

[Act 1997 No 124]



New South Wales

Dried Fruits (Repeal) Bill 1997

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to provide for the winding up of the affairs, and the abolition, of the New South Wales Dried Fruits Board established under the *Dried Fruits Act 1939*,
 - (b) to validate certain actions taken to date to wind up the affairs of the Board,
 - (c) to end the regulation under that Act of dried fruits other than dried prunes,
 - (d) to provide for the continuing regulation of dried prunes under that Act until the marketing order referred to in paragraph (e) is made,
 - (e) to amend the *Marketing of Primary Products Act 1983*:
 - to enable the making of a marketing order with respect to the dried prunes industry without the need for compliance with the formal consultation requirements set out in the Act, and
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- to specify the matters that may be included in the order,
- (f) to amend certain other Acts consequentially,
- (g) to enact other provisions of a consequential or ancillary nature.

The Bill provides for the repeal of the *Dried Fruits Act 1939* and the regulations made under the Act in various stages.

Outline of provisions

Part 1 Preliminary

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.

Clause 3 defines certain words and expressions used in the proposed Act. For example, *Board* is defined as the New South Wales Dried Fruits Board established under the *Dried Fruits Act 1939* as in force immediately before 1 September 1997 and *Director* means the Director of Marketing, as referred to in the definition of *Director* in the *Marketing of Primary Products Act 1983*.

Part 2 Membership of Board

Clause 4 provides that members of the Board are taken to have ceased to hold office as members on 1 October 1997 and that no appointments of persons as members are taken to be possible on or after that date. The clause also provides that no elections of persons as members are taken to be possible on or after 1 August 1997.

Part 3 Winding up of Board

Clause 5 provides for the appointment of a liquidator under the proposed Act to wind up the affairs of the Board.

Clause 6 sets out the functions of the Director under the proposed Act.

Clause 7 sets out the functions of the liquidator under the proposed Act.

Clause 8 enables the Director, and the liquidator (with the approval of the Director), to consult with industry representatives in connection with the winding up.

Part 4 Limited application of Dried Fruits Act 1939 and regulation

Clause 9 provides for the cessation on 1 September 1997 of the operation of the *Dried Fruits Act 1939* and the *Dried Fruits (General) Regulation 1993* in respect of dried fruits other than dried prunes. However, provision is made for the continuation (for a limited period) of provisions dealing with the payment of contributions under the Act in respect of dried fruits.

Clause 10 contains a savings provision in relation to existing directions, and guidelines, of the Board in so far as they relate to dried prunes.

Part 5 Regulation of dried prunes under the Marketing of Primary Products Act 1983 for limited period

Clause 11 is a formal provision giving effect to the amendments to the *Marketing of Primary Products Act 1983* set out in Schedule 1.

Part 6 Repeal of Dried Fruits Act 1939 and regulations

Clause 12 provides for the repeal of provisions of the *Dried Fruits Act 1939* and the *Dried Fruits (General) Regulation 1993* dealing with the establishment of the Board, the requirement for the registration of packing houses and the annual report of the Board. The clause also repeals the *Dried Fruits (Elections) Regulation 1993* which deals with the election of Board members.

Clause 13 provides for the repeal of the remaining provisions of the *Dried Fruits Act 1939* and the *Dried Fruits (General) Regulation 1993*.

Part 7 Miscellaneous

Clause 14 enables the Director-General of the Department of Agriculture to exercise certain functions that the Board had immediately before 1 September 1997 under the *Dried Fruits Act 1939* and the *Dried Fruits (General) Regulation 1993*.

Clause 15 makes it clear that a person is not entitled to a refund of the prescribed fee paid for an application for the registration, or the renewal or transfer of the registration, of a packing house for the year (or part of the year) ending 31 December 1997 because of the repeal of section 19 of the *Dried Fruits Act 1939* (the provision that imposes the requirement for registration).

Clause 16 provides immunity for the Director-General, the Director, the liquidator and any person acting under the direction of those persons in the exercise of functions under the proposed Act.

Clause 17 provides that the proposed Act binds the Crown.

Clause 18 validates certain acts done to date for the purposes of winding up the affairs of the Board.

Clause 19 provides that Part 3 (Staged repeal of statutory rules) of the *Subordinate Legislation Act 1989* does not apply to the *Dried Fruits (General) Regulation 1993*.

Clause 20 enables the making of regulations of a savings or transitional nature.

Clause 21 is a formal provision giving effect to Schedule 2 which contains amendments to Acts (other than the *Marketing of Primary Products Act*

Schedule 1 Amendment of Marketing of Primary Products Act 1983

Schedule 1 [2] amends the *Marketing of Primary Products Act 1983* to insert a new Division 7 in Part 5 containing proposed sections 102E–102H.

Proposed section 102E defines *dried prunes* for the purposes of the new Division.

Proposed section 102F enables the Minister to make a marketing order (to have effect until 31 December 1999 unless revoked earlier by the Minister in accordance with the proposed section) that establishes the Dried Prunes Industry Marketing Committee.

Proposed section 102G prevents the making of a further marketing order that deals with the same matters or that would extend the duration of the first marketing order.

Proposed section 102H provides that certain provisions of the Act that generally apply to marketing orders do not apply to the marketing order made for the purposes of the proposed Division. The matters which those provisions cover include consultation procedures for the making of marketing orders, the contents of marketing orders and the extension of the duration of marketing orders.

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Schedule 1 [1] and **[3]** make amendments consequential on the repeal of the remaining provisions of the *Dried Fruits Act 1939* by clause 13 of the proposed Act.

Schedule 1 [5] enables the making of regulations of a savings or transitional nature. **Schedule 1 [4]** makes a consequential amendment.

Schedule 2 Amendment of other Acts

Schedule 2 amends various Acts that relate to finance and superannuation as a consequence of the abolition of the Board.