

[Act 1997 No 10]



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.

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## 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 I 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.