

BANANA INDUSTRY BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to repeal and re-enact the provisions of the Banana Industry Act 1969 and in so doing—

- (a) to change the name of the Banana Marketing Control Committee to the Banana Industry Committee;
- (b) to provide for a change in the constitution of the Committee;
- (c) to clarify the functions of the Committee and to specify the services that may be provided by the Committee; and
- (d) to provide for an increase in certain penalties.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 contains definitions for the purposes of the proposed Act.

PART 2—BANANA INDUSTRY COMMITTEE

Clause 3 provides for the constitution, as a corporation, of the Committee. The Committee's members consist of an officer of the Public Service and another person, each appointed by the Minister (rather than by the Governor, as was the case under the 1969 Act in relation to the officer of the Public Service), and the directors for the time being of the Banana Growers Federation Co-operative Limited. The members appointed by the Minister may be appointed for a maximum term of 5 years. A maximum term was not specified under the 1969 Act.

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Clause 4 provides that, if a poll of banana growers is in favour of the dissolution of the Committee, the Committee shall be wound up.

PART 3—FUNCTIONS OF THE COMMITTEE

Clause 5 lists the major functions of the Committee. These relate to regulating and supervising, and providing services concerning, the marketing of bananas and banana products.

Clause 6 lists some further (and largely ancillary) functions of the Committee.

Clause 7 enables the Committee, with the approval of the Minister, to impose a charge on banana growers for services provided by the Committee. The clause prevents the imposition of a charge if certain procedural requirements are not satisfied and requires the proceeds of a charge to be applied exclusively for the provision of the service in relation to which the charge was imposed.

Clause 8 enables the Committee, without having to comply with clause 7, to determine the amount of a fee charged to a person for a service provided by the Committee to the person at the person's request. This clarifies the position that existed under the 1969 Act.

Clause 9 authorises the Committee to give binding directions concerning things done in relation to the marketing of bananas if a poll taken of banana growers is in favour of the direction being given.

Clause 10 provides for the determination by the Minister of a dispute between the Committee and a banana grower as to whether a function of the Committee should be made the subject of a direction under clause 9.

Clause 11 enables the Committee to require banana growers and other persons associated with the marketing of bananas to furnish specified information to the Committee.

PART 4—POLLS OF BANANA GROWERS

Clause 12 provides for the compilation by the Minister of a list of banana growers for the purposes of a poll.

Clause 13 provides for the taking by the Committee of a poll for the purpose of imposing a charge or giving a direction.

Clause 14 provides for the taking of a poll where the question to be decided is whether the committee should be dissolved.

Clause 15 determines the entitlement to vote in a poll of 2 or more persons who are banana growers in relation to one plantation.

Clause 16 enables regulations to be made with respect to the costs and expenses of a poll.

PART 5—GENERAL

Clause 17 specifies the financial year of the Committee.

Clause 18 provides that the Committee shall prepare an annual report in accordance with the Annual Reports (Statutory Bodies) Act 1984.

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Clause 19 requires the Committee to furnish to the Minister such reports concerning its operations as the Minister directs.

Clause 20 prohibits the Committee from giving financial support to or from being affiliated with a political party.

Clause 21 provides for the service of documents on or by the Committee.

Clause 22 provides for the authentication of certain documents otherwise than under the seal of the Committee if signed by the Chairperson or a person authorised by the Chairperson.

Clause 23 enables the recovery of a charge or fee by the Committee as a debt in a court of competent jurisdiction.

Clause 24 empowers the Federation to exercise functions conferred on it by the proposed Act that it would not otherwise be empowered to exercise.

Clause 25 facilitates the proof of certain formal matters concerning the constitution and proceedings of the Committee.

Clause 26 facilitates the proof in legal proceedings of certain evidentiary matters concerning the Committee.

Clause 27 is a general offence provision for the purposes of the proposed Act.

Clause 28 enables the prosecution of directors of corporations and persons concerned in the management of corporations if the corporation contravenes a provision made by or under the proposed Act.

Clause 29 enables proceedings for offences to be dealt with summarily before a Local Court.

Clause 30 imposes a general penalty of \$2,000 for offences against the proposed Act. The corresponding provision under the 1969 Act imposed a general penalty of \$1,000.

Clause 31 enables the making of regulations for the purposes of the proposed Act and includes the power (which was not included in the 1969 Act) to create an offence punishable by a penalty of \$1,000.

Clause 32 gives effect to the Schedule of savings, transitional and other provisions.

Clause 33 repeals the Banana Industry Act 1969 and certain other enactments.

Clause 34 amends the Public Finance and Audit Act 1983 consequent on the renaming of the Committee.

SCHEDULES

Schedule 1 contains provisions relating to the members of the Committee.

Schedule 2 contains provisions relating to the procedure of the Committee.

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Schedule 3 contains provisions of a savings, transitional or similar nature.

Schedule 4 lists the enactments to be repealed as a consequence of the enactment of the proposed Act.
