



New South Wales

Banana Industry Repeal Bill 2010

Explanatory note

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

Overview of Bill

The objects of this Bill are to repeal the *Banana Industry Act 1987* and to dissolve the Banana Industry Committee.

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 1 July 2010.

Clause 3 repeals the *Banana Industry Act 1987* and the *Banana Industry Regulation 2008*.

Schedule 1 Amendment of Agricultural Industry Services Act 1998 No 45

Schedule 1 [1] amends Schedule 4 to the *Agricultural Industry Services Act 1998* to enable the making of regulations containing provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [2] amends Schedule 4 to the *Agricultural Industry Services Act 1998* to provide for the dissolution of the Banana Industry Committee as a consequence of the repeal of the *Banana Industry Act 1987*. The amendment also transfers the assets, rights and liabilities of the Committee to the Crown and requires certain money to be paid to the Australian Banana Growers' Council Inc. or another person or body considered by the Minister to have functions that promote the development of the New South Wales banana industry or that otherwise benefit that industry.

Schedule 2 Amendment of other legislation

Schedule 2.1, 2.2 and 2.3 amend the *Parliamentary Electorates and Elections Amendment Act 2006*, *Public Authorities (Financial Arrangements) Regulation 2005* and *Public Finance and Audit Act 1983* as a consequence of the repeal of the *Banana Industry Act 1987* and the *Banana Industry Regulation 2008* and the dissolution of the Banana Industry Committee.



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New South Wales

Banana Industry Repeal Bill 2010

No. , 2010

A Bill for

An Act to repeal the *Banana Industry Act 1987* and dissolve the Banana Industry Committee; and to make consequential amendments to certain other legislation.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Banana Industry Repeal Act 2010</i> .	3
2 Commencement	4
This Act commences on 1 July 2010.	5
3 Repeal of Banana Industry Act 1987 No 66 and Banana Industry Regulation 2008	6
The <i>Banana Industry Act 1987</i> and <i>Banana Industry Regulation 2008</i> are repealed.	7
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Schedule 1	Amendment of Agricultural Industry Services Act 1998 No 45	1
		2
[1]	Schedule 4 Savings, transitional and other provisions	3
	Insert at the end of clause 1 (1):	4
	<i>Banana Industry Repeal Act 2010</i>	5
[2]	Schedule 4, Part 7	6
	Insert after Part 6:	7
	Part 7 Provisions consequent on enactment of Banana Industry Repeal Act 2010	8
		9
20	Definitions	10
	In this Part:	11
	<i>former Committee</i> means the Banana Industry Committee constituted by the <i>Banana Industry Act 1987</i> .	12
		13
21	Dissolution of Banana Industry Committee	14
(1)	On the repeal of the <i>Banana Industry Act 1987 (the former Act)</i> , the former Committee is dissolved.	15
		16
(2)	No remuneration or compensation is payable to any person as a result of the dissolution of the former Committee or the repeal of the former Act.	17
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22	Transfer of assets, rights and liabilities	20
(1)	In this clause:	21
	<i>assets</i> means any legal or equitable estate or interest (whether present or future and whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money) and includes securities, choses in action and documents.	22
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	<i>instrument</i> means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.	27
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	<i>liabilities</i> means any liabilities, debts or obligations (whether present or future and whether vested or contingent and whether personal or assignable).	31
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<i>rights</i> means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent and whether personal or assignable).	1 2 3
(2) On the dissolution of the former Committee, the assets, rights and liabilities of the former Committee are transferred to the Crown.	4 5
(3) On and from the date on which the assets, rights and liabilities are transferred by subclause (2), the following provisions have effect with respect to the transfer:	6 7 8
(a) the transferred assets vest in the Crown by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance,	9 10 11
(b) the transferred rights and liabilities become, by virtue of this clause, the rights and liabilities of the Crown,	12 13
(c) all proceedings relating to the assets, rights or liabilities commenced before that date by or on behalf of, or against, the former Committee and pending immediately before that date are taken to be proceedings pending by or against the Crown,	14 15 16 17 18
(d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before that date by, to or in respect of the former Committee is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Crown,	19 20 21 22 23 24
(e) the Crown has all the entitlements and obligations of the former Committee in relation to those assets, rights and liabilities that the former Committee would have had but for their transfer, whether or not those entitlements and obligations were actual or potential at the time of the transfer,	25 26 27 28 29 30
(f) a reference in any Act, in any instrument made under any Act or in any document of any kind to the former Committee is (to the extent that it relates to those assets, rights or liabilities) to be read as, or as including, a reference to the Crown.	31 32 33 34 35
(4) The operation of this clause is not to be regarded:	36
(a) as a breach of contract or confidence or otherwise as a civil wrong, or	37 38
(b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or	39 40 41

(c)	as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or	1 2 3 4
(d)	as an event of default under any contract or other instrument.	5 6
23	Reporting and making of payment	7
(1)	The Minister is to appoint a person:	8
(a)	to prepare the report and statement required under section 43A of the <i>Public Finance and Audit Act 1983</i> in relation to the former Committee, and	9 10 11
(b)	to recover charges, fees or other money due to the former Committee immediately before its dissolution.	12 13
(2)	The person appointed under subclause (1) is to be paid such remuneration (if any) as the Minister may from time to time determine.	14 15 16
(3)	For the purposes of section 43A of the <i>Public Finance and Audit Act 1983</i> only, the person appointed under subclause (1) is taken to be the successor of the former Committee.	17 18 19
(4)	The Minister is to ensure that the following is paid to the Australian Banana Growers' Council Inc. or another person or body considered by the Minister to have functions that promote the development of the New South Wales banana industry or that otherwise benefit that industry:	20 21 22 23 24
(a)	any money transferred to the Crown by the operation of clause 22,	25 26
(b)	any money realised from the sale of assets or rights so transferred,	27 28
(c)	any money recovered under this clause.	29
(5)	The amount payable under subclause (4) may be paid subject to such conditions as the Minister considers appropriate.	30 31
(6)	The Minister may deduct the following amounts from the money payable under subclause (4):	32 33
(a)	the cost of satisfying any liabilities transferred to the Crown under clause 22,	34 35
(b)	any costs associated with the disposal of assets or rights of the former Committee,	36 37

Banana Industry Repeal Bill 2010

Schedule 1 Amendment of Agricultural Industry Services Act 1998 No 45

- (c) the cost of recovering money due to the former Committee, 1
- (d) any other costs associated with the dissolution of the 2
former Committee. 3

Schedule 2	Amendment of other legislation	1
2.1	Parliamentary Electorates and Elections Amendment Act 2006 No 68	2
		3
	Schedule 19 Amendment of other legislation	4
	Omit Schedule 19.4.	5
2.2	Public Authorities (Financial Arrangements) Regulation 2005	6
		7
	Schedule 1 Definitions of “authority” and “controlled entity”	8
	Omit “Banana Industry Committee” wherever occurring in Parts 2 and 3.	9
2.3	Public Finance and Audit Act 1983 No 152	10
	Schedule 2 Statutory bodies	11
	Omit “Banana Industry Committee”.	12