

FIRST PRINT

**COMMONWEALTH POWERS (POULTRY PROCESSING)
BILL 1993**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to empower the Commonwealth Parliament to enact legislation about poultry processing for the purpose of ensuring the fitness of poultry meat for human consumption. The Bill will refer power to make laws with respect to the regulation, licensing and inspection of operations involving the slaughtering of poultry for human consumption and the processing, handling and packaging of poultry meat on slaughter premises in New South Wales. The Bill will refer power to make laws with respect to the regulation and inspection of poultry meat brought into the State for sale and of its packaging. Power to make laws with respect to ancillary matters is also referred.

The reference of power is done under section 51 (xxxvii) of the Commonwealth Constitution. That provision authorises the Commonwealth Parliament to make laws with respect to:

“(xxxvii) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law”.

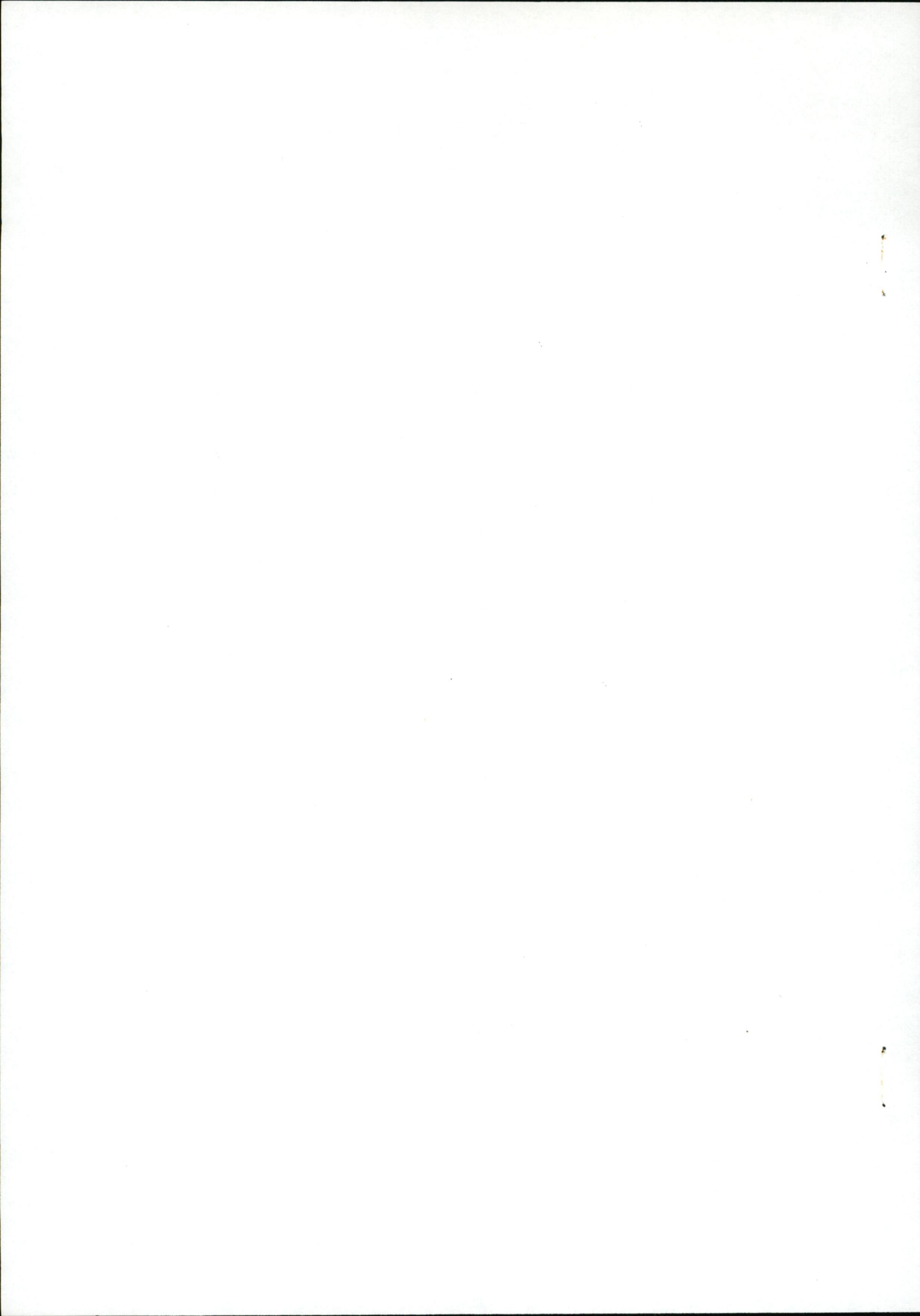
The Bill provides that the State may at any time terminate the referral on a day appointed by proclamation, that is, a proclamation of the Governor of New South Wales on the advice of the Executive Council.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day.

Clause 3 makes the referral described above.

Clause 4 enables the referral to be terminated by proclamation.



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NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Reference of matters relating to poultry processing
 4. Termination of reference
-

**COMMONWEALTH POWERS (POULTRY PROCESSING)
BILL 1993**

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to refer to the Parliament of the Commonwealth certain legislative power relating to the slaughter of poultry and the processing of poultry meat; and for other purposes.

Commonwealth Powers (Poultry Processing) 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Commonwealth Powers (Poultry Processing) Act 1993.

5 Commencement

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

Reference of matters relating to poultry processing

3. (1) The following matters, to the extent to which they are not otherwise included in the legislative powers of the Commonwealth, are referred to the Parliament of the Commonwealth for a period commencing on the day on which this Act commences and ending on the day fixed, under section 4, as the day on which the reference made by this Act is to terminate, but no longer:

15 (a) the regulation, for the purpose only of ensuring its fitness for human consumption, of operations for:

(i) the slaughtering of poultry; and

(ii) the processing, packaging and handling of poultry meat on slaughter premises;

20 (b) the consequential regulation on slaughter premises of the creation of by-products from those operations that are not suitable for human consumption but which may be suitable, for example, as pet food;

(c) the inspection of those operations and slaughter premises;

25 (d) the handling, disposal and seizing of poultry and poultry meat that is found, on slaughter premises, to be unfit for human consumption;

(e) the regulation of vehicles used to convey poultry or poultry meat, and their inspection at slaughter premises, for the purpose only of ensuring their fitness to be used to convey poultry or poultry meat for human consumption;

30 (f) the regulation and inspection of poultry meat brought into the State for sale (including any packaging in which the poultry meat is contained) for the purpose only of ensuring its fitness for human consumption;

35 (g) the payment of fees and charges (including charges that are taxes) in connection with any of the matters referred to in paragraphs (a)–(f);

Commonwealth Powers (Poultry Processing) 1993

(h) matters ancillary or incidental to the matters referred to in paragraphs (a)–(g).

(2) In this section:

“**poultry**” means any live or dead bird of any species, other than a bird taken or killed in contravention of the National Parks and Wildlife Act 1974; 5

“**poultry meat**” means the whole or any part of:

(a) the carcase of any poultry; and

(b) the viscera, heart, liver and gizzard of any poultry;

“**premises**” includes any part of a building or structure or an area of land; 10

“**regulation**” includes licensing (whether of operations, persons or premises) or prohibiting;

“**slaughter premises**” means premises used or intended to be used for or in connection with the slaughtering of poultry for human consumption and includes holding yards and similar places and buildings at those premises used or intended to be used in or in connection with the slaughtering, handling or keeping of poultry for human consumption. 15

Termination of reference 20

4. The Governor may, at any time, by proclamation, fix a day as the day on which the reference under this Act is to terminate.

COMMONWEALTH POWERS (POULTRY
PROCESSING) BILL 1993

SECOND READING SPEECH
LEGISLATIVE COUNCIL

MR PRESIDENT,

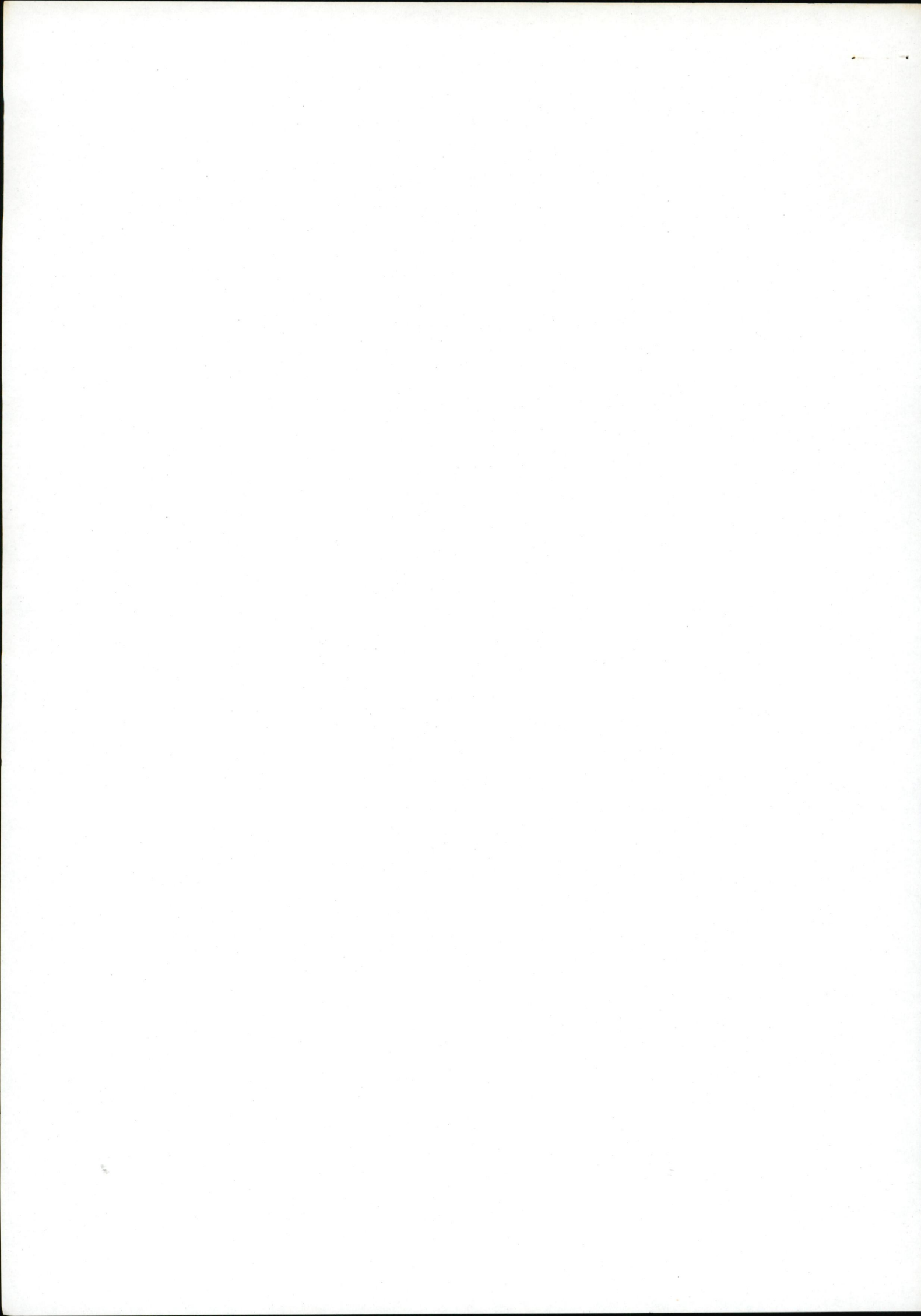
I MOVE THAT THE BILL BE READ A SECOND TIME.

THE PURPOSE OF THIS BILL IS TO EMPOWER THE
COMMONWEALTH PARLIAMENT TO ENACT LEGISLATION
DEALING WITH POULTRY PROCESSING.

THIS REGULATORY POWER WILL INCLUDE LICENSING OF
SLAUGHTER PREMISES, AND LICENSING OWNERS AND
OPERATORS OF SLAUGHTER PREMISES.

THE REFERENCE OF POWER IS MADE PURSUANT TO
SECTION 51(XXXVII) OF THE COMMONWEALTH
CONSTITUTION.

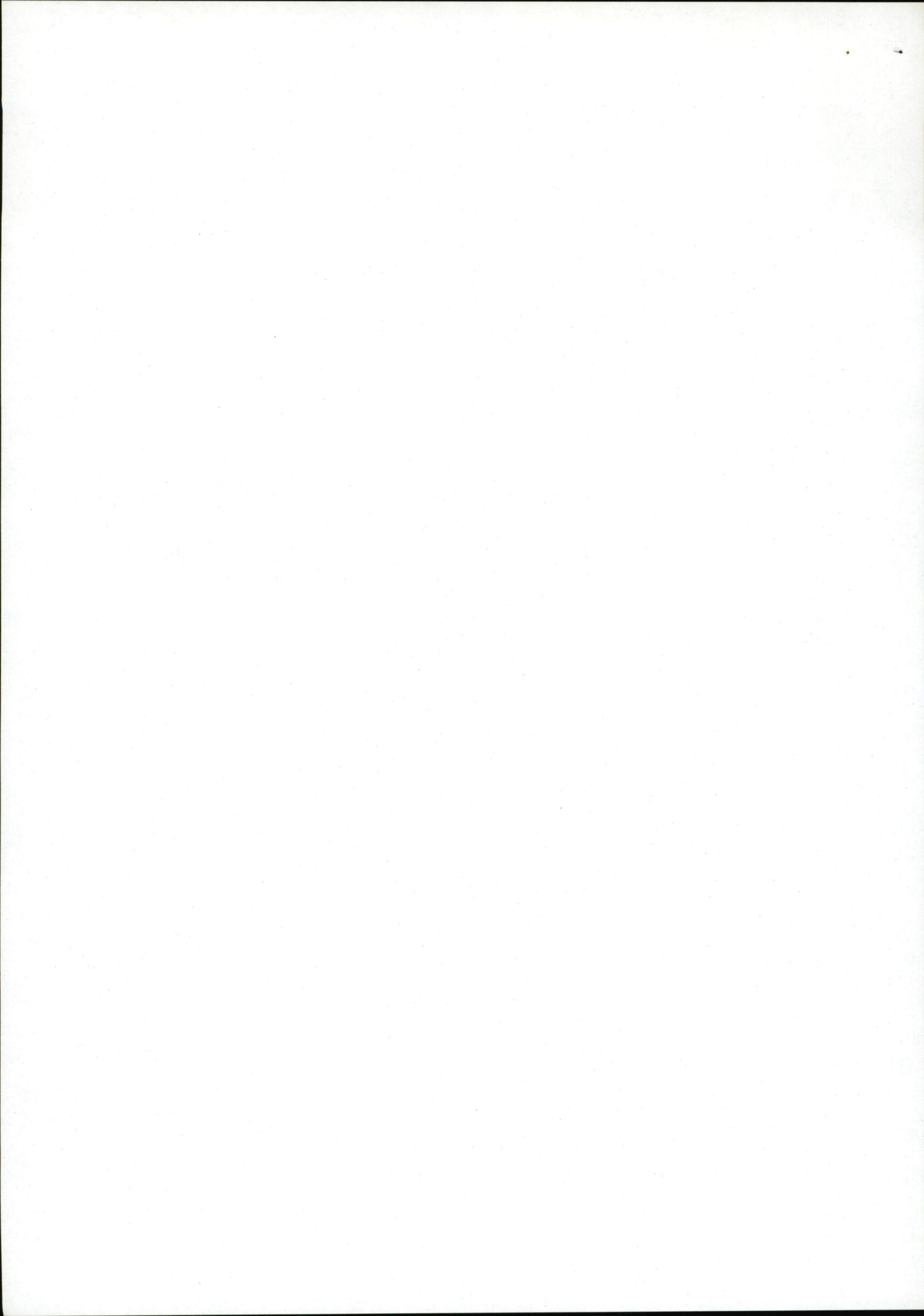
ON 4 MARCH 1991 THE COMMONWEALTH AGREED TO
COMMENCE POULTRY INSPECTION IN NEW SOUTH WALES



ON AN AGENCY BASIS, PENDING THE PASSAGE OF THE COMMONWEALTH'S POULTRY INSPECTION BILL. IN NEW SOUTH WALES COMMONWEALTH MEAT INSPECTORS HAVE INSPECTED POULTRY FOR DOMESTIC CONSUMPTION PURSUANT TO THE POULTRY PROCESSING ACT 1969 AND THE POULTRY PROCESSING REGULATION 1982.

THE REFERRAL OF POWER WILL ENABLE THE INTERIM MEASURES, UNDER A COMMONWEALTH STATE AGREEMENT, TO BE FINALISED WHEN THE COMMONWEALTH LEGISLATION IS ENACTED. THE MOVE TOWARD THE ESTABLISHMENT OF A NATIONAL MEAT INSPECTION SERVICE IS SUPPORTED BY THE GOVERNMENT.

UNTIL COMMONWEALTH LEGISLATION IS INTRODUCED COMMONWEALTH MEAT INSPECTORS INSPECT POULTRY IN NEW SOUTH WALES WITHOUT THE POWERS OF AUTHORISED OFFICERS AND STATUTORY PROTECTIONS OF PART V AND SECTION 34 RESPECTIVELY OF THE COMMONWEALTH MEAT INSPECTION ACT 1983. HOWEVER,

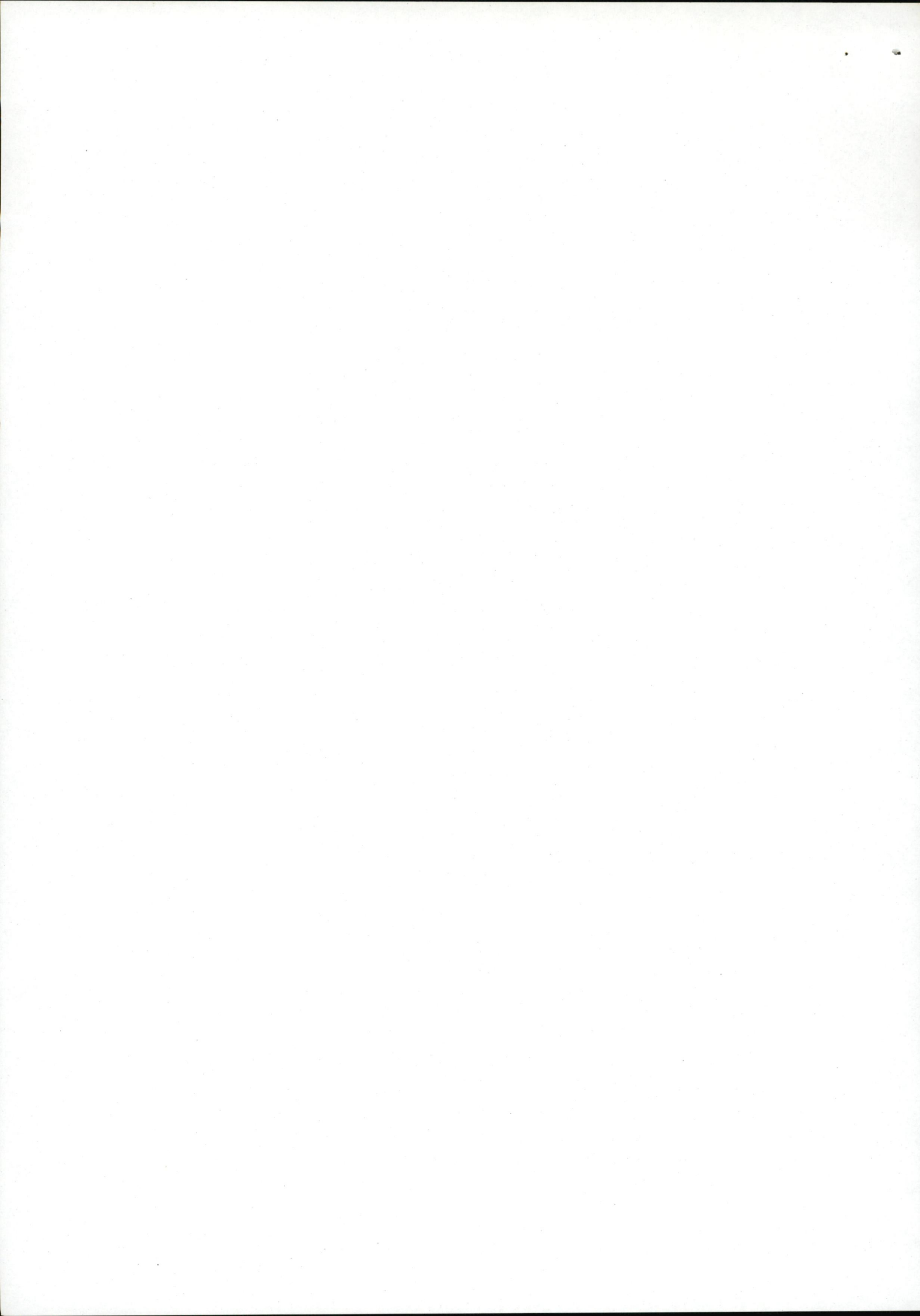


THE COMMONWEALTH INSPECTORS HAVE BEEN APPOINTED AS INSPECTORS UNDER NEW SOUTH WALES LAW.

REGISTRATION FEES HAVE CONTINUED TO BE COLLECTED BY NSW AGRICULTURE ON BEHALF OF THE COMMONWEALTH TO RECOVER THE COST TO THE COMMONWEALTH OF PROVIDING THE SERVICE.

HENCE IT IS THE MOST RATIONAL, EFFICIENT AND LOGICAL MEASURE TO REFER TO THE COMMONWEALTH THE NECESSARY POWERS OF INSPECTION, REGULATION AND LICENSING OF OPERATIONS INVOLVING THE SLAUGHTER OF POULTRY MEAT FOR HUMAN CONSUMPTION AND THE PROCESSING, HANDLING AND PACKAGING OF POULTRY MEAT ON SLAUGHTER PREMISES IN NEW SOUTH WALES.

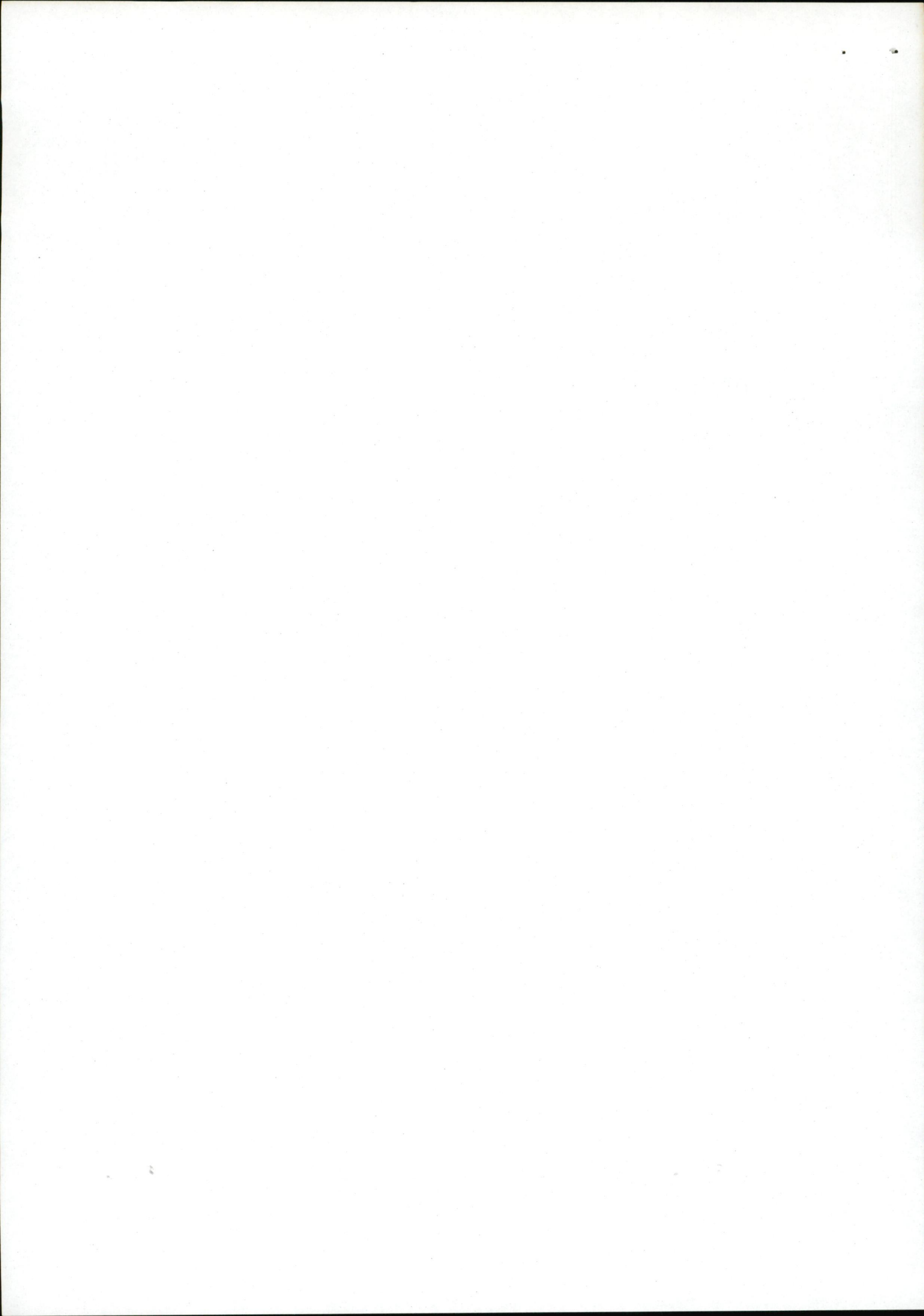
THE PROPOSED BILL WILL REFER THE STATE'S POWERS IN RESPECT OF POULTRY PROCESSING TO THE COMMONWEALTH, SUBJECT TO A POWER TO RECLAIM THOSE POWERS SHOULD THE NEED ARISE. THE



LEGISLATION IS NECESSARY SO THAT THE COMMONWEALTH CAN INTRODUCE ITS OWN LEGISLATION TO TAKE OVER IN ITS OWN RIGHT THE FUNCTIONS NOW BEING PERFORMED UNDER THE AGREEMENT. THE COMMONWEALTH LEGISLATION HAS BEEN DRAFTED, AND CAN PROCEED ONCE THE NEW SOUTH WALES LEGISLATION IS IN PLACE.

SIMILAR LEGISLATION IS ALREADY IN PLACE IN RESPECT OF THE INSPECTION OF RED MEAT. THE COMMONWEALTH POWERS (MEAT INSPECTION) ACT 1983 REFERRED STATE POWERS IN THAT REGARD TO THE COMMONWEALTH, AND ALL MEAT INSPECTION IN NSW IS NOW CARRIED OUT BY AUSTRALIAN QUARANTINE INSPECTION SERVICE (AQIS) INSPECTORS. THE NEW BILL WILL OPERATE IN A SIMILAR MANNER AT POULTRY PROCESSING PLANTS IN NSW.

IT IS DOUBTFUL WHETHER THE COMMONWEALTH COULD RELY UPON ITS MEAT INSPECTION ACT 1983 TO INSPECT POULTRY. FURTHER, IT IS DOUBTFUL WHETHER THE

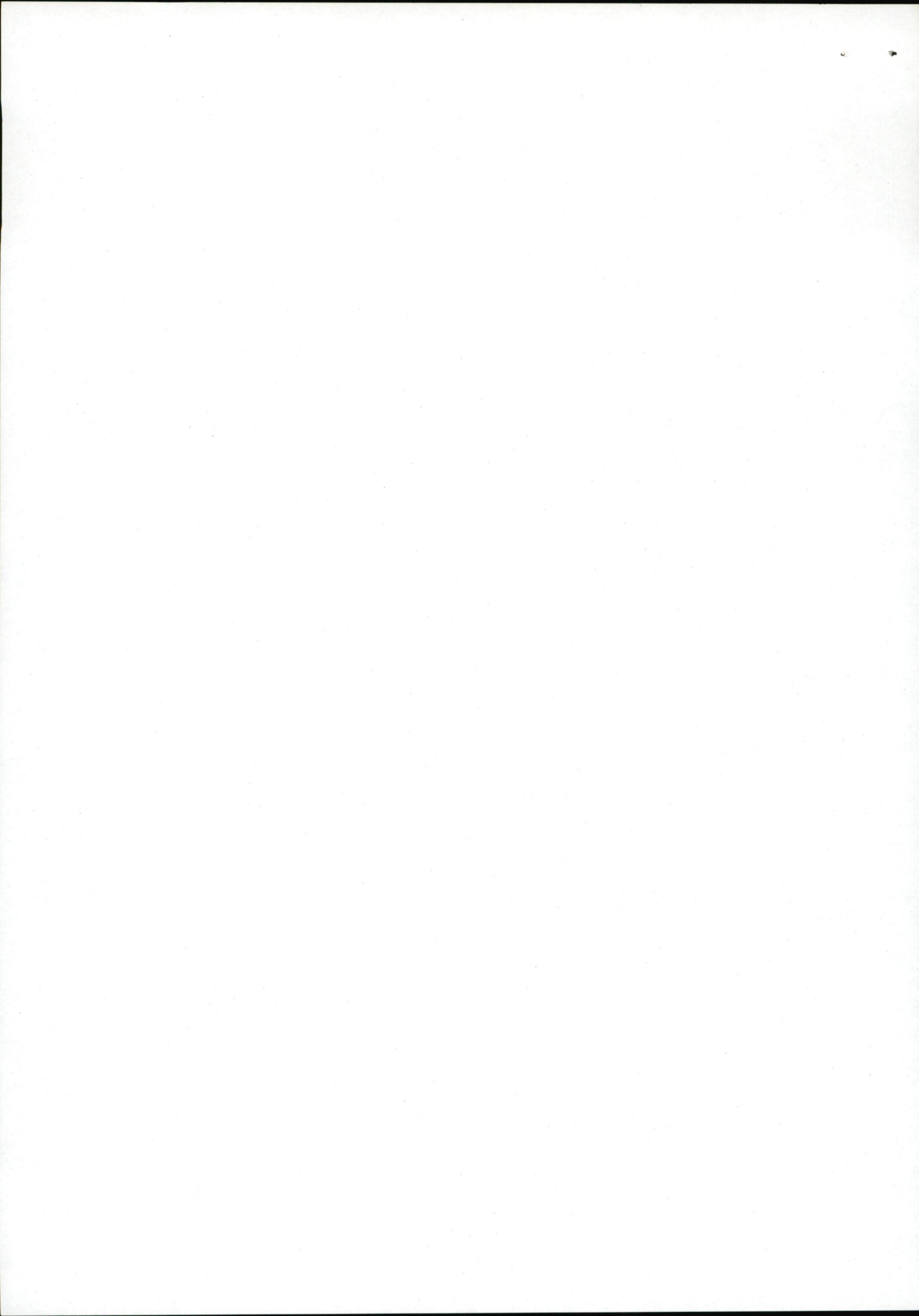


COMMONWEALTH COULD AMEND THE MEAT INSPECTION ACT 1983 TO INCLUDE POULTRY BECAUSE IT IS UNLIKELY THAT STATES WHICH HAVE REFERRED THE MATTER OF THE INSPECTION OF MEAT TO THE COMMONWEALTH INTENDED "MEAT" TO INCLUDE POULTRY.

FOR THESE REASONS THE COMMONWEALTH AND THE STATE GOVERNMENT CONSIDER THAT A REFERRAL OF STATE POWER TO ENABLE THE ENACTMENT OF A NEW COMMONWEALTH BILL WILL CLARIFY THE AREAS OF RESPONSIBILITY AND CONTROL

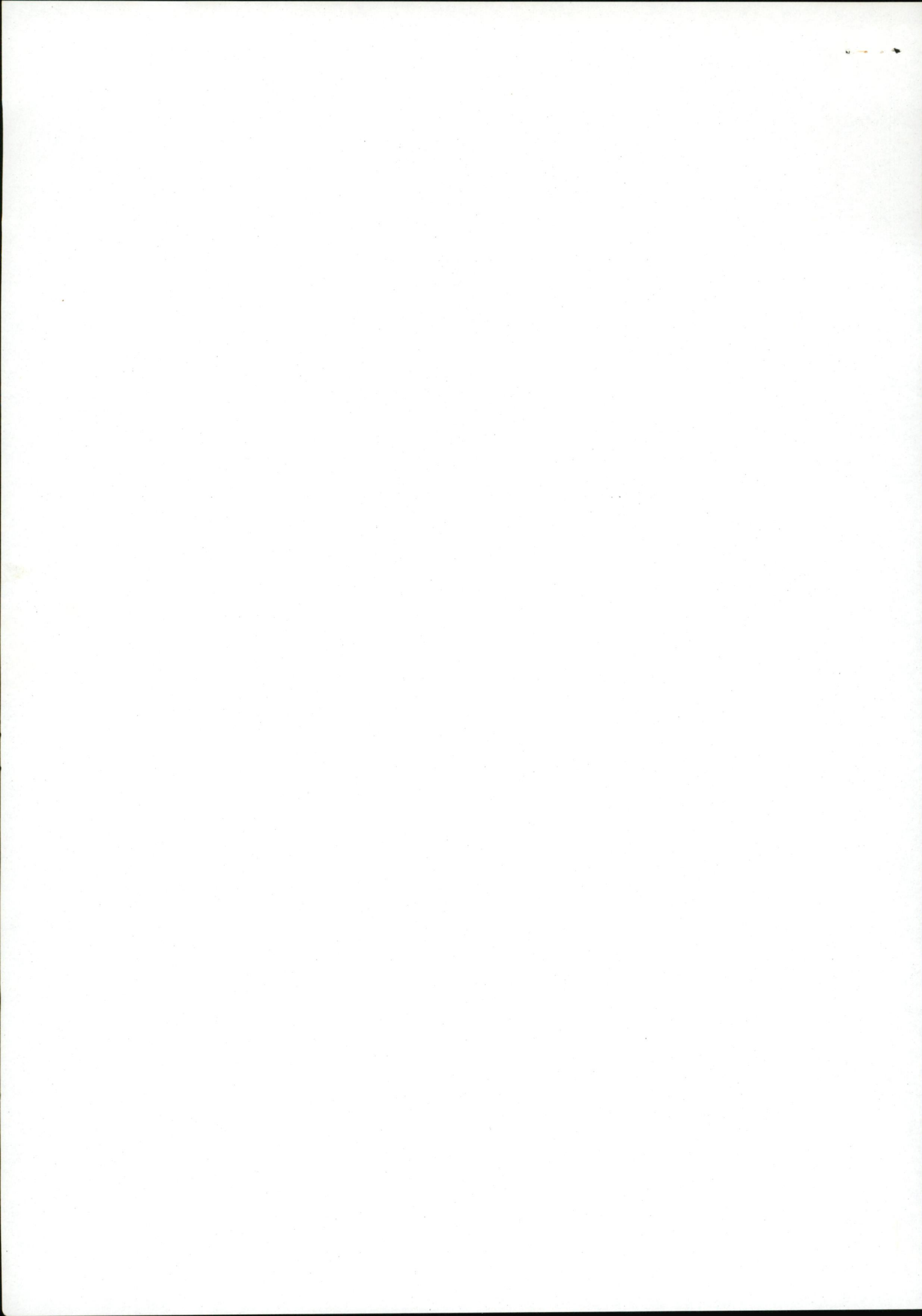
THIS BILL IS CONCERNED WITH PREMISES WHERE THE SLAUGHTERING OF POULTRY FOR HUMAN CONSUMPTION IS CARRIED OUT AND NOT WITH PREMISES WHICH PROCESS POULTRY SOLELY FOR THE PREPARATION OF PET FOOD. THE MEAT INDUSTRY ACT PROVIDES CONTROL OVER SUCH MATTERS.

THIS CHANGE HAS THE SUPPORT OF INDUSTRY. THERE HAS



BEEN FULL CONSULTATION WITH INDUSTRY REPRESENTATIVES. THIS CONSULTATIVE PROCESS HAS BEEN UNDERTAKEN THROUGH REGULAR MEETINGS WHICH HAVE ALSO INCLUDED THE RESPONSIBLE COMMONWEALTH OFFICERS. A CONSULTATIVE BODY WILL MAINTAIN LIAISON BETWEEN THE STATE AND COMMONWEALTH TO ENSURE THAT THE REGULATIONS ARE SOUND AND FAIR.

I COMMEND THE BILL TO THE HOUSE.



**COMMONWEALTH POWERS (POULTRY PROCESSING) ACT
1993 No. 100**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Reference of matters relating to poultry processing
 4. Termination of reference
-

**COMMONWEALTH POWERS (POULTRY PROCESSING) ACT
1993 No. 100**

NEW SOUTH WALES



Act No. 100, 1993

An Act to refer to the Parliament of the Commonwealth certain legislative power relating to the slaughter of poultry and the processing of poultry meat; and for other purposes. [Assented to 2 December 1993]

Commonwealth Powers (Poultry Processing) Act 1993 No. 100

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Commonwealth Powers (Poultry Processing) Act 1993.

Commencement

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

Reference of matters relating to poultry processing

3. (1) The following matters, to the extent to which they are not otherwise included in the legislative powers of the Commonwealth, are referred to the Parliament of the Commonwealth for a period commencing on the day on which this Act commences and ending on the day fixed, under section 4, as the day on which the reference made by this Act is to terminate, but no longer:

- (a) the regulation, for the purpose only of ensuring its fitness for human consumption, of operations for:
 - (i) the slaughtering of poultry; and
 - (ii) the processing, packaging and handling of poultry meat on slaughter premises;
- (b) the consequential regulation on slaughter premises of the creation of by-products from those operations that are not suitable for human consumption but which may be suitable, for example, as pet food;
- (c) the inspection of those operations and slaughter premises;
- (d) the handling, disposal and seizing of poultry and poultry meat that is found, on slaughter premises, to be unfit for human consumption;
- (e) the regulation of vehicles used to convey poultry or poultry meat, and their inspection at slaughter premises, for the purpose only of ensuring their fitness to be used to convey poultry or poultry meat for human consumption;
- (f) the regulation and inspection of poultry meat brought into the State for sale (including any packaging in which the poultry meat is contained) for the purpose only of ensuring its fitness for human consumption;
- (g) the payment of fees and charges (including charges that are taxes) in connection with any of the matters referred to in paragraphs (a)–(f);

Commonwealth Powers (Poultry Processing) Act 1993 No. 100

(h) matters ancillary or incidental to the matters referred to in paragraphs (a)–(g).

(2) In this section:

“**poultry**” means any live or dead bird of any species, other than a bird taken or killed in contravention of the National Parks and Wildlife Act 1974;

“**poultry meat**” means the whole or any part of:

(a) the carcase of any poultry; and

(b) the viscera, heart, liver and gizzard of any poultry;

“**premises**” includes any part of a building or structure or an area of land;

“**regulation**” includes licensing (whether of operations, persons or premises) or prohibiting;

“**slaughter premises**” means premises used or intended to be used for or in connection with the slaughtering of poultry for human consumption and includes holding yards and similar places and buildings at those premises used or intended to be used in or in connection with the slaughtering, handling or keeping of poultry for human consumption.

Termination of reference

4. The Governor may, at any time, by proclamation, fix a day as the day on which the reference under this Act is to terminate.

[Minister's second reading speech made in—
Legislative Assembly on 10 November 1993
Legislative Council on 19 November 1993]

