

Act 1994 No. 37

FISH MARKETING BILL 1994*

NEW SOUTH WALES



EXPLANATORY NOTE.

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

The object of this Bill is to authorise the sale of the business undertaking of the Fish Marketing Authority and to deregulate fish marketing in New South Wales.

The Bill authorises the Minister to sell the business undertaking of the Authority to Sydney Fish Markets Pty. Ltd. (other than the land on which the fish markets at Blackwattle Bay are conducted). The purchaser will be granted a lease of the site and authorised to conduct the fish market. The Authority will be dissolved after the sale.

After the sale, fish marketing in New South Wales will continue to be regulated under the Fisheries and Oyster Farms Act 1935. However, 3 years after the sale or on 1 January 1998 (whichever is the earlier) the regulatory controls imposed by that Act on fish marketing in New South Wales will be removed. After that date, commercial fishers will no longer be required to market their catch through the Sydney fish market or other co-operative trading society market or in accordance with a relevant fish marketing authority.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on a day or days to be appointed by proclamation.

Clause 3 defines expressions used in the proposed Act. The expression “FMA” refers to the Fish Marketing Authority. The expression “Fisheries Act” refers to the Fisheries and Oyster Farms Act 1935.

*Amended in committee—see table at end of volume.

PART 2—SALE OF BUSINESS UNDERTAKING OF FISH MARKETING AUTHORITY**Division 1—The sale**

Clause 4 declares that the approved purchaser is Sydney Fish Markets Pty. Ltd.

Clause 5 authorises the Minister to sell the business undertaking of FMA to the approved purchaser. Any assets, rights or liabilities of FMA (other than those excluded by clause 8) may be sold to the purchaser.

Clause 6 provides that the sale date is to be appointed by proclamation.

Clause 7 requires the proceeds of sale to be paid into the Consolidated Fund, less the costs reasonably incurred in connection with the sale.

Clause 8 provides that the land on which the Sydney fish market is situated is excluded from sale (together with any other assets, rights or liabilities determined by the Minister). Anything excluded may be transferred by Ministerial order to the Crown, a specially constituted Fisheries Administration Ministerial Corporation or other public authority.

Clause 9 provides for a grant of a lease of the Sydney fish market site to the approved purchaser (subject to existing leases). The clause also sanctions conditions in the leases of wholesale and retail shops on the site that require the lessees to purchase their fish from the approved purchaser's public auction facility.

Clause 10 provides for the continuation of the Sydney fish market by the approved purchaser. The approved purchaser is to be given an appropriate marketing approval under the Fisheries Act and until the deregulation date will be required to maintain the public auction facility and accept marketable fish from commercial fishers and trading societies.

Division 2—Dissolution of FMA and other consequential provisions

Clause 11 dissolves FMA immediately after the sale date.

Clause 12 amends the Fisheries Act and other Acts as a consequence of the sale. The amendments constitute the Ministerial Corporation and remove provisions in the Act relating to FMA. The amendments recognise the purchaser as a trading society authorised to conduct a fish market. They maintain the requirement that only trading societies may conduct fish markets for the purpose of the initial sale of the catch of commercial fishers.

Clause 13 vacates the offices of members of FMA.

Clause 14 provides for the continuation of service of employees of FMA who are transferred under the sale agreement or by Ministerial order to employment with the approved purchaser. The clause preserves the accrued leave rights of those employees.

Division 3—Provisions relating to transfers of business undertaking

Clause 15 applies the Division to any Ministerial order transferring assets, rights or liabilities of FMA.

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Clause 16 provides for the statutory vesting of transferred assets etc. and makes other consequential provisions.

Clause 17 provides for the consideration for and terms of vesting.

Clause 18 makes special provisions relating to transfers to ensure their effectiveness.

PART 3—DEREGULATION OF FISH MARKETING

Clause 19 states that the purpose of the Part is to remove, on the deregulation date, the regulatory controls imposed by the Fisheries Act on fish marketing in New South Wales. After that date, commercial fishers will no longer be required to market their catch through the Sydney fish market or other co-operative trading society market or in accordance with a relevant fish marketing authority.

Clause 20 provides for the deregulation date to be the earlier of 3 years after the sale date or 1 January 1998.

Clause 21 repeals relevant provisions of the Fisheries Act to give effect to the purpose of the Part.

PART 4—MISCELLANEOUS

Clause 22 declares that compensation is not payable by the State for the deregulation of fish marketing.

Clause 23 ensures that FMA is subject to Ministerial control for the purposes of its sale.

Clause 24 binds the Crown.

Clause 25 empowers regulations to be made.

Schedules 1 and 2 contain relevant amendments to the Fisheries Act and other Acts described in clause 12.
