



New South Wales

Agricultural Industry Services Amendment Bill 2007

Explanatory note

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

The *Rice Marketing Amendment Bill 2007* and the *Wine Grapes Marketing Board (Reconstitution) Amendment Bill 2007* are cognate with this Bill.

Overview of Bill

The object of this Bill is to amend the *Agricultural Industry Services Act 1998* (***the principal Act***) so as:

- (a) to require an agricultural industry services committee's 5-year plan to outline the services it proposes to perform and the rates that will have to be levied to pay for those services, and
- (b) to enable rates to be collected on behalf of an agricultural industry services committee by persons to whom the committee's constituents deliver produce, and
- (c) to make it clear that rates levied to fund the provision of particular agricultural industry services may be applied towards the provision of those services only, and
- (d) to provide that inspectors under that Act do not have to be officers of the Department of Primary Industries, and

- (e) to enable inspectors under that Act to require primary producers and others to keep certain records, and
- (f) to enact savings and transitional provisions and make other minor, consequential and ancillary amendments.

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 that gives effect to the amendments to the *Agricultural Industry Services Act 1998* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the consequential amendment to the *Wine Grapes Marketing Board (Reconstitution) Act 2003* set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Agricultural Industry Services Act 1998

5-year plans

Schedule 1 [2] amends section 15 of the principal Act so as to require an agricultural industry services committee's 5-year plan to outline the services it proposes to perform and the rates that will have to be levied to pay for those services.

Schedule 1 [3] amends section 23 of the principal Act so as to provide that the rates levied by an agricultural industry services committee must be consistent with the proposals contained in its 5-year plan.

Collection of rates

Schedule 1 [4] substitutes section 24 of the principal Act. The new section differs from the old in that it provides that rates that become payable on the delivery of produce may be collected on behalf of the relevant agricultural industry services committee by the person to whom the produce is delivered.

Application of rates

Schedule 1 [5] amends section 29 of the principal Act so as to make it clear that rates levied to fund the provision of particular agricultural industry services may be applied towards the provision of those services only.

Inspectors

Schedule 1 [8] inserts proposed section 41A into the principal Act. The new section provides that the Minister may appoint any member of the Government Service to be an inspector (rather than a “Departmental inspector” as they are currently called) for the purposes of all or any specified provisions of that Act.

Keeping of records

Schedule 1 [6] substitutes section 33 of the principal Act. The new section differs from the old in that it provides that an inspector may require not only the production of information as to whether, and to what extent, a person is a primary producer but also the keeping of records from which such information can be derived.

Other matters

Schedule 1 [9] amends Schedule 4 to the principal Act so as to enable the making of regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [10] amends Schedule 4 to the principal Act so as to enact specific provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [1] and [7] make minor, consequential or ancillary amendments.

Schedule 2 Consequential amendment of Wine Grapes Marketing Board (Reconstitution) Act 2003

Schedule 2 amends section 17 of the *Wine Grapes Marketing Board (Reconstitution) Act 2003* as a consequence of the amendments to be made by Schedule 1 [8].



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New South Wales

Agricultural Industry Services Amendment Bill 2007

No. , 2007

A Bill for

An Act to amend the *Agricultural Industry Services Act 1998* in relation to the levying and collection of rates, the expenditure of money collected from rates and the appointment of inspectors in connection with the enforcement of that Act; and for other purposes.

See also the *Rice Marketing Amendment Bill 2007* and the *Wine Grapes Marketing Board (Reconstitution) Amendment Bill 2007*.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Agricultural Industry Services Amendment Act 2007</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5
3 Amendment of Agricultural Industry Services Act 1998 No 45	6
The <i>Agricultural Industry Services Act 1998</i> is amended as set out in Schedule 1.	7 8
4 Consequential amendment of Wine Grapes Marketing Board (Reconstitution) Act 2003 No 100	9 10
The <i>Wine Grapes Marketing Board (Reconstitution) Act 2003</i> is amended as set out in Schedule 2.	11 12
5 Repeal of Act	13
(1) This Act is repealed on the day following the day on which this Act commences.	14 15
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	16 17

Schedule 1	Amendment of Agricultural Industry Services Act 1998	1
		2
	(Section 3)	3
[1] Section 3 Definitions		4
	Omit the definitions of <i>Department</i> and <i>Departmental inspector</i> .	5
	Insert in appropriate order:	6
	<i>Department</i> means the Department of Primary Industries.	7
	<i>inspector</i> means an inspector appointed under section 41A for the purposes of the provision in which the expression occurs.	8
	<i>5-year plan</i> means a plan prepared in accordance with section 15.	9
		10
[2] Section 15 Strategic plans and reports		11
	Omit section 15 (3). Insert instead:	12
	(3) Each 5-year plan:	13
	(a) must deal with the period of 5 years from the date on which it is prepared, and	14
		15
	(b) must indicate:	16
	(i) the agricultural industry services the committee proposes to perform during that period, and	17
		18
	(ii) the estimated cost of performing those services, and	19
	(iii) the rate or rates that will need to be levied in order to pay for those services, and	20
		21
	(c) may include indicators against which the performance of the committee may be measured.	22
		23
[3] Section 23 Resolution to levy rates		24
	Omit section 23 (1). Insert instead:	25
	(1) Within the period of 2 months before the commencement of each financial year, a committee must make a resolution as to the rates to be levied on its constituents during that year:	26
		27
		28
	(a) for agricultural industry services to be performed by the committee during that year, as described in its current 5-year plan, and	29
		30
		31
	(b) for agricultural industry services performed by the committee during previous financial years, to the extent to which rates levied in previous financial years have not paid for those services.	32
		33
		34
		35

[4] Section 24	1
Omit the section. Insert instead:	2
24 Levying of rates	3
(1) A committee levies a rate on a constituent by causing notice of the rate to be published in a newspaper circulating (at intervals of not more than one month) within the committee's area of operations.	4 5 6 7
(2) The notice must indicate:	8
(a) the rate and, if appropriate, the circumstances in which the rate becomes payable, and	9 10
(b) the date or dates on which, or the period or periods at the end of which, the rate falls due, and	11 12
(c) the agricultural industry service or services to be funded by the rate.	13 14
(3) The rate falls due in accordance with the terms of the notice, except that no part of it falls due before the expiry of 14 days after the notice is published.	15 16 17
(4) A rate levied by the committee on a constituent is not a charge on land.	18 19
(5) A person does not cease to be liable for a rate that a committee levies on the person while the person is a constituent of the committee merely because the person subsequently ceases to be a constituent of the committee.	20 21 22 23
(6) In the case of a rate that becomes payable when a constituent delivers a commodity to another person:	24 25
(a) the committee may enter into an arrangement with the other person under which that person becomes a collecting agent for the committee in relation to such rates, and	26 27 28
(b) where such an arrangement is in place, any amount:	29
(i) that a constituent pays, on account of any such rate, to the collecting agent, or	30 31
(ii) that the collecting agent debits, on account of any such rate, from money owed by it to a constituent,	32 33
is taken to have been paid to the committee when it was paid to, or debited by, the collecting agent.	34 35

[5] Section 29 Payment from funds	1
Insert at the end of the section:	2
(2) Subject to sections 30 and 31, money paid to a committee for the purpose of funding a particular agricultural industry service may be applied for that purpose only.	3 4 5
[6] Section 33	6
Omit the section. Insert instead:	7
33 Inspector may require persons to keep records and provide information	8 9
(1) An inspector, by written notice served on any person, may require the person to do either or both of the following:	10 11
(a) to provide the inspector with such information as is reasonably necessary to enable the inspector to ascertain:	12 13
(i) whether the person, or any other person with whom the person has dealings, is a primary producer of a kind for which a committee is or is to be established, and	14 15 16 17
(ii) if so, the extent of that or the other person's activities as a primary producer of that kind,	18 19
(b) to keep records of any such information.	20
(2) A person on whom such a notice is served must not, without reasonable excuse, fail to provide the information, or keep the records, required by the notice.	21 22 23
Maximum penalty: 10 penalty units.	24
[7] Sections 34, 35, 36, 37, 39 and 41	25
Omit "A Departmental inspector", "a Departmental inspector" and "the Departmental inspector" wherever occurring.	26 27
Insert instead "An inspector", "an inspector" and "the inspector", respectively.	28
[8] Section 41A	29
Insert after section 41:	30
41A Appointment of inspectors	31
The Minister may appoint any member of the Government Service to be, in relation to all or any specified committees, an inspector for the purposes of all or any specified provisions of this Act.	32 33 34 35

[9] Schedule 4 Savings, transitional and other provisions	1
Insert at the end of clause 1 (1):	2
<i>Agricultural Industry Services Amendment Act 2007</i>	3
[10] Schedule 4, Part 5	4
Insert after Part 4:	5
Part 5 Provisions consequent on enactment of Agricultural Industry Services Amendment Act 2007	6 7 8
15 Definition	9
In this Part, <i>the 2007 amending Act</i> means the <i>Agricultural Industry Services Amendment Act 2007</i> .	10 11
16 Inspectors	12
Any person who, immediately before the date of assent to the 2007 amending Act, was a Departmental inspector is taken to have been appointed, on that date, as an inspector.	13 14 15
17 Existing rates	16
The substitution of section 24 by the 2007 amending Act does not affect the validity or operation of any rate levied under that section before its substitution.	17 18 19
18 Existing notices under section 33	20
The substitution of section 33 by the 2007 amending Act does not affect the validity or operation of any notice served under that section before its substitution.	21 22 23

Schedule 2	Consequential amendment of Wine	1
	Grapes Marketing Board	2
	(Reconstitution) Act 2003	3
	(Section 4)	4
Section 17 Inspectors		5
Omit “a Departmental inspector”, “A Departmental inspector” and		6
“Departmental inspectors” wherever occurring.		7
Insert instead “an inspector”, “An inspector” and “inspectors”, respectively.		8