



New South Wales

Grain Marketing Amendment Act 2001 No 110

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New South Wales

Grain Marketing Amendment Act 2001 No 110

Act No 110, 2001

An Act to amend the *Grain Marketing Act 1991* to limit the application of the Act to certain coarse grains and oilseeds, to provide for the cessation of the vesting of such grains and oilseeds in the New South Wales Grains Board in 2005 and to limit the liability of administrators of the Board; and for other purposes. [Assented to 14 December 2001]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Grain Marketing Amendment Act 2001*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Grain Marketing Act 1991 No 15

The *Grain Marketing Act 1991* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Long title

Omit “coarse grains and oilseeds”.
Insert instead “barley, canola and grain sorghum”.

[2] Section 3 Definitions

Omit the definitions of *coarse grains* and *oilseeds* from section 3 (1).

[3] Section 3 (1), definition of “commodity”

Omit the definition. Insert instead:

commodity means any of the following:

- (a) barley,
- (b) canola,
- (c) grain sorghum.

[4] Section 3 (2A)

Insert after section 3 (2):

(2A) For the purposes of this Act, a commodity comes into existence at the time that the crop that bears the commodity concerned is harvested and severed from the land.

Note. See *Australian Coarse Grains Pool Pty Ltd v Barley Marketing Board* (1985) 157 CLR 605.

[5] Section 3 (3)

Omit the subsection.

[6] Part 2 Administration

Omit Division 3.

[7] Section 24 Winding up and dissolution

Omit section 24 (5).

[8] Section 24 (6)

Omit “, as certified from time to time by the Minister,”.

[9] Section 31 Appointment of administrator

Omit “, as certified from time to time by the Minister,” from section 31 (4).

[10] Section 32 General functions of the Board

Omit “coarse grains and oilseeds”. Insert instead “commodities”.

[11] Section 34 Voluntary deliveries of the commodity

Insert after section 34 (4):

- (5) The Board may not:
 - (a) enter into an arrangement under this section on or after 1 October 2005, or
 - (b) enter into an arrangement under this section that relates (either in whole or in part) to any commodity that comes into existence on or after that date.

[12] Section 45

Omit the section. Insert instead:

45 Vesting of commodities in Board

- (1) A commodity is absolutely vested in and is the property of the Board at the time that the commodity comes into existence.
- (2) Subsection (1) does not apply to a commodity referred to in section 34 (3), but on delivery of any such commodity in accordance with the relevant arrangement, the commodity is, unless the arrangement otherwise provides, absolutely vested in and is the property of the Board.
- (3) Any commodity vested in the Board by the operation of subsection (1) or (2) and accepted by the Board is so vested freed from all mortgages, charges, liens, pledges, interests and trusts affecting it, and the rights and interests of every person in the commodity are converted into a claim for payment for the commodity so accepted.

- (4) This section does not apply to commodities that come into existence on or after 1 October 2005.

[13] Section 46 Exemption by Board

Insert after section 46 (7):

- (8) On and after 1 October 2005:
- (a) the Board ceases to have the power to grant an exemption under this section, and
 - (b) subsection (5) does not apply to any producer in respect of any sale occurring on or after that date.
- (9) However, nothing in subsection (8) affects the continued operation of this section in respect of any sale by a producer or money owing to the Board before 1 October 2005.

[14] Section 48 Avoidance of contracts for sale of commodity

Omit “the subject of a proclamation under section 45 (1)” from section 48 (1).

Insert instead “vested in the Board by section 45 (1)”.

[15] Section 50 Delivery of commodity

Omit “section 45 (2)” from section 50 (1) and (2) wherever occurring.

Insert instead “section 45 (1)”.

[16] Section 51 Acceptance of commodity

Omit “section 45 (2)” from section 51 (1). Insert instead “section 45 (1)”.

[17] Section 98 Liability

Omit “Director” from section 98 (b). Insert instead “Director-General”.

[18] Section 98 (c)

Insert at the end of paragraph (b):

- , or
- (c) an administrator of the Board,

[19] Section 98

Insert “, or omitted to be done,” after “anything done”.

[20] Schedule 5 Savings, transitional and other provisions

Omit “this Act.” from clause 1 (1).

Insert “this Act and any of the following Acts:”.

[21] Schedule 5, clause 1 (1)

Insert at the end of the subclause:

Grain Marketing Amendment Act 2001

[22] Schedule 5, clause 1 (2)

Omit “this Act”. Insert instead “the Act concerned”.

[23] Schedule 5, Part 5

Insert after Part 4:

Part 5 Provisions consequent on enactment of Grain Marketing Amendment Act 2001

17 Definition

In this Part:

amending Act means the *Grain Marketing Amendment Act 2001*.

18 Revocation of certain proclamations

- (1) Any proclamation in force under Division 3 of Part 2 of this Act immediately before the commencement of Schedule 1 [6] to the amending Act is revoked on that commencement.
- (2) Any proclamation in force under section 45 immediately before the commencement of Schedule 1 [12] to the amending Act is revoked on that commencement.

- (3) Nothing in this clause affects the operation of section 30 of the *Interpretation Act 1987* in relation to the amendments made by Schedule 1 [6] and [12] to the amending Act.

Note. Section 30 of the *Interpretation Act 1987* preserves certain rights, privileges, obligations and liabilities arising under a repealed or amended Act or statutory rule before its repeal or amendment.

19 Liability for certain existing offences

- (1) In this clause, *existing offence* means an offence against this Act or the regulations that was committed before the commencement of Schedule 1 [3] to the amending Act.
- (2) A person is not liable to be prosecuted for an existing offence if:
- (a) the offence was committed on or after 30 October 2000, and
 - (b) the person would not have been liable to be convicted of the offence had Schedule 1 [3] to the amending Act been in force before the offence was committed, and
 - (c) the person had not been convicted of the offence before the commencement of Schedule 1 [3] to the amending Act.

20 Vesting of commodities

- (1) A commodity that was vested in and the property of the Board by operation of section 45 as in force immediately before the commencement of Schedule 1 [12] to the amending Act continues to be vested in and the property of the Board on and after that commencement for the purposes of this Act.
- (2) A reference in this clause to a commodity includes a reference to any primary product that was a commodity within the meaning of section 3 (1) as in force before the commencement of Schedule 1 [3] to the amending Act.

21 Savings and transitional regulations

Regulations made as referred to in clause 1 (1) may have effect despite the terms of any savings or transitional provisions contained in this Part, if the regulations so provide.

[Minister's second reading speech made in—
Legislative Assembly on 14 November 2001
Legislative Council on 11 December 2001]