



New South Wales

Agricultural Industry Services Amendment Act 2007 No 76

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Agricultural Industry Services Amendment Act 2007 No 76

Act No 76, 2007

An Act to amend the *Agricultural Industry Services Act 1998* in relation to the levying and collection of rates, the expenditure of money collected from rates and the appointment of inspectors in connection with the enforcement of that Act; and for other purposes. [Assented to 7 December 2007]

See also the *Rice Marketing Amendment Act 2007* and the *Wine Grapes Marketing Board (Reconstitution) Amendment Act 2007*.

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *Agricultural Industry Services Amendment Act 2007*.

2 Commencement

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

3 Amendment of Agricultural Industry Services Act 1998 No 45

The *Agricultural Industry Services Act 1998* is amended as set out in Schedule 1.

4 Consequential amendment of Wine Grapes Marketing Board (Reconstitution) Act 2003 No 100

The *Wine Grapes Marketing Board (Reconstitution) Act 2003* is amended as set out in Schedule 2.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 **Amendment of Agricultural Industry Services Act 1998**

(Section 3)

[1] **Section 3 Definitions**

Omit the definitions of *Department* and *Departmental inspector*.

Insert in appropriate order:

Department means the Department of Primary Industries.

inspector means an inspector appointed under section 41A for the purposes of the provision in which the expression occurs.

5-year plan means a plan prepared in accordance with section 15.

[2] **Section 15 Strategic plans and reports**

Omit section 15 (3). Insert instead:

- (3) Each 5-year plan:
 - (a) must deal with the period of 5 years from the date on which it is prepared, and
 - (b) must indicate:
 - (i) the agricultural industry services the committee proposes to perform during that period, and
 - (ii) the estimated cost of performing those services, and
 - (iii) the rate or rates that will need to be levied in order to pay for those services, and
 - (c) may include indicators against which the performance of the committee may be measured.

[3] **Section 23 Resolution to levy rates**

Omit section 23 (1). Insert instead:

- (1) Within the period of 2 months before the commencement of each financial year, a committee must make a resolution as to the rates to be levied on its constituents during that year:
 - (a) for agricultural industry services to be performed by the committee during that year, as described in its current 5-year plan, and
 - (b) for agricultural industry services performed by the committee during previous financial years, to the extent to which rates levied in previous financial years have not paid for those services.

[4] Section 24

Omit the section. Insert instead:

24 Levying of rates

- (1) A committee levies a rate on a constituent by causing notice of the rate to be published in a newspaper circulating (at intervals of not more than one month) within the committee's area of operations.
- (2) The notice must indicate:
 - (a) the rate and, if appropriate, the circumstances in which the rate becomes payable, and
 - (b) the date or dates on which, or the period or periods at the end of which, the rate falls due, and
 - (c) the agricultural industry service or services to be funded by the rate.
- (3) The rate falls due in accordance with the terms of the notice, except that no part of it falls due before the expiry of 14 days after the notice is published.
- (4) A rate levied by the committee on a constituent is not a charge on land.
- (5) A person does not cease to be liable for a rate that a committee levies on the person while the person is a constituent of the committee merely because the person subsequently ceases to be a constituent of the committee.
- (6) In the case of a rate that becomes payable when a constituent delivers a commodity to another person:
 - (a) the committee may enter into an arrangement with the other person under which that person becomes a collecting agent for the committee in relation to such rates, and
 - (b) where such an arrangement is in place, any amount:
 - (i) that a constituent pays, on account of any such rate, to the collecting agent, or
 - (ii) that the collecting agent debits, on account of any such rate, from money owed by it to a constituent, is taken to have been paid to the committee when it was paid to, or debited by, the collecting agent.

[5] Section 29 Payment from funds

Insert at the end of the section:

- (2) Subject to sections 30 and 31, money paid to a committee for the purpose of funding a particular agricultural industry service may be applied for that purpose only.

[6] Section 33

Omit the section. Insert instead:

33 Inspector may require persons to keep records and provide information

- (1) An inspector, by written notice served on any person, may require the person to do either or both of the following:
- (a) to provide the inspector with such information as is reasonably necessary to enable the inspector to ascertain:
- (i) whether the person, or any other person with whom the person has dealings, is a primary producer of a kind for which a committee is or is to be established, and
- (ii) if so, the extent of that or the other person's activities as a primary producer of that kind,
- (b) to keep records of any such information.
- (2) A person on whom such a notice is served must not, without reasonable excuse, fail to provide the information, or keep the records, required by the notice.
- Maximum penalty: 10 penalty units.

[7] Sections 34, 35, 36, 37, 39 and 41

Omit "A Departmental inspector", "a Departmental inspector" and "the Departmental inspector" wherever occurring.

Insert instead "An inspector", "an inspector" and "the inspector", respectively.

[8] Section 41A

Insert after section 41:

41A Appointment of inspectors

The Minister may appoint any member of the Government Service to be, in relation to all or any specified committees, an inspector for the purposes of all or any specified provisions of this Act.

[9] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Agricultural Industry Services Amendment Act 2007

[10] Schedule 4, Part 5

Insert after Part 4:

**Part 5 Provisions consequent on enactment of
Agricultural Industry Services Amendment
Act 2007**

15 Definition

In this Part, *the 2007 amending Act* means the *Agricultural Industry Services Amendment Act 2007*.

16 Inspectors

Any person who, immediately before the date of assent to the 2007 amending Act, was a Departmental inspector is taken to have been appointed, on that date, as an inspector.

17 Existing rates

The substitution of section 24 by the 2007 amending Act does not affect the validity or operation of any rate levied under that section before its substitution.

18 Existing notices under section 33

The substitution of section 33 by the 2007 amending Act does not affect the validity or operation of any notice served under that section before its substitution.

**Schedule 2 Consequential amendment of Wine
Grapes Marketing Board
(Reconstitution) Act 2003**

(Section 4)

Section 17 Inspectors

Omit “a Departmental inspector”, “A Departmental inspector” and
“Departmental inspectors” wherever occurring.

Insert instead “an inspector”, “An inspector” and “inspectors”, respectively.

[Agreement in principle speech made in Legislative Assembly on 16 November 2007
Second reading speech made in Legislative Council on 29 November 2007]

BY AUTHORITY