

[Act 2001 No 110]



New South Wales

# Grain Marketing Amendment Bill 2001

## Explanatory note

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

### Overview of Bill

The objects of this Bill are to amend the *Grain Marketing Act 1991*:

- (a) to limit the application of the Act to certain commodities, namely, barley, canola and grain sorghum, and
  - (b) to remove the power of the Governor to declare, by proclamation, that other primary products are to be commodities for the purposes of the Act, and
  - (c) to provide that the vesting of commodities in the New South Wales Grains Board (the **Board**) by operation of the Act ceases on 1 October 2005, and
  - (d) to confer the same immunity from liability on an administrator of the Board as is conferred on the Board in carrying out functions under the Act, and
  - (e) to make it clear that the immunity from liability contained in the Act extends to omissions as well as acts, and
  - (f) to remove the requirement that the Minister certify the reasonable costs and expenses of liquidators and administrators of the Board before they can be paid from the funds of the Board, and
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(g) to enact provisions of a savings and transitional nature.

## 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 to the proposed Act.

**Clause 3** is a formal provision giving effect to the amendments to the *Grain Marketing Act 1991* set out in Schedule 1.

## Schedule 1 Amendments

**Schedule 1 [3]** replaces the definition of *commodity* in section 3 (1) of the *Grain Marketing Act 1991*. The new definition is restricted to barley, canola and grain sorghum. Currently, the definition includes other primary products that are declared to be commodities by proclamation. **Schedule 1 [1], [2] and [10]** make consequential amendments to the long title of the Act and to sections 3 and 32.

**Schedule 1 [4]** inserts a new subsection (2A) in section 3 of the Act that confirms that a commodity comes into existence for the purposes of the Act at the time that the crop that bears the commodity concerned is harvested and severed from the land.

**Schedule 1 [6]** omits Division 3 of Part 2 of the Act, which confers power on the Governor to declare primary products to be commodities for the purposes of the Act. This power will no longer be required because the Act will be limited in its operation to barley, canola and grain sorghum. **Schedule 1 [5] and [7]** make consequential amendments to sections 3 and 24 of the Act.

**Schedule 1 [8] and [9]** amend sections 24 and 31 of the Act to remove the current requirement that the Minister certify the reasonable costs and expenses of liquidators and administrators of the Board before they can be paid from the funds of the Board.

**Schedule 1 [12]** replaces section 45 of the Act. The new section provides for the vesting of commodities in the Board when they come into existence or, in some cases, when delivered to the Board. Currently, section 45 provides for commodities to become vested in the Board at the time and in the circumstances specified by the Governor in a proclamation. The new section also makes it clear that the section does not apply to commodities that come into existence on or after 1 October 2005.

**Schedule 1 [11], [14], [15] and [16]** make consequential amendments to sections 34, 48, 50 and 51 of the Act.

**Schedule 1 [13]** amends section 46 of the Act to ensure that the Board ceases to have the power to grant exemptions from the operation of section 45 on and after 1 October 2005. It also ensures that producers to whom exemptions have been granted are not precluded from selling commodities in their own right on and after that date.

**Schedule 1 [17]–[19]** amend section 98 of the Act. Section 98 confers immunity from liability on certain persons carrying out functions under the Act. **Schedule 1 [17]** makes a minor amendment in the nature of statute law revision to update an incorrect reference to “Director”. **Schedule 1 [18]** ensures that section 98 applies to administrators of the Board as well as to various other persons carrying out functions under the Act. **Schedule 1 [19]** ensures that section 98 extends to omissions as well as acts.

**Schedule 1 [20] and [21]** amend clause 1 of Schedule 5 to ensure that regulations of a savings and transitional nature can be made consequent on the enactment of the proposed Act. **Schedule 1 [22]** makes a consequential amendment to that clause.

**Schedule 1 [23]** amends Schedule 5 to insert certain provisions of a savings and transitional nature. In particular, the provisions inserted ensure that persons are not liable to be prosecuted for offences committed on or after 30 October 2000 in respect of primary products that will cease to be commodities on the commencement of the proposed Act.