or against the Corporation and pending immediately before the sale or transfer are to be taken to be proceedings pending by or against the transferee;
- (d) any act, matter or thing done or omitted to be done in relation to that part of the undertaking before the sale or transfer by, to or in respect of the Corporation is (to the extent that that act, matter or thing has any force or effect) to be taken to have been done or omitted to be done by, to or in respect of the transferee;
- (e) a reference in an instrument of any kind to the Corporation is (to the extent that it relates to that part of the undertaking) to be read as a reference to the person to whom, or company to which, that part of the undertaking is sold or transferred.

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(3) Neither the operation of this section nor the sale by the Minister of shares in a subsidiary company under section 27 is to be regarded:

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or
- (c) as giving rise to any remedy by a party to an instrument because of a change in the beneficial or legal ownership of any asset, right or liability.

(4) No attornment to the transferee by a lessee from the Corporation is required.

(5) A reference in this section to a part of the Corporation's business undertaking includes a reference to both parts of that undertaking if they are sold or transferred as a single undertaking.

**Division 3 - Miscellaneous provisions relating to sale**

**Staff of Corporation**

29. (1) A person who is employed by the Corporation immediately before the date that the Corporation's business undertaking is sold to a person or transferred to a subsidiary company (as the case requires) becomes, on that date, if the Minister so determines by order in writing, an employee of the person or subsidiary company.

(2) If the Corporation's business undertaking is to be sold to different persons or transferred to different subsidiary companies, the Minister is to determine before the sale or transfer, by order in writing, the allocation of employees among the different persons or companies.

(3) Service by an employee with the Corporation (including any service which is taken to be service with the Corporation) is to be regarded as service with the person to whom or company to which the employee is transferred by this section.

**Cash payment from Corporation to Treasurer before sale**

30. The Corporation is to pay to the Treasurer for payment into the Consolidated Fund, within such time before the sale of the whole or any part of the Corporation's business undertaking as the Treasurer directs by notice in writing to the Corporation, such amount (if any) as is specified in the notice, being the amount which the Treasurer determines is surplus to the Corporation's requirements.

**Corporation Fund in Special Deposits Account**

31. (1) In this section:

"Fund" means the Egg Corporation Fund established in the Special Deposits Account in the Treasury.

(2) The Minister may, for the purposes of the sale of the Corporation's business undertaking, direct that money standing to the credit of the Corporation in the Fund be transferred to an account or accounts in the name of the Corporation or of a subsidiary company.

(3) After payments are made from the Fund in accordance with any such direction and the Fund is exhausted, the Fund is abolished.

**Proceeds of sale**

32. (1) The proceeds of the sale of the Corporation's business undertaking must be paid into the Consolidated Fund.

(2) There may be deducted from the proceeds of sale before payment into the Consolidated Fund such amount, as the Treasurer approves, to meet the expenses reasonably incurred in connection with the sale.

**Stamp duty**

33. (1) The Minister may not enter into an agreement for the sale of the whole or any part of the Corporation's business undertaking to a purchaser in accordance with section 26 unless satisfied that arrangements have been made for the payment to the Crown of the amount of stamp duty forgone.

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(2) The amount of stamp duty forgone is the amount of stamp duty that would have been payable if the assets transferred by the sale had been transferred by instrument in writing executed by the parties to the transfer instead of by the operation of section 28.

(3) Any instrument executed only for:

- (a) a purpose ancillary to or consequential on the operation of section 28; or
- (b) the purpose of giving effect to that section, is not chargeable with stamp duty.

(4) Nothing in this section affects any stamp duty payable on the sale in accordance with section 27 of shares in a subsidiary company.

**Disclosure of information etc.**

34. (1) A disclosure of information made for the purposes of the sale of the Corporation's business undertaking (including a disclosure in any memorandum of information given to persons expressing an interest in the sale or a disclosure in any response to an inquiry made by a prospective purchaser) is not to be regarded:

- (a) as a breach of contract or confidence or otherwise as a civil wrong; or
- (b) as a contravention of section 78 (Disclosure of information) or of any provision of an Act regulating companies.

(2) Subsection (1) applies to a disclosure made by the Minister or the Minister's agent (or by a person acting at the direction or with the authority of the Minister or the Minister's agent), but does not apply to a disclosure made by a prospective purchaser or other person to whom the information has been given.

(3) Subsection (1) applies to a disclosure whether made before or after the commencement of this section.

(4) A person who:

- (a) is given information in connection with the sale of the Corporation's business undertaking; and

(b) undertakes in writing not to disclose the information to others,  
is guilty of an offence if the person contravenes the undertaking without lawful excuse.  
Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.

#### **Division 4 - Dissolution of Corporation**

##### **Dissolution of Corporation**

35. (1) On the commencement of this section, the Corporation is dissolved.

(2) The assets, rights and liabilities (if any) of the Corporation immediately before its dissolution under this section are transferred to the Crown, and section 28 (Vesting of undertaking etc. in connection with sale) applies to that transfer in the same way as it applies to the transfer of the Corporation's business undertaking to a subsidiary company.

##### **Board and Managing Director to vacate office**

36. (1) A person who, immediately before the dissolution of the Corporation, held office as a member of the Board or Managing Director of the Corporation:

- (a) ceases to hold office as such; and
- (b) except as provided by subsection (2), is not entitled to any remuneration or compensation because of the loss of that office.

(2) Part 8 of the Public Sector Management Act 1988 applies to a person who so ceases to hold office as a member of the Board or Managing Director of the Corporation in the same way as it applies to a person removed from office under that Part.

#### **PART 5 - HEN QUOTA COMMITTEE**

##### **Committee**

37. (1) There is constituted by this Act a Hen Quota Committee.

(2) The Committee has and may exercise the functions conferred or imposed on it by or under this or any other Act.

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(3) The provisions of section 11 (4) and (5) apply to and in respect of the appointment of members of the Committee in the same way that they apply to and in respect of the appointment of a member of the Board.

(4) The Committee is, by virtue of this subsection, a corporation.

**Staff of the Committee**

38. (1) The Committee may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of the Corporation, a government department, an administrative office or a public or local authority.

(2) For the purposes of this Act, a person whose services are made use of under this section is a member of the staff of the Committee.

**Constitution of Committee**

39. (1) The Committee is to consist of:

- (a) 3 members appointed by the Minister; and
- (b) the Director-General of the Department of Agriculture and Fisheries or a nominee of the Director-General.

(2) Of the persons appointed by the Minister, one is to be a barrister or solicitor and one is to have qualifications or experience in the field of finance.

(3) A person who has a hen quota or who leases out a hen quota is not eligible for appointment to the Committee.

(4) Schedule 4 has effect with respect to the constitution and procedure of the Committee.

**Principal function of Committee**

40. (1) The principal function of the Committee is to administer the Hen Quota Payment Scheme constituted under Part 6.

(2) In exercising its functions, the Committee is to endeavour to determine claims under the Scheme as informally and expeditiously as possible.

**Dissolution of Committee**

41. (1) On the commencement of this section, the Committee is dissolved.

(2) A person who, immediately before the dissolution of the Committee, held office as a member of the Committee:

- (a) ceases to hold office as such; and
- (b) is not entitled to any remuneration or compensation because of the loss of that office.

## **PART 6 - HEN QUOTA PAYMENT SCHEME**

### **Division 1 - Preliminary**

#### **Definitions**

42. In this Part:

- "hen quota" means the hen quota (not being a hen quota specified as nil) specified in a licence;
- "licence" means licence in force under the repealed Act on the relevant day;
- "producer", in relation to a licence, means a producer at the place to which the licence relates;
- "Register of Licences" means the Register of Licences kept under the repealed Act;
- "relevant day" means the day on which notice was given for introduction of the Bill for this Act.

### **Division 2 - The Scheme**

#### **The Scheme**

43. (1) There is constituted a Scheme called the "Hen Quota Payment Scheme".

(2) Under the Scheme, the Committee is to arrange for payments to be made to claimants who satisfy the eligibility criteria for such financial assistance in respect of hen quota abolished by the repeal of the Egg Industry Act 1983.

(3) No right of compensation enforceable against the State arises because of the abolition of the State Hen Quota.

**Eligibility criteria**

44. (1) Where the Register of Licences shows that a licence was in force in relation to a hen quota on the relevant day:

- (a) the person shown as producer is eligible for payment under the Scheme as regards the quota, except so much of the quota as is being leased on that day to the producer by another person (in this section called a "lessor"); and
- (b) such a lessor is eligible for payment under the Scheme as regards so much of the quota as is being leased on that day to the producer by the lessor and as is not leased by the lessor from another person.

(2) If a person is specified in the Register of Licences as the producer shown on the licence specifying the hen quota in respect of which the claim is made, the person is, unless shown to be leasing the hen quota concerned from a lessor or to be otherwise ineligible during the Committee's investigations, to be taken to be eligible for payment under the Scheme.

(3) A payment may be made to an eligible person only if the person has made a claim in accordance with this Act and the other provisions of this Act regarding payment have been satisfied.

(4) The regulations may contain provisions of an ancillary nature relating to the eligibility criteria set out in this section and that are necessary to give effect to the intent of the Scheme.

**Transfer of hen quota before relevant day**

45. (1) In this section:

**"transfer agreement"** means an agreement (whether or not in writing) for the transfer of hen quota entered into before the relevant day.

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(2) A person who would have been eligible for payment under the Scheme if a transfer agreement had taken effect before the relevant day is to be taken to be eligible if, immediately before that day, the Committee dissolved under section 6 had approved an application for the surrender and re-issue of a licence under the repealed Act disclosing the price paid, or proposed to be paid, for the transfer of the hen quota concerned.

**Reference date**

46. The Minister may, by order published in a newspaper circulating generally throughout the State, specify a date by which all claims made under this Part must, unless the subject of an appeal under section 59, be determined.

**Persons eligible to make claims**

47. A claim may be made under the Scheme by or on behalf of any person who claims eligibility for payment under the Scheme in respect of the whole or part of a hen quota.

**Making of claims**

48. Claims under the Scheme are to be made in the form and the manner determined by the Committee.

**Time for making claims**

49. (1) The Committee is to determine a date by which claims under the Scheme must be made in order for the claimants to be eligible for a payment under the Scheme.

(2) The Committee is to publish notice, in a newspaper circulating generally throughout the State, of the date by which, and the form and manner in which, claims must be made.

**Supporting evidence**

50. (1) The Committee may give a claimant not less than 14 days' written notice requiring the claimant:

- (a) to supply such particulars in connection with the claim; and

(b) to produce or deliver to it any documents (including statutory declarations) or securities necessary or available to support the claim or establish the claimant's rights against any other claimant in respect of the hen quota concerned, as are specified in the notice.

(2) If a claimant fails without reasonable excuse to comply with the notice, the Committee may disallow the claim.

#### **Determination of claim**

51. (1) If a claim is made, the Committee is:

- (a) to investigate the claim; and
- (b) to determine whether to wholly or partly allow or disallow the claim.

(2) In reaching a determination, the Committee may take into account any records (including records indicating the existence of a leasing or other arrangement in respect of the hen quota concerned) of the Committee dissolved under section 6 relating to hen quotas or payments made for or in respect of hen quotas.

(3) The Committee may wholly disallow a claim:

- (a) if, in its opinion, the claimant is not eligible for payment under the Scheme; or
- (b) if there is insufficient documentary or other evidence to support the claim; or
- (c) if a person other than the claimant is, in the opinion of the Committee, eligible for payment in respect of the hen quota concerned.

(4) The Committee may partly disallow a claim if, in its opinion, another person is eligible for payment under the Scheme in respect of part of the hen quota concerned.

(5) The Committee may disallow all claims in respect of any hen quota.

(6) A determination to allow (whether wholly or partly) a claim is not to be taken as an admission of liability to the claimant with respect to loss of the hen quota (or part of a hen quota) concerned.

**Notification of determination**

52. (1) If the Committee determines that a claim is to be wholly allowed it is to notify the claimant and the Minister accordingly.

(2) If the Committee determines otherwise, it must, as soon as practicable, give the claimant written notice of its determination.

(3) Notice of a determination must:

- (a) set out any findings on material questions of fact; and
- (b) refer to any evidence or other material on which its determination was based; and
- (c) give reasons for the determination.

**Request for review of determination**

53. (1) A claimant who is dissatisfied with a determination of the Committee may request the Committee to review its determination.

(2) A request to review a determination is to be made in writing within 21 days after the date on which notice of the determination was given.

(3) The Committee must review a determination if requested to do so.

**Form of review**

54. (1) A review is to be carried out by reconsideration of the evidence on which the determination was based.

(2) If the Committee considers it necessary to do so following reconsideration of the evidence, it may conduct a hearing into any determination it is requested to review.

(3) New evidence (including fresh evidence) in addition to or in substitution for the evidence considered by the Committee on its review may be given at a hearing.

(4) A claimant may appear personally at a hearing or may be represented by a legal practitioner or, with the leave of the Committee, by any other person.

(5) The Committee is to give written notice of its decision on review to the claimant and the Minister.

**Division 3 - Hearings of Committee****Proceedings generally**

55. In proceedings before it, the Committee is not bound to observe the rules of law governing the admission of evidence, but may inform itself of any matter in such manner as it thinks fit.

**Hearings**

56. Unless the Committee otherwise directs, a hearing is to be held in the absence of the public.

**Powers to summon witnesses and take evidence**

57. (1) A member of the Committee may summon a person to appear at a hearing to give evidence and to produce such documents (if any) as are referred to in the summons.

(2) The member of the Committee presiding at a hearing may require a person appearing at the hearing to produce a document.

(3) The Committee may, at a hearing, take evidence on oath or affirmation and, for that purpose:

(a) a member of the Committee may require a person appearing at the hearing to give evidence, to take an oath or to make an affirmation in a form approved by the member of the Committee presiding at the hearing; and

(b) a member of the Committee may administer an oath or affirmation to a person so appearing at the hearing.

(4) A person served with a summons to appear at a hearing to give evidence must not, without reasonable excuse:

(a) fail to attend as required by the summons; or

(b) fail to attend from day to day unless excused, or released from further attendance, by a member of the Committee.

Maximum penalty: 20 penalty units.

(5) A person appearing at a hearing to give evidence must not, without reasonable excuse:

(a) when required to take an oath or make an affirmation - refuse or fail to comply with the requirement; or

- (b) refuse or fail to answer a question that the person is required to answer by the member of the Committee presiding at the hearing; or
- (c) refuse or fail to produce a document that the person is required to produce by a summons served under this section.

Maximum penalty: 20 penalty units.

#### **Power to obtain documents**

58. (1) A member of the Committee may, by notice in writing served on a person, require the person:

- (a) to attend, at a time and place specified in the notice, before a person specified in the notice, being a member of the Committee or a person authorised by the Committee in that behalf; and
- (b) to produce, at that time and place, to the person so specified a document specified in the notice.

(2) A person must not, without reasonable excuse, refuse or fail to comply with a notice served on the person under this section.

Maximum penalty: 20 penalty units.

### **Division 4 - Appeals**

#### **Appeals on questions of law**

59. (1) A claimant who is or has been a party to a hearing under section 54 may, in accordance with rules of court, appeal to the Supreme Court against any decision of the Committee on a question of law.

(2) On the hearing of an appeal under this section, the Supreme Court may:

- (a) remit the matter to the Committee for determination by the Committee in accordance with the decision of the Supreme Court; or
- (b) make such other order in relation to the appeal as seems fit.

(3) Any appeal against a decision of the Committee must be made within 21 days after the date on which notice of the decision was given.

**Division 5 - Payments****Nature of payment**

60. (1) The Committee may determine and, with the approval of the Minister, arrange for payments to be made under the Scheme.

(2) Without limiting subsection (1), payments under the Scheme may be made out of:

(a) money borrowed by the Corporation or the Committee; or

(b) money provided by Parliament.

(3) Payments must not be made in respect of a total number of hen quota exceeding in aggregate the State Hen Quota established under the repealed Act on the commencement of this section.

(4) Only one payment is to be made in respect of each hen quota, although the payment may be made in instalments.

(5) The payment to be made is to be calculated by multiplying the basic rate by the hen quotas (or fraction of hen quotas) in respect of which the claimant is eligible for payment and deducting any amounts owed to the Corporation by the claimant.

(6) In this section, a reference to amounts owed to the Corporation includes a reference to any amounts to be paid to the Corporation under an undischarged liability to pay a levy arising under the Commonwealth Levy Acts.

(7) In this section:

"basic rate" means \$15;

"Commonwealth Levy Acts" means the following Acts of the Commonwealth:

(a) the Poultry Industry Levy Act 1965;

(b) the Poultry Industry Levy Collection Act 1965;

(c) the Egg Industry Research (Hen Quota) Levy Act 1987;

(d) the Egg Industry Research (Hen Quota) Levy Collection Act 1987.

**Payments generally**

61. (1) Payments under the Scheme may be made progressively as each claim is determined or only after all claims have been determined.

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(2) The Committee is to make such arrangements as may be necessary to transfer to the Corporation an amount equivalent to any amounts to be deducted in calculating the payment to be made to a claimant.

(3) The Committee may require a claimant to execute an agreement in a form satisfactory to the Committee releasing the Corporation from all claims, rights of action and obligations relating to hen quotas or levies before any payment to the claimant concerned is made under the Scheme.

**Proceedings against Committee**

62. A determination of the Committee is not liable to be challenged, appealed against, reviewed, quashed or called into question by any court or administrative body.

**PART 7 - EGGS AND EGG PRODUCTS****Definitions**

63. In this Part:

"consumer" means a person who buys an egg from a supplier, where the egg is bought, or held out as being bought, for a purpose other than:  
(a) resale; or  
(b) consuming it by, or transforming it by, a process of manufacture or production;

"retailer" means a person who buys an egg, in the course of business, for resale directly to a consumer;

"premises" includes any place, vehicle, vessel or aircraft.

**Offence**

64. A person must not sell to a consumer or retailer an egg which fails to comply with a standard prescribed for eggs for the purposes of this Part.

Maximum penalty: 50 penalty units.

**Regulations**

65. (1) The Governor may make regulations with respect to prescribing standards relating to the wholesomeness and purity or quality of eggs or egg products.

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(2) Without limiting subsection (1), regulations may be made for or with respect to:

- (a) the ascertainment of whether eggs and egg products are of the prescribed standards; and
- (b) the marketing of eggs and egg products not meeting the prescribed standards; and
- (c) the making and keeping of records relating to the marketing of eggs and egg products, the inspection of those records and their production in any legal proceedings.

(3) A regulation made under this Part may create an offence punishable by a penalty not exceeding 5 penalty units.

#### **Inspectors**

66. (1) Inspectors may be employed in the Department of Agriculture and Fisheries for the purposes of this Part.

(2) Each inspector is to be issued with a certificate of identification in a form approved by the Director-General of the Department of Agriculture and Fisheries.

#### **Powers of inspectors**

67. (1) An inspector may:

- (a) enter and remain on or in any land, premises or place which is or are, or which the inspector believes on reasonable grounds is or are, being used in relation to the marketing of eggs and egg products; and
- (b) examine any eggs or egg products found in or on the land, premises or place; and
- (c) seize and detain, or take possession of, samples of any eggs or egg products in respect of which the inspector reasonably believes an offence against this Part or the regulations is being committed.

(2) Nothing in this section empowers an inspector to enter any premises without the consent of the owner or occupier of the premises except under the authority of a search warrant issued under section 68.

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**Search warrants**

68. (1) In this section:

"authorised justice" means:

- (a) a Magistrate; or
- (b) a justice of the peace employed in the Attorney General's Department.

(2) An inspector may apply to an authorised justice for a warrant to search any premises if the inspector has reasonable grounds for believing:

- (a) that a provision of this Act or the regulations has been or is being contravened in any premises; or
- (b) that there are in any premises impure or unwholesome eggs or egg products which are intended for sale.

(3) An authorised justice to whom the application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising the inspector to enter and search the premises.

(4) An inspector executing a search warrant issued under this section may seize any eggs or egg products the inspector has reasonable grounds for believing are impure or unwholesome.

(5) Part 3 of the Search Warrants Act 1985 applies to a search warrant issued under this section.

(6) A person must not, without reasonable excuse, obstruct or hinder a person executing a warrant issued under this section.

Maximum penalty: 20 penalty units.

(7) Without limiting the generality of section 18 of the Search Warrants Act 1985, a member of the Police Force may accompany an inspector executing a search warrant issued under this section and take all reasonable steps to assist the inspector in the exercise of the inspector's functions under that Act.

**PART 8 - FINANCE****Egg Corporation Fund**

69. The Corporation is to establish a fund to be known as the Egg Corporation Fund.

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**Payments into Fund**

70. There is to be paid into the Fund all money received by or on account of the Corporation.

**Payments from Fund**

71. There is to be paid from the Fund all amounts required to meet expenditure incurred in the administration of this Act.

**Investment**

72. The Corporation may invest money held by it:
- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
  - (b) if that Act does not confer power to invest money held by the Corporation:
    - (i) in accordance with and subject to the Trustee Act 1925; or
    - (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

**Banking**

73. All money received on account of the Fund is to be paid into a bank or banks in New South Wales.

**Financial year**

74. (1) The financial year of the Corporation is the year commencing on 1 July.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

**PART 9 - MISCELLANEOUS****Personal liability**

75. No matter or thing done by:
- (a) the Corporation or the Managing Director of the Corporation; or
  - (b) the Committee or a member of that Committee; or

(c) any person acting under the direction of the Corporation or the Committee, is, if the matter or thing was done in good faith for the purposes of executing this or any other Act, to subject the Managing Director, member or a person so acting personally to any action, liability, claim or demand.

**Service of documents**

76. (1) A document may be served on the Corporation by leaving it at, or by sending it by post to:

- (a) the office of the Corporation; or
- (b) if it has more than one office - any one of its offices.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Corporation in any other manner.

**Recovery of charges etc. by Corporation**

77. Any charge, fee or money due to the Corporation may be recovered by the Corporation as a debt in a court of competent jurisdiction.

**Disclosure of information**

78. A person must not disclose any information obtained in connection with the administration or execution of this Act unless the disclosure is made:

- (a) with the consent of the person from whom the information was obtained; or
- (b) in connection with the administration or execution of this Act; or
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) with other lawful excuse.

Maximum penalty: 10 penalty units or imprisonment for 12 months, or both.

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**Proceedings for offences**

79. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

**Regulations**

80. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the regulations may make provision for or with respect to the following:

- (a) any of the functions conferred or imposed on the Minister, the Corporation or the Committee by or under this Act;
- (b) the business, proceedings and meetings of the Corporation or the Committee;
- (c) the control and management and expenditure of the funds of the Corporation and the Committee.

(3) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

**Savings, transitional and other provisions**

81. Schedule 5 has effect.

**Amendment of Search Warrants Act 1985 No. 37, s. 10 (Definitions)**

82. The Search Warrants Act 1985 is amended by inserting in the definition of "search warrant" in section 10 in alphabetical order of Acts the following matter:

section 68 of the Egg Industry (Repeal and Deregulation) Act 1989;

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**Amendment of Public Authorities (Financial Arrangements) Act 1987 No. 33, Sch. 1 (Authorities)**

83. The Public Authorities (Financial Arrangements) Act 1987 is amended by inserting in Schedule 1 in alphabetical order the following matter:

Hen Quota Committee.

New South Wales Egg Corporation.

**Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No. 4), Sch. 2 (Public Offices)**

84. The Statutory and Other Offices Remuneration Act 1975 is amended by inserting in Part 1 of Schedule 2 after the matter relating to the Managing Director of the New South Wales Egg Corporation the following matter:

Full-time Chairperson of the New South Wales Egg Corporation Board, other than the Managing Director of the Corporation.

**Amendment of Schedule 3 relating to Senior Executive Service**

85. Schedule 3 is amended:

(a) by inserting after clause 2 the following clause:

**Employment of Managing Director**

3. The employment of the Managing Director is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

(b) by omitting clauses 3 - 8.

**Amendment of Ombudsman Act 1974 No. 68, Sch. 1 (Excluded conduct of public authorities)**

86. The Ombudsman Act 1974 is amended by inserting at the end of Schedule 1 the following item:

22. Conduct of the Hen Quota Committee where exercising functions under the Egg Industry (Repeal and Deregulation) Act 1989.

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## Egg Industry (Repeal and Deregulation) 1989

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**SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS OF THE BOARD**

(Sec. 11)

**Definitions**

1. In this Schedule:

- "**appointed member**" means a member of the Board other than the Managing Director of the Board;  
**"Board"** means the Board of the Corporation.

**Chairperson**

2. (1) Of the members of the Board, one is (in and by the member's instrument of appointment as a member or in and by another instrument executed by the Minister) to be appointed as Chairperson of the Board.

(2) The Chairperson may be appointed as a full-time or as a part-time Chairperson.

(3) The Minister may remove a member from the office of Chairperson at any time.

(4) A person who is a member and Chairperson vacates office as Chairperson if the person:

- (a) is removed from that office by the Minister;  
or
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be a member.

**Deputies of members**

3. (1) The Managing Director of the Corporation may, from time to time, appoint a person to be his or her deputy, and the Managing Director or the Minister may revoke any such appointment.

(2) The Minister may, from time to time, appoint a person to be the deputy of an appointed member and the Minister may revoke any such appointment.

(3) In the absence of a member, the member's deputy:

- (a) is, if available, to act in the place of the member; and
  - (b) while so acting, has all the functions of the member and is to be taken to be a member.
- (4) The deputy of a member who is Chairperson of the Board has the member's functions as Chairperson.

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## SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS OF THE BOARD - continued

(5) A person while acting in the place of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

**Terms of office**

4. Subject to this Schedule, an appointed member holds office for such period (not exceeding 3 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

**Full-time Chairperson**

5. A full-time Chairperson must devote the whole of his or her time to the duties of the office, except to the extent permitted by this Act or by the Minister.

**Remuneration**

6. (1) A full-time Chairperson is entitled to be paid:

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of the Chairperson.

(2) A part-time appointed member (including a part-time Chairperson) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Vacancy in office of member**

7. (1) The office of an appointed member becomes vacant if the member:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or

## Egg Industry (Repeal and Deregulation) 1989

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SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS OF THE BOARD - continued

- (d) is removed from office by the Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or
  - (e) being a full-time Chairperson of the Board, is absent from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister or unless the absence is occasioned by illness or other unavoidable cause; or
  - (f) being a part-time member, is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings; or
  - (g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
  - (h) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
  - (i) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or
  - (j) being a full-time Chairperson of the Board, engages in any paid employment outside the duties of the office, except with the consent of the Minister.
- (2) The Minister may remove an appointed member from office at any time.

## Egg Industry (Repeal and Deregulation) 1989

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**SCHEDULE 1 - PROVISIONS RELATING TO MEMBERS OF THE BOARD - continued****Filling of vacancy in office of appointed member**

8. If the office of an appointed member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

**Effect of certain other Acts**

9. (1) The Public Sector Management Act 1988 does not apply to the appointment of an appointed member and an appointed member is not, as a member, subject to that Act (except Part 8).

(2) If by or under any Act provision is made:

(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or  
(b) prohibiting the person from engaging in employment outside the duties of that office, the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as such a member.

(3) The office of an appointed member is not, for the purposes of any Act, an office or place of profit under the Crown.

**SCHEDULE 2 - PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD**

(Sec. 11)

**General procedure**

1. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

**Quorum**

2. The quorum for a meeting of the Board is 3 members, of whom one must be the Chairperson.

**Presiding member**

3. (1) The Chairperson of the Board is to preside at a meeting of the Board.

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**SCHEDULE 2 - PROVISIONS RELATING TO THE PROCEDURE  
OF THE BOARD - continued**

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

**Voting**

4. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

**First meeting**

5. The Minister is to call the first meeting of the Board in such manner as the Minister thinks fit.

**Disclosure of pecuniary interests**

6. (1) If:

(a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and  
(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to consideration of the matter, the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a member at a meeting of the Board that the member:

(a) is a member, or is in the employment, of a specified company or other body; or  
(b) is a partner, or is in the employment, of a specified person; or  
(c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

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**SCHEDULE 2 - PROVISIONS RELATING TO THE PROCEDURE  
OF THE BOARD - continued**

(3) Particulars of any disclosure made under this clause are to be recorded by the Board in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.

(4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Board otherwise determines:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in the making by the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

(7) This clause does not apply to or in respect of an interest of a member (being the provision of goods or services to the member by the Board) if the goods or services are, or are to be, available to members of the public on the same terms and conditions.

**SCHEDULE 3 - MANAGING DIRECTOR**  
(Sec. 13)**Definitions**

1. In this Schedule:

**"Managing Director"** means the Managing Director of the Corporation.

**SCHEDULE 3 - MANAGING DIRECTOR - continued****Acting Managing Director**

2. (1) The Minister may, from time to time, appoint a person to act in the office of the Managing Director during the illness or absence of the Managing Director, and the person, while so acting, has all the functions of the Managing Director and is to be taken to be the Managing Director.

(2) The Minister may, at any time, remove any person from an office to which the person was appointed under this clause.

(3) A person while acting in the office of the Managing Director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(4) For the purposes of this clause, a vacancy in the office of the Managing Director is to be regarded as an absence from office of the Managing Director.

**Term of office**

3. Subject to this Schedule, the Managing Director holds office for such period (not exceeding 3 years) as may be specified in the Managing Director's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

**Managing Director to be full-time**

4. The Managing Director is to devote the whole of his or her time to the duties of his or her office, except to the extent permitted by this Act or by the Minister.

**Remuneration**

5. The Managing Director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the Managing Director.

**SCHEDULE 3 - MANAGING DIRECTOR - continued****Vacancy in office of Managing Director**

6. (1) The office of the Managing Director becomes vacant if the Managing Director:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) retires or is removed from office by the Minister under this clause or by the Governor under Part 8 of the Public Sector Management Act 1988; or
- (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (f) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (g) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or
- (h) engages in any paid employment outside the duties of his or her office, except with the consent of the Minister.

(2) The Managing Director may, after reaching the age of 60 years, be retired from office by the Governor.

**Filling of vacancy in office**

7. If the office of Managing Director becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

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**SCHEDULE 3 - MANAGING DIRECTOR - continued****Public Sector Management Act 1988 not to apply**

8. The Public Sector Management Act 1988 does not apply to the appointment of the Managing Director and the Managing Director is not, as a Managing Director, subject to that Act (except Part 8).

**SCHEDULE 4 - PROVISIONS RELATING TO THE  
CONSTITUTION AND PROCEDURE OF THE COMMITTEE**

(Sec. 39)

**Members of Committee**

1. Schedule 1 applies to and in respect of the members of the Committee in the same way as it applies to and in respect of an appointed member (other than a full-time Chairperson) of the Board.

**Procedure of Committee**

2. Schedule 2 applies to and in respect of the Committee and the members of the Committee in the same way as it applies to and in respect of the Board and the members of the Board.

**SCHEDULE 5 - SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS**

(Sec. 81)

**Definitions**

1. In this Schedule:

"appointed day" means the day appointed under section 2 for the commencement of section 5 (Repeals);

"dissolved Committee" means the Committee dissolved under section 6;

"dissolved Corporation" means the Corporation dissolved under section 6.

**Regulations**

2. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

**SCHEDULE 5 - SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS - continued**

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**Members of dissolved Committee**

3. (1) A person who, immediately before the appointed day, held office as a member of the dissolved Committee:

- (a) ceases to hold that office; and
- (b) is eligible (if otherwise qualified) to be appointed as a member of the Committee.

(2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.

**Members of the dissolved Corporation**

4. (1) A person who, immediately before the appointed day, held office as a member of the dissolved Corporation:

- (a) ceases to hold that office; and
- (b) is eligible (if otherwise qualified) to be appointed as Managing Director of the Corporation; and

(c) except as provided by subclause (2), is not entitled to any remuneration or compensation because of the loss of that office.

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**SCHEDULE 5 - SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS - continued**

(2) Part 8 of the Public Sector Management Act 1988 applies to a person who so ceases to hold office as Managing Director of the dissolved Corporation in the same way as it applies to a person removed from office under that Part.

**Members of Union Consultative Committee**

5. A person who, immediately before the appointed day, held office as a member of the Union Consultative Committee constituted under the repealed Act:

- (a) ceases to hold that office; and
- (b) is not entitled to any remuneration or compensation because of the loss of that office.

**Continuity of existing staff of Corporation**

6. Any members of the staff of the dissolved Corporation employed under the repealed Act immediately before the appointed day are to be taken to be members of the staff of the Corporation employed under this Act.

**Preservation of rights of existing staff**

7. (1) This clause applies to a person who was a member of the staff of the dissolved Corporation under the repealed Act immediately before the appointed day.

(2) Subject to the terms of the person's appointment, the person:

- (a) is to retain any rights accrued or accruing to him or her as an employee of the dissolved Corporation; and
- (b) is to be subject to the same conditions of employment; and
- (c) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as a member of the staff of the Corporation; and

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SCHEDULE 5 - SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS - continued

(d) is entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if the person had continued to be an employee during his or her service as a member of the staff of the Corporation.

(3) Service as a member of staff of the Corporation is to be regarded as service as an officer or employee for the purposes of any law under which any such rights accrued or were accruing, under which he or she continues to contribute to any such superannuation scheme or by which any such entitlement is conferred.

(4) The person is to be regarded as an officer or employee, and the Corporation is to be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.

(5) If the person would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme:

(a) he or she will not be so entitled on becoming (whether on appointment as a member of staff of the Corporation or at any later time while such an employee) a contributor to any other superannuation scheme; and

(b) the provisions of subclause (4) cease to apply to or in respect of him or her and the Corporation in any case where he or she becomes a contributor to any such other superannuation scheme.

(6) Subclause (5) does not prevent the payment to the member of staff (on his or her ceasing to be a contributor to a superannuation scheme) of such amount as would have been payable to him or her if he or she had ceased, by reason of resignation, to be an officer or employee for the purposes of the scheme.

**SCHEDULE 5 - SAVINGS, TRANSITIONAL AND  
OTHER PROVISIONS - continued**

**References to Managing Director**

8. On and from the appointed day, a reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to the Managing Director under the repealed Act is to be read as a reference to the Managing Director of the Corporation.

**Remuneration of Managing Director**

9. Until a determination is made in respect of the Managing Director under the Statutory and Other Offices Remuneration Act 1975, the Managing Director is entitled to be paid such salary and allowances as those to which the Managing Director of the dissolved Corporation was entitled under that Act immediately before the appointed day.

**Personal liability of Managing Director etc.**

10. No matter or thing done by:  
(a) the dissolved Corporation or any person acting under the direction of the dissolved Corporation; or  
(b) the dissolved Committee or a member of that Committee,  
is, if the matter or thing was done in good faith for the purpose of executing the repealed Act, or the exercise of his or her functions, to subject any of those persons so acting personally to any action, liability, claim or demand.

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