

First print



New South Wales

Fish Marketing Amendment (Deregulation) Bill 1997

Explanatory note

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

Overview of Bill

The object of this Bill is to postpone the final deregulation of fish marketing in New South Wales until 1 November 1999. At present, the *Fish Marketing Act 1994* fixes 1 November 1997 as the date of deregulation. The Bill makes other minor and ancillary amendments.

On and after the date of final deregulation, commercial fishers and others will no longer be required to market their catch through the Sydney fish market or any co-operative trading society market or in accordance with a fish marketing authority under the *Fisheries Act 1935*.

However, on and from the original deregulation date of 1 November 1997, co-operative trading societies and holders of certificates of exemption wishing to market their fish in the County of Cumberland (ie the Sydney region) will not be required to do so through the market operated by Sydney Fish Markets Pty Ltd, the purchaser of the Sydney fish market.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on the date of assent (except for the proposed amendment in Schedule 1 [5], the commencement of which is required to be delayed until the original deregulation date of 1 November 1997).

Clause 3 is a formal provision giving effect to the amendments to the *Fish Marketing Act 1994* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendment to the *Fisheries Act 1935* set out in Schedule 2.

Schedule 1 Amendment of Fish Marketing Act 1994

Part 1 Principal amendment

Schedule 1 [1] provides that 1 November 1999, instead of 1 November 1997, is the date of deregulation of fish marketing in New South Wales. The amendment also provides that references in Acts, contracts or other documents to the deregulation date are to be construed as references to the new deregulation date, but with a power to make regulations that require any such reference to continue to be construed as a reference to the previous deregulation date.

Part 2 Minor and ancillary amendments

Schedule 1 [2] updates a reference to the relevant legislation regulating commercial fishers, namely, the *Fisheries Management Act 1994*.

Schedule 1 [3] inserts a reference in the definition of the *deregulation date* to the proposed new date of 1 November 1999.

Schedule 1 [4] updates a reference to the relevant legislation regulating the issue of fish marketing authorities until the deregulation date.

Schedule 1 [5] omits a provision of the *Fish Marketing Act 1994* that specifically sanctioned, until the deregulation date, conditions in the leases of wholesale and retail shops on the site of the Sydney fish markets that require the lessees to purchase their fish from the public auction facility of Sydney Fish Markets Pty Ltd, the purchaser of the Sydney fish market. This special protection from the operation of the *Competition Code* is being removed in connection with the deregulation of fish marketing in the Sydney region on the original deregulation date.

Schedule 1 [6] makes it clear that the provision that excludes the payment of compensation by the State for loss caused by the *Fish Marketing Act 1994* extends to the amendments made by the proposed Act or any other amending Act.

Schedule 1 [7] and [8] authorise the making of savings and transitional regulations consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Fisheries Act 1935

Following the sale of the Sydney fish market and until the final deregulation date, the provisions of the *Fisheries Act 1935* continue to regulate the marketing of fish. Under the provisions of that Act commercial fishers are required to sell their fish:

- (a) through a fish market operated by a trading society approved under that Act, which includes Sydney Fish Markets Pty Ltd and certain regional co-operative societies, or
- (b) to the holder of a certificate of exemption under that Act, which includes certain processors of fish and sellers of fish in areas not served by trading society fish markets, or
- (c) if the fisher has a consent under that Act, in accordance with that consent, which enables local and certain specialist sales of fish.

Those trading society approvals and certificates of exemption contain provisions that prohibit the holders from selling or supplying fish directly to any trader or person for sale in the County of Cumberland (ie the Sydney region) other than to the Sydney Fish Markets Pty Ltd. Schedule 2 amends the *Fisheries Act 1935* to remove those prohibitions on 1 November 1997 (the original deregulation date) and to prevent their insertion in any future trading society approval or certificate of exemption issued before the final deregulation date.

First print



New South Wales

Fish Marketing Amendment (Deregulation) Bill 1997

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Fish Marketing Act 1994 No 37	2
4 Amendment of Fisheries Act 1935 No 58	2

Schedules

1 Amendment of Fish Marketing Act 1994	3
2 Amendment of Fisheries Act 1935	5



New South Wales

Fish Marketing Amendment (Deregulation) Bill 1997

No . , 1997

A Bill for

An Act to amend the *Fish Marketing Act 1994* to postpone the final deregulation of fish marketing in New South Wales; to amend the *Fisheries Act 1935* to remove certain restrictions on the marketing of fish in the County of Cumberland; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Fish Marketing Amendment (Deregulation) Act 1997*.

2 Commencement

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- (1) This Act commences on the date of assent, except as provided by this section.
- (2) Schedule 1 [5] commences on 1 November 1997.

3 Amendment of Fish Marketing Act 1994 No 37

The *Fish Marketing Act 1994* is amended as set out in Schedule 1. 10

4 Amendment of Fisheries Act 1935 No 58

The *Fisheries Act 1935* is amended as set out in Schedule 2.

Schedule 1 Amendment of Fish Marketing Act 1994

(Section 3)

Part 1 Principal amendment

[1] Section 20 5

Omit the section. Insert instead:

20 Deregulation date

- (1) The deregulation date is 1 November 1999.
- (2) A reference in any instrument to the deregulation date within the meaning of this Act is a reference to 1 November 1999. However, the regulations may require any such reference in an instrument made or executed before the commencement of the *Fish Marketing Amendment (Deregulation) Act 1997* to be construed as a reference to the former deregulation date, namely, 1 November 1997. 10
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Part 2 Minor and ancillary amendments

[2] Section 3 Definitions

Omit "Fisheries Act" from the definition of *commercial fisher* in section 3 (1). 20
Insert instead "*Fisheries Management Act 1994*".

[3] Section 3 (1)

Omit "section 20" from the definition of *deregulation date*.
Insert instead "section 20 (1) (being 1 November 1999)".

[4] Section 3 (1)

Omit "and Oyster Farms" from the definition of *Fisheries Act*.

[5] Section 9 Lease of Sydney fish market site to approved purchaser

Omit section 9 (3).

5

[6] Section 22 Compensation not payable

Insert at the end of section 22 (2):

this Act includes the *Fish Marketing Amendment (Deregulation) Act 1997* or any other Act amending this Act.

10

[7] Section 25 Regulations

Insert "or the *Fish Marketing Amendment (Deregulation) Act 1997*" after "this Act" in section 25 (2).

[8] Section 25 (3)

Omit "this Act". Insert instead "the Act concerned".

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Schedule 2 Amendment of Fisheries Act 1935

(Section 4)

Section 40G Fish Marketing Act 1994

Insert after section 40G (5):

- (6) On and from 1 November 1997: 5
- (a) a general fish marketing authority must not include a condition, term or stipulation that prevents or restricts the sale or supply of fish in the County of Cumberland by the holder of the authority or by any person to whom the holder of the authority sells or supplies fish, and 10
- (b) any such condition, term or stipulation in a general fish marketing authority ceases to have effect.

A *general fish marketing authority* is a certificate of exemption issued under section 40C or an approval given to a trading society under section 40E. 15



New South Wales

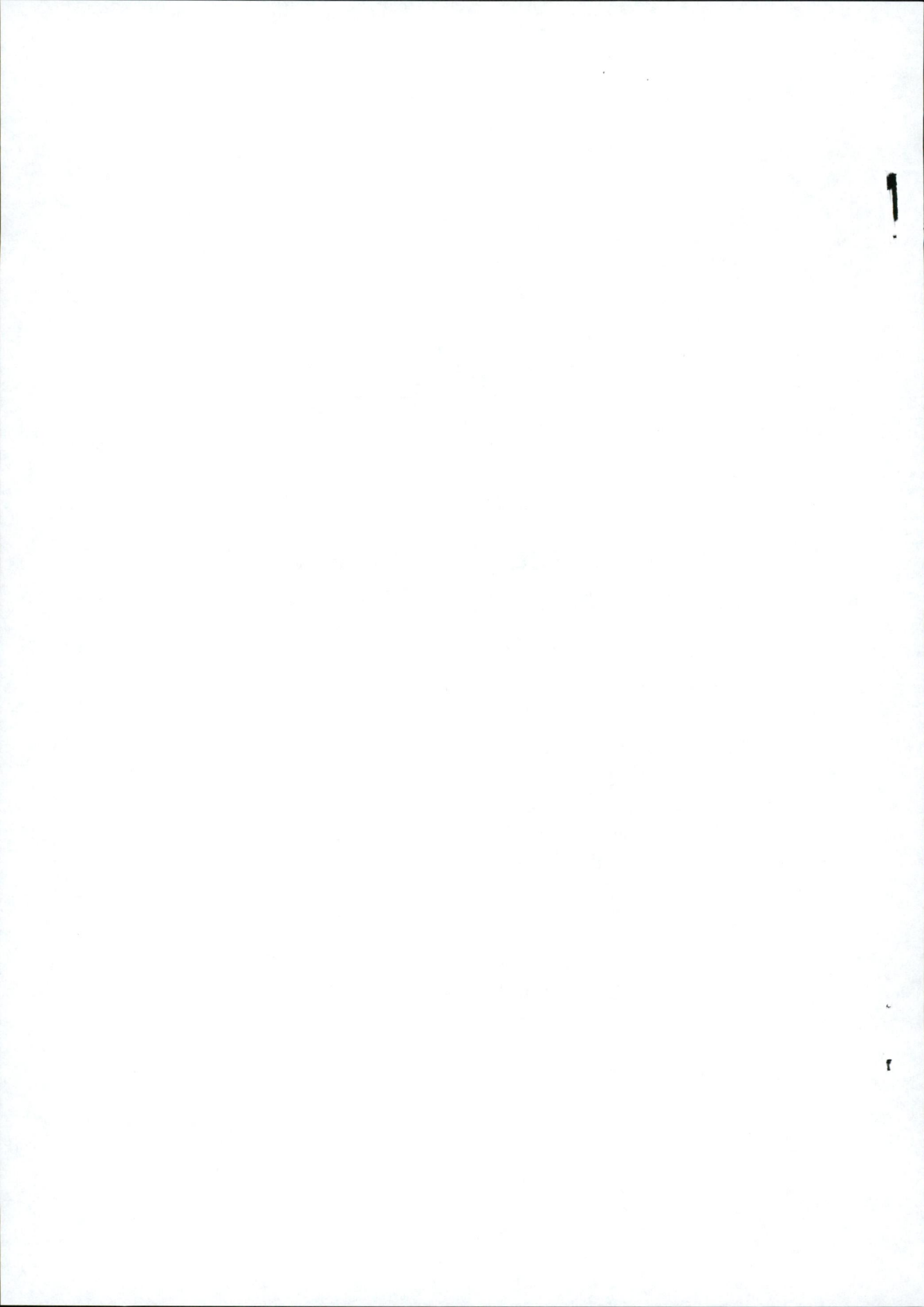
Fish Marketing Amendment (Deregulation) Act 1997 No 10

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Fish Marketing Act 1994 No 37	2
4 Amendment of Fisheries Act 1935 No 58	2

Schedules

1 Amendment of Fish Marketing Act 1994	3
2 Amendment of Fisheries Act 1935	5





New South Wales

Fish Marketing Amendment (Deregulation) Act 1997 No 10

Act No 10, 1997

An Act to amend the *Fish Marketing Act 1994* to postpone the final deregulation of fish marketing in New South Wales; to amend the *Fisheries Act 1935* to remove certain restrictions on the marketing of fish in the County of Cumberland; and for other purposes. [Assented to 21 May 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Fish Marketing Amendment (Deregulation) Act 1997*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by this section.
- (2) Schedule 1 [5] commences on 1 November 1997.

3 Amendment of Fish Marketing Act 1994 No 37

The *Fish Marketing Act 1994* is amended as set out in Schedule 1.

4 Amendment of Fisheries Act 1935 No 58

The *Fisheries Act 1935* is amended as set out in Schedule 2.

Schedule 1 Amendment of Fish Marketing Act 1994

(Section 3)

Part 1 Principal amendment

[1] Section 20

Omit the section. Insert instead:

20 Deregulation date

- (1) The deregulation date is 1 November 1999.
- (2) A reference in any instrument to the deregulation date within the meaning of this Act is a reference to 1 November 1999. However, the regulations may require any such reference in an instrument made or executed before the commencement of the *Fish Marketing Amendment (Deregulation) Act 1997* to be construed as a reference to the former deregulation date, namely, 1 November 1997.

Part 2 Minor and ancillary amendments

[2] Section 3 Definitions

Omit "Fisheries Act" from the definition of *commercial fisher* in section 3 (1).

Insert instead "*Fisheries Management Act 1994*".

[3] Section 3 (1)

Omit "section 20" from the definition of *deregulation date*.

Insert instead "section 20 (1) (being 1 November 1999)".

[4] Section 3 (1)

Omit "and Oyster Farms" from the definition of *Fisheries Act*.

[5] Section 9 Lease of Sydney fish market site to approved purchaser

Omit section 9 (3).

[6] Section 22 Compensation not payable

Insert at the end of section 22 (2):

this Act includes the *Fish Marketing Amendment (Deregulation) Act 1997* or any other Act amending this Act.

[7] Section 25 Regulations

Insert "or the *Fish Marketing Amendment (Deregulation) Act 1997*" after "this Act" in section 25 (2).

[8] Section 25 (3)

Omit "this Act". Insert instead "the Act concerned".

Schedule 2 Amendment of Fisheries Act 1935

(Section 4)

Section 40G Fish Marketing Act 1994

Insert after section 40G (5):

(6) On and from 1 November 1997:

- (a) a general fish marketing authority must not include a condition, term or stipulation that prevents or restricts the sale or supply of fish in the County of Cumberland by the holder of the authority or by any person to whom the holder of the authority sells or supplies fish, and
- (b) any such condition, term or stipulation in a general fish marketing authority ceases to have effect.

A *general fish marketing authority* is a certificate of exemption issued under section 40C or an approval given to a trading society under section 40E.

[Minister's second reading speech made in—
Legislative Assembly on 16 April 1997
Legislative Council on 14 May 1997]

BY AUTHORITY

