

[Act 1998 No 23]



New South Wales

Marketing of Primary Products Amendment (Rice Marketing Board) Bill 1998

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Marketing of Primary Products Act 1983* so as to make further provision with respect to the following:

- (a) the appointment, by the Rice Marketing Board for the State of New South Wales constituted under that Act, of authorised agents and authorised buyers,
 - (b) agreements between that Board and those agents and buyers,
 - (c) the granting of exemptions by that Board under section 57 of that Act,
 - (d) the authorisation of certain things for the purposes of section 51 of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*.
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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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Marketing of Primary Products Act 1983* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [5] gives effect to the objects referred to above by inserting proposed Schedule 6 in the *Marketing of Primary Products Act 1983 (the Act)*. The proposed Schedule contains clauses 1–7.

Clauses 1–3 specify the purpose and application of the proposed Schedule, and define a term used in it.

Clause 4 (1) provides that the authorised agents and authorised buyers that the Rice Marketing Board for the State of New South Wales (*the Board*) appoints under the Act may exercise their functions as such for the term (not exceeding 4 years) specified in the order of appointment, unless the order is rescinded before the term expires.

Clause 4 (2) and (3) provides that the unexpired term of each appointment may, by annual written agreement between the Board and the appointee, be extended by one year, unless the order of appointment is sooner rescinded.

Clause 4 (4) provides that the Board's appointment of an authorised agent or an authorised buyer may be rescinded only with the approval of the Minister (which, by operation of section 150 of the Act, must be in writing).

Clause 5 (1)–(4) makes similar provision in relation to the agreements that the Board may enter into with authorised agents and buyers.

Clause 6 (1)–(4) makes further similar provision in relation to the exemption that the Board may grant under section 57 of the Act (that is, an exemption from the operation of section 56, which provides for the vesting of a commodity in the board constituted under the Act in respect of the commodity).

Clause 6 (5) applies the restriction on revocation of an exemption (imposed by proposed clause 6 (4)) to and in respect of the exemption granted by means of the Notice of Exemption signed for and on behalf of the Board by

its Chairman and Secretary on 10 February 1998 and published in Gazette No 52 of 13 March 1998 at page 1537. That Notice “exempts from the operation of section 56 of the Act all sales of the commodity rice from producers to the Ricegrowers’ Co-operative Ltd (Co-operative), as the authorised buyer appointed by the Board under section 51 of the Act purchasing directly from its members (and others requested by the Board to sell to it as an authorised buyer) and on its own account under the terms of any current or future agreement between the Board and the Co-operative relating or extended or amended to relate to rice harvested during the period from and including 31 January 1998 up to and including 31 January 2004”.

Clause 7 authorises (for a finite period) certain things for the purposes of section 51 of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*. Things authorised for those purposes are to be disregarded in deciding whether a person has contravened Part 4 of the *Trade Practices Act 1974*. The things authorised are:

- (a) anything done, by or on behalf of the Board or any appointee of the Board under Part 3, in the exercise of any function in accordance with that Part or proposed Schedule 6, and
- (b) anything done under any agreement or arrangement entered into by or with the Board under Part 3 or proposed Schedule 6, and
- (c) anything done under the agreement made on 17 December 1985 between the Board and Ricegrowers’ Co-operative Limited (relating to the whole of the annual New South Wales rice crop), as renewed and in force from time to time.

Schedule 1 [2] inserts proposed section 67B, which gives effect to proposed Schedule 6.

Schedule 1 [1] amends the heading to Division 5 of Part 3 of the Act in consequence of the insertion of proposed section 67B.

Schedule 1 [3] and **[4]** amend Schedule 4 (Savings, transitional and other provisions) to the Act. Schedule 1 [3] allows the making of regulations of a savings and transitional nature consequent on the enactment of the proposed Act. Schedule 1 [4] makes it clear that the provisions of proposed Schedule 6 do not apply to, and do not affect the validity or duration of, any appointment made, agreement entered into or renewed, or exemption granted before the commencement of the provisions concerned (except as specifically provided in the proposed Schedule).