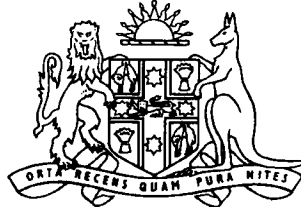


[Act 2000 No 96]



New South Wales

Horticultural Legislation Amendment Bill 2000

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to repeal the *Horticultural Stock and Nurseries Act 1969*, and
 - (b) to facilitate the continued regulation of the horticultural stock industry in accordance with the principles of National Competition Policy after that repeal by:
 - (i) amending the *Plant Diseases Act 1924* to facilitate the making of Ministerial orders and proclamations in respect of plant disease and pest control, and
 - (ii) amending the *Agricultural Industry Services Act 1998* to enable the Minister to establish an agricultural industry services committee under that Act in relation to a horticultural stock industry without first conducting a poll of its proposed constituents.
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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 to the proposed Act (except for Schedule 1.2 which will commence on a day or days to be appointed by proclamation).

Clause 3 is a formal provision giving effect to the amendments to Acts set out in Schedule 1.

Clause 4 repeals the *Horticultural Stock and Nurseries Act 1969* on 31 December 2000 or on the date of assent to the proposed Act (whichever is the later).

Schedule 1 Amendment of Acts

Agricultural Industry Services Act 1998 (Schedule 1.1)

Schedule 1.1 amends the *Agricultural Industry Services Act 1998* by inserting a Schedule 4 in the Act. Schedule 4 contains savings, transitional and other provisions consequent on the repeal of the *Horticultural Stock and Nurseries Act 1969*.

In particular, Part 2 of proposed Schedule 4 contains provisions to facilitate the establishment of an agricultural industry services committee under the *Agricultural Industry Services Act 1998* in relation to horticultural stock industries that are presently regulated by or under the *Horticultural Stock and Nurseries Act 1969*.

Under the *Agricultural Industry Services Act 1998* as it presently stands, an agricultural industry services committee can only be established following a poll of its proposed constituents, all of whom must be primary producers. The provisions in Part 2 of proposed Schedule 4 will dispense with the requirement to conduct such a poll before establishing a committee in relation to a horticultural industry. This dispensation will apply for a period of 6 months commencing on the day on which the *Horticultural Stock and Nurseries Act 1969* is repealed.

Part 2 of proposed Schedule 4 will also require a poll to be conducted of the proposed constituents of any such committee before a levy can be imposed. At present, section 23 (2) of the Act provides for an alternative mechanism for imposing a levy, namely, by a resolution of a meeting of an agricultural industry service committee's constituents. This alternative mechanism will not be available to a committee until after it has first successfully conducted a poll to levy its constituents.

Plant Diseases Act 1924 (Schedule 1.2)

Schedule 1.2 [1] and [2] amend section 5A of the Act to enable the Minister, by order, to require certain persons to do or permit acts (or take measures) specified in the order or to prohibit specified acts or measures. At present, the power conferred by section 5A does not extend to prohibiting acts and measures.

Schedule 1.2 [3] amends section 28A of the Act to provide that an order made under that section, to the extent that it relates to the branding or labelling of plant coverings, ceases to have effect on the 5th anniversary of its making unless it ceases to be in force on an earlier date. It also provides for the publication of such proposed orders before they are made.

Schedule 1.2 [4] amends section 28B to enable the Governor to declare, by proclamation published in the Gazette, that any specified provision of the Act or the regulations either applies or does not apply to a specified disease or pest.

Schedule 1.2 [5] and [6] make provision for matters of a savings or transitional nature consequent on the amendment of the Act by the proposed Act.