



New South Wales

# Marketing of Primary Products Amendment (Marketing Orders) Act 1997 No 126

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New South Wales

# **Marketing of Primary Products Amendment (Marketing Orders) Act 1997 No 126**

Act No 126, 1997

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An Act to amend the *Marketing of Primary Products Act 1983* with respect to marketing committees and marketing orders; and for other purposes. [Assented to 15 December 1997]

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

**1 Name of Act**

This Act is the *Marketing of Primary Products Amendment (Marketing Orders) Act 1997*.

**2 Commencement**

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

**3 Amendment of Marketing of Primary Products Act 1983 No 176**

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

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## Schedule 1 Amendments

(Section 3)

### [ 1 ] Section 68

Omit the section. Insert instead:

#### **68 Constitution of committee and declaration of commodity**

- (1) The Governor may, by proclamation:
  - (a) declare that section 69 applies for the purpose of constituting a committee, with a specified corporate name, for a specified primary product and in relation to a specified area, and
  - (b) declare that the product is a commodity for the purposes of this Act.
- (2) A proclamation under this section may be made only if:
  - (a) a proclamation for a poll is published under section 81, and
  - (b) votes are cast in the poll by a majority of the persons who are enrolled in the relevant roll for the poll, and
  - (c) a majority of the votes cast at the poll are in favour of the making of the marketing order to which the poll relates.

### [2] Section 73 Winding up and dissolution

Insert after section 73 (7):

- (8) This section does not apply to a marketing order to which section 73A applies.

**[3] Section 73A**

Insert after section 73:

**73A Committees established under replacement marketing orders**

- (1) This section applies to a marketing order (the old marketing order) that is revoked by a subsequent marketing order (the new marketing order), if the new marketing order:
  - (a) is expressed to be made in replacement of the old marketing order, and
  - (b) relates to one or more of the commodities to which the old marketing order relates, and
  - (c) relates to the whole or part of the area to which the old marketing order relates, and
  - (d) declares that the committee constituted with respect to the old marketing order is to become, to the extent specified in the declaration, the committee constituted with respect to the new marketing order.
- (2) On the revocation of the old marketing order, the committee constituted with respect to the old marketing order becomes, to the extent specified in the declaration referred to in subsection (1) (d), the committee with respect to the new marketing order.
- (3) The regulations may make provisions of a savings or transitional nature consequent on the operation of subsection (2) in relation to a committee, including provisions with respect to the disposal of the assets, rights and liabilities of the committee that relate to:
  - (a) commodities to which the old marketing order relates that are not commodities to which the new marketing order relates, and
  - (b) parts of the area to which the old marketing order relates that are not parts of the area to which the new marketing order relates.

**[4] Section 82 Making of marketing order**

Omit section 82 (b). Insert instead:

- (b) a proclamation for a poll is published under section 81, and
- (c) votes are cast in the poll by a majority of the persons who are enrolled in the relevant roll for the poll, and
- (d) a majority of the votes cast at the poll are in favour of the making of the marketing order,

**[5] Section 85 Duration of marketing orders**

Omit section 85 (2). Insert instead:

- (2) The Minister may cause a notice to be published in the Gazette stating that a marketing order specified in the notice will remain in force for a further period (not exceeding 4 years) specified in the notice, if:
  - (a) a petition for a poll is presented to the Minister before the day specified in the notice, as referred to in section 86, and
  - (b) votes are cast in the poll by a majority of the persons who are enrolled in the relevant roll for the poll, and
  - (c) a majority of the votes cast at the poll are in favour of the marketing order remaining in force for the further period.

**[6] Section 85 (4) (b)**

Omit the paragraph. Insert instead:

- (b) a petition for a poll on the question of whether the marketing order should remain in force for the further period is presented in accordance with section 86, and

- (b1) votes are cast in the poll by a majority of the persons who are enrolled in the relevant roll for the poll, and
- (b2) a majority of the votes cast at the poll are in favour of the marketing order remaining in force for the further period, and

**[7] Section 97 Removal of commodity or area from control of marketing order**

Omit section 97 (1) (a). Insert instead:

- (a) is satisfied that:
  - (i) votes have been cast in a poll referred to in section 96 by a majority of the persons who are enrolled in the roll for the poll, and
  - (ii) a majority of the votes cast at the poll are in favour of the removal of a commodity or part of an area from the control of a marketing order, and

**[8] Section 98 Other persons may also be polled**

Omit section 98 (5). Insert instead:

- (5) If the Governor directs that a separate poll be taken under this section, the Governor may not give a direction under section 97 unless:
  - (a) votes are cast in the poll by a majority of the persons who are enrolled in the relevant roll for the poll, and
  - (b) a majority of the votes cast at the poll are in favour of the removal of the commodity or part of an area, or both, as the case requires, from the control of the marketing order.

**[9] Schedule 4 Savings, transitional and other provisions**

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

*Marketing of Primary Products Amendment (Marketing Orders) Act 1997*

**[10] Schedule 4**

Insert at the end of the Schedule:

**Part 5 Provision consequent on enactment of  
Marketing of Primary Products Amendment  
(Marketing Orders) Act 1997**

**15 Amending Act does not apply to existing polls**

- (1) The amendments made to sections 68 and 82 by the *Marketing of Primary Products Amendment (Marketing Orders) Act 1997* apply only to a poll that the Governor directs to be taken under section 81 after the commencement of those amendments.
- (2) The amendment made to section 85 (4) by the *Marketing of Primary Products Amendment (Marketing Orders) Act 1997* applies only to a poll taken under section 86 on the basis of a notice that is published under section 85 (2) after the commencement of that amendment.
- (3) The amendment made to section 97 by the *Marketing of Primary Products Amendment (Marketing Orders) Act 1997* applies only to a poll that the Governor directs to be taken under section 96 after the commencement of that amendment.



- (4) The amendment made to section 98 by the *Marketing of Primary Products Amendment (Marketing Orders) Act 1997* applies only to a poll that the Governor directs to be taken under section 98 after the commencement of that amendment.

[Minister's second reading speech made in—  
Legislative Council on 4 December 1997  
Legislative Assembly on 8 December 1997]