

[Act 2002 No 81]



New South Wales

Agricultural Industry Services Amendment (Interstate Arrangements) Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Agricultural Industry Services Act 1998* to make provision for:
 - (i) committees established under that Act or the corresponding Act of Victoria or another State or Territory to represent the interests of producers of agricultural commodities in New South Wales and elsewhere, and
 - (ii) the law of New South Wales or the State or Territory under which the committee is established and the associated laws of New South Wales or that State or Territory to apply outside New South Wales or that State or Territory in place of the law that would otherwise apply, and
 - (iii) the method of selection of primary producers as members of agricultural industry services committees under that Act, and
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(b) to repeal the *Murray Valley Citrus Marketing Act 1989*.

Corresponding amendments to the *Agricultural Industry Development Act 1990* of Victoria (the **Victorian Act**) are being made and the *Murray Valley Citrus Marketing Act 1989* of Victoria is also being repealed.

It is proposed to hold a poll of Murray Valley citrus producers in New South Wales and Victoria to approve of the replacement of the existing Murray Valley Citrus Marketing Board of each State by a single committee established under the Victorian Act that will operate within the relevant production area in both New South Wales and Victoria.

Outline of provisions

Part 1 Preliminary

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.

Clause 3 is a formal provision giving effect to the Schedule of amendments to the *Agricultural Industry Services Act 1998* (**the Principal Act**).

Clause 4 amends the *Murray Valley Citrus Marketing Act 1989* prior to its repeal by clause 5 to remove the requirement for periodic polls of registered producers to be taken to determine whether the Murray Valley Citrus Marketing Board constituted under that Act should be dissolved.

Clause 5 repeals the *Murray Valley Citrus Marketing Act 1989*.

Schedule 1 Amendments

Schedule 1 [1] amends section 6 (3) of the Principal Act (which provides that more than half of the members of an agricultural industry services committee are to be elected from among the relevant primary producers) so as to enable the committee's foundation regulation to provide for any other method of selection approved at a poll of the primary producers. The *Murray Valley Citrus Marketing Act 1989* currently provides for producer members of the committee to be chosen by a specially constituted Selection Committee of industry and government representatives.

Schedule 1 [3] inserts new Part 3A (sections 32A–32J) into the Principal Act to make provision for the extra-territorial application of the Principal Act.

Proposed section 32A inserts definitions of certain words and expressions used in the proposed new Part. The proposed section provides that participating jurisdictions are Victoria and any other State or Territory declared under proposed section 32B.

Proposed section 32B enables a regulation to be made declaring another State or Territory (apart from Victoria) to be a participating jurisdiction, and declaring legislation of a participating jurisdiction to be corresponding agricultural industry services legislation for the purposes of the Principal Act.

Proposed section 32C provides for the making of a foundation regulation under the Principal Act establishing a new agricultural industry services committee that has effect in New South Wales and in a participating jurisdiction. The establishment of such a committee is subject to a poll of producers in NSW approving of the establishment of the new committee. In addition, the requirements of the corresponding legislation of the participating jurisdiction for recognition of a NSW committee operating in that jurisdiction must be satisfied (under the proposed Victorian legislation recognition will depend on approval at a poll of the producers in Victoria).

Proposed section 32D enables the making of a regulation recognising a foundation instrument of a participating jurisdiction that establishes a committee in that jurisdiction that will also have effect in NSW. The proposed section will be used to recognise the establishment of a Victorian committee for citrus grown in the Murray Valley (if producers in NSW and Victoria approve of the establishment of such a committee).

Proposed section 32E provides for the application of NSW agricultural industry services legislation and associated laws in a participating jurisdiction (where that jurisdiction recognises the establishment of a NSW committee for primary producers in that jurisdiction).

Proposed section 32F provides for the exercise of functions conferred on persons under the agricultural industry services legislation or associated laws of New South Wales in an area of a participating jurisdiction. The courts and tribunals of New South Wales are given jurisdiction over matters arising under that legislation or those laws as they apply in the participating jurisdiction.

Proposed section 32G provides that the corresponding legislation and associated laws of a participating jurisdiction apply, in the case of a recognised foundation instrument of the participating jurisdiction, in the area of New South Wales to

which it extends as if that area were within the territorial limits of the participating jurisdiction.

Proposed section 32H makes similar provision to proposed section 32F (in the case of a recognised foundation instrument of a participating jurisdiction) in relation to the exercise in New South Wales of functions conferred under the legislation and laws of the participating jurisdiction and extending the jurisdiction of the courts and tribunals of the participating jurisdictions into New South Wales.

Proposed section 32I makes provision in relation to provisions of the agricultural industry services legislation or associated laws of a participating jurisdiction that are inapplicable in a particular place.

Proposed section 32J makes provision in relation to the conduct of a poll of primary producers in New South Wales and in a participating jurisdiction for the purposes of a foundation regulation establishing a NSW committee having effect in a participating jurisdiction. The proposed section enables the NSW Electoral Commissioner to conduct the combined poll of primary producers, but ensures that any different polling requirements applicable under the legislation of the participating jurisdiction is applied by the Electoral Commissioner in the poll of producers in that jurisdiction.

Schedule 1 [2] makes an amendment consequential on the enactment of proposed Part 3A.

Schedule 1 [4] inserts new section 42A into the Principal Act to make it clear that the Principal Act applies both within and outside New South Wales.

Schedule 1 [5] enables savings and transitional regulations to be made consequent on the commencement of the proposed Act.

Schedule 1 [6] makes provision consequent on the commencement of the proposed Act. In particular, provision is made in relation to the abolition of the Murray Valley Citrus Marketing Board and the establishment of a new committee replacing that Board, which will be the successor of the old Board. The successor committee will be a Victorian committee established for the combined area (if it is approved by producers) or a NSW committee established only for the NSW producers (if the Victorian committee is not approved). The corresponding Victorian legislation will provide for the holding of a poll of the relevant primary producers on the question of whether a new committee should be established under the Victorian legislation for the combined area. Special provision is also made to continue for 4 years existing arrangements under the Murray Valley Citrus Marketing Board legislation for the appointment of approved receivers of citrus grown in the area who are to deduct and pay to the new committee charges payable by the relevant primary producers.