

# Poultry Meat Industry Act 1986 No 101

[1986-101]



New South Wales

## Status Information

### Currency of version

Historical version for 30 September 2008 to 5 July 2009 (accessed 23 November 2024 at 11:15)

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**

*Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Act 2005 No 48* (amended by *Statute Law (Miscellaneous Provisions) Act 2009 No 56*), Sch 1 [10] (not commenced — to commence on the day appointed under sec 4 of the *Farm Produce (Repeal) Act 1996* for the repeal of sec 38 of the *Farm Produce Act 1983*)

*Miscellaneous Acts (Local Court) Amendment Act 2007 No 94* (not commenced)

*Statute Law (Miscellaneous Provisions) Act 2009 No 56* (not commenced — to commence on 17.7.2009)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Poultry Meat Industry Act 1986 No 101



New South Wales

An Act to constitute the Poultry Meat Industry Committee and to define its functions; to regulate and control the poultry growing industry; to repeal the *Chicken Meat Industry Act 1977*; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Poultry Meat Industry Act 1986*.

### 2 Commencement

- (1) Sections 1 and 2 shall commence on the date of assent to this Act.
- (2) For the purpose only of enabling the Committee to be constituted under this Act on or after (but not before) the day appointed and notified under section 2 (3), appointments may be made under this Act and any other act, matter or thing may be done before that day as if this Act commenced on the date of assent to this Act, but so that no appointment as a member of the Committee takes effect before that day.
- (3) Except as provided by subsections (1) and (2), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

### 3 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**Advisory Group** means the Poultry Meat Industry Advisory Group established under section 6A.

**batch poultry** means designated poultry grown in batches of 1,000 or more.

**Committee** means the Poultry Meat Industry Committee constituted under section 4.

**Department** means the Department of Primary Industries.

**designated poultry** means:

- (a) a chicken of the species *Gallus gallus* which is not more than 18 weeks old, or
- (b) another bird of such species or description as the Governor may, by order published in the Gazette, declare to be designated poultry for the purposes of this Act,

being a chicken or another bird which is being or has been grown specifically for consumption as poultry meat after processing.

**Editorial note—**

See Gazette No 167 of 30.10.1987, p 6044 for designated poultry.

**Director-General** means Director-General of the Department.

**grower** means a person who grows designated poultry, but does not include a person who also processes designated poultry in a plant which is operated by the person and is, in the opinion of the Committee, capable of processing more than 500 birds per day.

**poultry growing agreement** means an agreement between a grower and a processor under which:

- (a) the processor delivers designated poultry to the grower for growing, and
- (b) the grower grows the poultry so delivered and returns it to the processor for processing.

**process**, in relation to designated poultry, means:

- (a) kill or prepare the poultry for sale for consumption as poultry meat, or
- (b) perform any other act in the course of killing or preparing the poultry for sale for consumption as poultry meat.

**processor** means a person who processes designated poultry, and includes a person who is supplied with designated poultry from a grower for sale to another person for ultimate processing.

**secretary of the Committee** means the secretary of the committee holding office as such under Chapter 1A of the [Public Sector Employment and Management Act 2002](#).

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(3) (Repealed)

(4) Notes included in this Act do not form part of this Act.

## **Part 2 Poultry Meat Industry Committee**

### **4 Constitution of Committee**

(1) There is constituted by this Act a corporation under the corporate name of the "Poultry Meat Industry Committee".

(2) The Committee:

(a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act,

(b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown, and

(c) shall, in the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

(3) The Committee is to consist of 3 members appointed by the Minister, of whom:

(a) one is to be an independent person of the Minister's own choosing, and

(b) two are to be independent persons of whom at least one is, in the opinion of the Minister, skilled in arbitration, mediation or some other form of dispute resolution.

(4) The member referred to in subsection (3) (a) shall be the Chairperson of the Committee.

(5) Schedule 1 has effect with respect to the members.

(6) Schedule 2 has effect with respect to the procedure of the Committee.

(7) In subsection (3), **independent** means the following:

(a) not an officer of the Department,

(b) not a representative of processors or growers.

### **5 (Repealed)**

### **6 Functions of Committee**

(1) The functions of the Committee are as follows:

(a) to establish:

- (i) codes of practice for use in the conduct of negotiations between growers and processors, and
    - (ii) contract guidelines as to the matters that poultry growing agreements might appropriately address,
  - (b) to make recommendations to the Minister regarding:
    - (i) matters that poultry growing agreements should be required to address, and
    - (ii) standard provisions for inclusion in poultry growing agreements in relation to those matters,
  - (c) to inquire into, and make reports to the Minister on:
    - (i) such matters relating to the poultry meat industry as the Minister refers to the Committee for inquiry and report, and
    - (ii) such other matters relating to the poultry meat industry as the Committee considers appropriate for inquiry and report,
  - (d) to facilitate the resolution of disputes between processors and growers,
  - (e) to exercise such other functions with respect to the poultry meat industry as are prescribed by the regulations.
- (2) For the purpose of exercising its functions under subsection (1) (a) and (b), the Committee must seek advice from, and have regard to the views of, the Advisory Group.
- (3) Copies of any codes of practice and contract guidelines established under this section:
- (a) must be kept available at the office of the Department for inspection by the public, free of charge, during ordinary business hours, and
  - (b) must be posted on the Department's internet site.
- (4) The Committee cannot employ any staff.

**Note—**

Staff may be employed under Chapter 1A of the [Public Sector Employment and Management Act 2002](#) in the Government Service to enable the Committee to exercise its functions.

## **Part 2A Poultry Meat Industry Advisory Group**

### **6A Establishment of Advisory Group**

- (1) A body is to be established under the name of the "Poultry Meat Industry Advisory Group".

- (2) The Advisory Group is not, and does not represent, the Crown.
- (3) The Advisory Group is to consist of 7 members appointed by the Minister, of whom:
  - (a) 1 is to be an independent person of the Minister's own choosing, and
  - (b) 3 are to represent processors and are to be nominated in accordance with the regulations, and
  - (c) 3 are to represent growers and are to be nominated in accordance with the regulations.
- (4) The member referred to in subsection (3) (a) is to be the Chairperson of the Advisory Group.
- (5) Schedule 1 has effect with respect to the members of the Advisory Group.
- (6) Schedule 2 has effect with respect to the procedure of the Advisory Group.
- (7) In subsection (3) (a), **independent** means the following:
  - (a) not an officer of the Department,
  - (b) not a representative of processors or growers.

#### **6B Function of Advisory Group**

The function of the Advisory Group is to furnish advice to the Committee regarding the following:

- (a) codes of practice for use in the conduct of negotiations between growers and processors,
- (b) contract guidelines as to the matters that poultry growing agreements should be encouraged to address,
- (c) matters that poultry growing agreements should be required to address,
- (d) standard provisions for inclusion in poultry growing agreements in relation to the matters referred to in paragraph (c),
- (e) such other matters with respect to the poultry meat industry as the Advisory Group considers appropriate for advice.

### **Part 3 Poultry growing agreements**

#### **7 Poultry growing agreements to address prescribed matters**

- (1) A poultry growing agreement must address such matters as may be prescribed by the regulations.



- (2) Compliance with this section in relation to any such matter may be achieved:
  - (a) by including in the agreement (whether by reference or otherwise) the standard provision prescribed by the regulations in relation to that matter, or
  - (b) by including in the agreement some other provision (whether to the same effect as the standard provision or to some other effect), being a provision that is expressed to be included in the agreement in compliance with this section in relation to that matter.
- (3) A poultry growing agreement that does not comply with this section in relation to any such matter is taken, for all purposes, to include the standard provision prescribed by the regulations in relation to that matter.
- (4) A standard provision that is included, or taken to be included, in a poultry growing agreement prevails over any other provision of the agreement (other than another standard provision) to the extent of any inconsistency between them.

#### **8 Processor to notify Director-General of certain matters**

- (1) Within one month after a processor and a grower enter into a poultry growing agreement, the processor:
  - (a) must send notice of that fact to the Director-General, and
  - (b) must pay a notification fee to the Director-General.

Maximum penalty: 10 penalty units.
- (2) The notice referred to in subsection (1) (a):
  - (a) must be in the form approved by the Director-General, and
  - (b) must identify the grower by whom, and each address at which, designated poultry is to be grown under the agreement, and
  - (c) must indicate the date on which the agreement was entered into and the period for which it is to remain in force.
- (3) The notification fee referred to in subsection (1) (b) is to be of an amount determined in accordance with a scheme established by the Director-General.
- (4) The object of such a scheme should be to ensure that the amounts received from notification fees during any period are equivalent to the costs and expenses of the Committee and Advisory Group during that period.

#### **9 Authorisations**

- (1) The following are specifically authorised by this Act for the purposes of the *Trade*

*Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*:

- (a) any agreements entered into between 2 or more growers, or between 2 or more growers and a processor, in relation to the growing of designated poultry,
  - (b) the conduct of those growers and that processor in negotiating and entering into any such agreement,
  - (c) the conduct of those growers and that processor in performing any such agreement.
- (2) Anything authorised to be done by this section is authorised only to the extent to which it would otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales*.
- (3) In this section, **agreement** includes a contract, arrangement or understanding.

#### **9A (Repealed)**

### **Part 4**

#### **10-12A (Repealed)**

### **Part 5 Inspectors**

#### **13 Inspectors**

In this Part:

**inspector** means:

- (a) an inspector for the purposes of the *Farm Produce Act 1983*, and
- (b) a person authorised in writing by the Minister to exercise the functions of an inspector under this Part.

#### **14 Powers of inspectors**

- (1) For the purpose of ascertaining whether an offence against this Act or the regulations has been committed, an inspector may:
- (a) at all reasonable times, enter and remain in or on any premises if the inspector has reasonable cause to suspect that the premises are being used for the processing of batch poultry,
  - (b) search and inspect any such premises for the presence of, and examine, any accounts, records, books or documents relating to the processing of designated poultry on those premises or to the supply of designated poultry for processing on those premises,

- (c) take extracts or notes from any such accounts, records, books or documents or take copies (by photographic or any other means) of any such accounts, records, books or documents, and
  - (d) require any person found in or on any such premises to produce any such accounts, records, books or documents in the possession or under the control of the person or to produce a written statement in the English language setting out particulars contained in any such accounts or records, being accounts or records that are not kept in writing, or that are not written in that language.
- (2) Subsection (1) does not authorise any person to enter that part of any premises being used for residential purposes without the consent of the occupier of that part of the premises, but nothing in this subsection shall affect the power of a person to enter that part under the authority of a search warrant.
- (3) A person shall not fail to comply with a requirement made under subsection (1) (d).
- Maximum penalty: 5 penalty units.

### **15 Questions by inspectors**

- (1) An inspector may require any occupier of premises on which designated poultry is processed or any person employed in or about those premises to answer questions relating to the observance of this Act or to any matter in connection with the exercise of the inspector's functions under this Act or the execution of this Act.
- (2) A person shall not, when required to answer a question under subsection (1):
- (a) except as provided by subsection (3), refuse or fail to answer the question, or
  - (b) give any answer which is false or misleading in a material particular.
- Maximum penalty: 5 penalty units.
- (3) A person is not required to answer any question asked of the person under subsection (1) unless the person has first been informed by the inspector asking the question that the person is required to answer the question by virtue of this section.
- (4) A person may not refuse to answer a question asked of the person under subsection (1) on the ground that the person's so doing might tend to incriminate the person or make the person liable to any penalty.
- (5) Any answer given by a person pursuant to a requirement made under subsection (1) after the person has been informed in accordance with subsection (3) shall not be admissible in evidence in any proceedings, civil or criminal, against the person, other than in proceedings under subsection (2).
- (6) Nothing in this section affects the admissibility in evidence of an answer voluntarily

given by a person to a question asked by an inspector but which the inspector did not require that person to answer under this section.

## **16 Search warrants**

(1) In this section:

**authorised officer** has the same meaning as it has in the *Law Enforcement (Powers and Responsibilities) Act 2002*.

(2) An inspector may apply to an authorised officer for the issue of a search warrant if the inspector has reasonable grounds for believing that there are in or on any premises any accounts, records, books or documents relating to the processing of designated poultry or the supply of designated poultry for processing.

(3) An authorised officer to whom an application is made under subsection (2) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant:

(a) to enter the premises, and

(b) to exercise the functions of an inspector under this Act.

(4) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.

## **17 Obstruction of inspectors**

A person shall not assault, delay, obstruct, hinder or impede an inspector in the exercise of the inspector's functions under this Act or in executing a search warrant issued under this Part.

Maximum penalty: 5 penalty units.

## **Part 6 Miscellaneous**

### **18 (Repealed)**

### **19 Certificate as to notification relating to poultry growing agreement**

A certificate signed by the Director-General, or by such other person as may be prescribed by the regulations, and stating that, on a specified date or during a specified period, the Director-General had or had not been notified under section 8 that a specified processor and specified grower had entered into a poultry growing agreement is admissible in any legal proceedings and is evidence of that fact.

### **20 Expenses of Committee**

(1) The expenses of the Committee in carrying out the administration of this Act shall be paid out of money to be provided by Parliament.

- (2) The fees payable under this Act shall be paid to the secretary of the Committee and shall be carried to the Consolidated Fund.

## **21 Offences by corporations**

- (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or a regulation, each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened the same provision unless the person satisfies the court that:
  - (a) the corporation contravened the provision without the knowledge of the person,
  - (b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or
  - (c) the person, being in such a position, used all due diligence to prevent the contravention by the corporation.
- (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

## **22 Proceedings for offences**

Proceedings for any offence against this Act or the regulations shall be disposed of summarily before a Local Court constituted by a Magistrate sitting alone.

## **23 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
  - (1A) In particular, a regulation:
    - (a) may prescribe matters that poultry growing agreements must address, and
    - (b) may prescribe standard provisions for inclusion in poultry growing agreements in relation to those matters.
  - (2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.
  - (3) A provision of a regulation may:
    - (a) apply generally or be limited in its application by reference to specified exceptions or factors,

- (b) apply differently according to different factors of a specified kind, or
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

## 24 Repeal of Act No 112, 1977

The *Chicken Meat Industry Act 1977* is repealed.

## 25 Savings, transitional and other provisions

Schedule 3 has effect.

## 26 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as practicable after the period of 3 years from the date of commencement of the *Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Act 2005*.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 3 years.

# Schedule 1 Provisions relating to the members of the Committee and the Advisory Group

(Sections 4 (5) and 6A (5))

## 1 Definitions

In this Schedule:

**Chairperson** means Chairperson of the Committee or Chairperson of the Advisory Group, as the context requires.

**member** means member of the Committee or member of the Advisory Group, as the context requires.

## 2 Acting members and acting Chairperson

- (1) The Chairperson may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member and shall be deemed to be a member.

- (2) The Chairperson may, from time to time, appoint an officer of the Department to act in the office of Chairperson during the illness or absence of the Chairperson, and the officer, while so acting, shall have and may exercise all the functions of the Chairperson and shall be deemed to be the Chairperson.
- (3) The Chairperson may remove any person from any office to which the person was appointed under this clause.
- (4) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) For the purposes of this clause a vacancy in the office of a member shall be deemed to be an absence from office of the member.

### **3 Term of office**

Subject to this Act, a member shall hold office for a term not exceeding 2 years, but is eligible (if otherwise qualified) for re-appointment.

### **4 Remuneration**

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

### **5 (Repealed)**

### **6 Filling of vacancy in office of member**

- (1) On the occurrence of a vacancy in the office of a member otherwise than by the expiration of the term for which the member was appointed, the Minister may appoint a person to the vacant office for the residue of the predecessor's term of office so that the Committee or Advisory Group is duly constituted.
- (2) (Repealed)
- (3) A member appointed pursuant to this clause is eligible (if otherwise qualified) for re-appointment.

### **7 Casual vacancies**

- (1) A member shall be deemed to have vacated office if the member:
  - (a) dies,
  - (b) absents himself or herself from 3 consecutive meetings of the Committee or Advisory Group of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 6 weeks after the last of those

meetings, the member is excused by the Minister for being absent from those meetings,

- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,
- (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act,
- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable,
- (f) resigns the office by instrument in writing addressed to the Minister, or
- (g) (Repealed)
- (h) is removed from office by the Minister under subclause (2) or (3).

(2) The Minister may remove a member from office.

(3) Without affecting the generality of subclause (2), the Minister may remove from office a member who contravenes the provisions of clause 8.

## **8 Disclosure of pecuniary interests**

(1) A member who has a direct or indirect pecuniary interest:

(a) in a matter that is being considered, or is about to be considered, at a meeting of the Committee or Advisory Group, or

(b) in a thing being done or about to be done by the Committee or Advisory Group,

shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Committee or Advisory Group.

(2) A disclosure by a member at a meeting of the Committee or Advisory Group that the member:

(a) is a member, or is in the employment, of a specified company or other body,

(b) is a partner, or is in the employment, of a specified person, or

(c) has some other specified interest relating to a specified company or other body or a specified person,



shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

- (3) The Committee or Advisory Group shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Committee or Advisory Group from time to time.
- (4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines:
  - (a) be present during any deliberation of the Committee or Advisory Group, or take part in any decision of the Committee or Advisory Group, with respect to that matter, or
  - (b) exercise any function under this Act with respect to that thing, as the case requires.
- (5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the Committee or Advisory Group or the exercise of any function under this Act.
- (6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only that the member is a processor, grower or consumer of designated poultry.
- (7) A reference in this clause to a meeting of the Committee or Advisory Group includes a reference to a meeting of a committee of the Committee or Advisory Group.

## **9 Effect of certain other Acts**

- (1) Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.
- (2) The office of a member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

## **10 Liability of members etc**

No matter or thing done by the Committee or Advisory Group, any member or any person acting under the direction of the Committee or Advisory Group shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

## **Schedule 2 Provisions relating to the procedure of the Committee and the Advisory Group**

(Sections 4 (6) and 6A (6))

### **1A Definitions**

In this Schedule:

**Chairperson** means Chairperson of the Committee or Chairperson of the Advisory Group, as the context requires.

**member** means member of the Committee or member of the Advisory Group, as the context requires.

### **1 General procedure**

The procedure for the calling of meetings of the Committee or Advisory Group and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Committee or Advisory Group.

### **2 Quorum**

- (1) The quorum for a meeting of the Committee is 2 members.
- (2) The quorum for a meeting of the Advisory Group is 4 members.

### **3 Presiding member**

- (1) The Chairperson or, in the absence of the Chairperson, another member elected as chairperson for the meeting by the members present shall preside at a meeting of the Committee or Advisory Group.
- (2) The person presiding at any meeting of the Committee or Advisory Group has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

### **4 Voting**

- (1) The person presiding at any meeting of the Committee or Advisory Group may, if he or she thinks fit, and shall, if requested to do so by any member, require a vote on any matter to be taken by secret ballot.
- (2) A decision supported by a majority of the votes cast at a meeting of the Committee or Advisory Group at which a quorum is present shall be the decision of the Committee or Advisory Group.

### **5 Minutes**

The Committee or Advisory Group shall cause full and accurate minutes to be kept of the

proceedings of each meeting of the Committee or Advisory Group.

## **6 Meetings of Committee or Advisory Group**

- (1) The Committee or Advisory Group shall meet at least twice in every period of 12 months and shall meet at any time if so requested by the Minister or by a quorum of its members.
- (2) The Committee or Advisory Group may, if it thinks fit, transact any of its business by the circulation of papers among all of its members for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Committee or Advisory Group.
- (3) The Committee or Advisory Group may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (4) For the purposes of:
  - (a) the approval of a resolution under subclause (2), or
  - (b) a meeting held in accordance with subclause (3),the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Committee or Advisory Group.
- (5) A resolution approved under subclause (2) is, subject to the regulations, to be recorded in the minutes of the meetings of the Committee or Advisory Group.
- (6) Papers may be circulated among the members for the purposes of subclause (2) by facsimile or other transmission of the information in the papers concerned.

## **Schedule 3 Savings, transitional and other provisions**

(Section 25)

### **Part 1 General**

#### **1 Definitions**

In this Schedule:

**appointed day** means the day appointed and notified under section 2 (3).

**new Committee** means the Poultry Meat Industry Committee constituted under this Act.

**old Committee** means the Chicken Meat Industry Committee constituted under the [Chicken Meat Industry Act 1977](#).

## **1A Regulations**

- (1) The regulations may contain other provisions of a savings or transitional nature consequent on the enactment of this Act and the following Acts:

*Poultry Meat Industry Amendment (Price Determination) Act 2002*

*Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Act 2005*

- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect:
- (a) as from the appointed day or a later day if the provision is consequent on the enactment of this Act, or
  - (b) as from the date of assent to the Act concerned or a later date if the provision is consequent on the enactment of any other Act.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

## **2 Members holding office immediately before appointed day**

- (1) A person who, immediately before the appointed day, held office as a member of the old Committee:
- (a) shall cease to hold office as such on that day, and
  - (b) is eligible (if otherwise qualified) to be appointed as a member of the new Committee.
- (2) A person who ceases to hold office as a member of the old Committee by reason of the operation of this Act is not entitled to be paid any remuneration or compensation by reason of ceasing to hold that office.

## **3 Transitional arrangements for members representing processors and growers**

- (1) Until persons are first nominated as referred to in section 4 (3) (b) or elected as referred to in section 4 (3) (c), such persons as the Minister may appoint to represent processors and growers shall be members of the new Committee instead of the

persons referred to in section 4 (3) (b) or (c).

- (2) A member appointed by the Minister under section 4 (3) to replace a member who was appointed in accordance with subclause (1) and has held office for less than 2 years shall hold office for the residue of that period.

#### **4 Continuity of Committee**

The new Committee is a continuation of, and the same legal entity as, the old Committee.

#### **5 References to old Committee**

On and from the appointed day, a reference in any Act other than this Act, in any instrument made under any Act or in any other instrument of any kind (enacted, made or executed before the appointed day) to the old Committee shall be read as a reference to the new Committee.

#### **6 Approval of agreements before appointed day**

Where, before the appointed day, approval was given under section 14 of the [Chicken Meat Industry Act 1977](#) to an agreement, approval shall be deemed to have been given under section 8 to the form of that agreement.

#### **7 Agreements entered into before appointed day**

- (1) Section 9 (1) does not apply in respect of an agreement entered into by a processor with a grower before the appointed day.
- (2) Section 9 (2) applies in respect of an agreement entered into and in force immediately before the appointed day, being an agreement which terminates on or after the appointed day.

#### **8 First meeting of new Committee**

The Minister shall call the first meeting of the new Committee in such manner as the Minister thinks fit.

## **Part 2 Savings and transitional provisions consequent on enactment of [Poultry Meat Industry Amendment \(Price Determination\) Act 2002](#)**

#### **9 Past determinations and orders**

- (1) A determination or order made by the Committee before the commencement of this clause with respect to the prices to be paid for designated poultry has effect, and is taken to have had effect, at the time it was made or purported to be made and at all relevant times subsequently, despite the fact that it may not have been validly made.
- (2) No action, liability, claim or demand lies against any person (including the Minister or

any member of the Committee) for anything done or omitted to be done in relation to the making of a determination or order purportedly made by the Committee under section 10 as in force immediately before the commencement of this clause.

#### **10 Payments under past and interim agreements**

- (1) A payment to a grower made before or after the commencement of this clause in accordance with an agreement that provides for payment by means of a scheme operating in the manner of an efficiency incentive scheme is validated.
- (2) No action, liability, claim or demand lies against a processor in relation to a price paid by the processor to a grower in accordance with any agreement (including an agreement referred to in subsection (1)) despite a failure to comply with section 11 as in force immediately before the commencement of this clause.

#### **11 Continuation of existing agreements and formation of new agreements**

- (1) Any agreement entered into before the commencement of this clause continues to have effect according to its terms.
- (2) Agreements in a form approved under section 8, as in force immediately before the commencement of this clause, may be entered into after that commencement.
- (3) Subclause (2) ceases to have effect on the proclaimed date.
- (4) An agreement of the kind referred to in subclause (2) that is entered into after the commencement of this clause ceases to have effect:
  - (a) on the date provided in that regard by the agreement, or
  - (b) on the proclaimed date,whichever is the earlier.
- (5) An agreement may not be entered into after the proclaimed date unless it has been approved under section 8, as amended by the *Poultry Meat Industry Amendment (Price Determination) Act 2002*.
- (6) In this clause, **proclaimed date** means a day appointed by proclamation for the purposes of this clause.

#### **Editorial note—**

Day proclaimed for the purposes of this clause: 25.10.2002. See Gazette No 173 of 11.10.2002, p 8784.

### **Part 3 Provisions consequent on enactment of Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties)**

## Act 2005

### 12 Definitions

In this Part:

**the amended Act** means this Act, as amended by the amending Act.

**the amending Act** means the *Poultry Meat Industry Amendment (Prevention of National Competition Policy Penalties) Act 2005*.

**the unamended Act** means this Act, as in force immediately before the commencement of the amending Act.

### 13 Committee members

- (1) The person who, immediately before the commencement of Schedule 1 [3] to the amending Act, was the member of the Committee referred to in section 4 (3) (a) of the unamended Act is taken to have been appointed as the member referred to in section 4 (3) (a) of the amended Act.
- (2) A person who, immediately before the commencement of Schedule 1 [3] to the amending Act, was a member of the Committee referred to in section 4 (3) (d) of the unamended Act is taken to have been appointed as a member referred to in section 4 (3) (b) of the amended Act.
- (3) Subject to clause 7 of Schedule 1 to the amended Act, each member referred to in subclause (1) or (2) holds office for the residue of the term for which he or she was appointed as a member under the unamended Act.

### 14 Continuation of existing poultry growing agreements

- (1) Subject to subclause (2), the substitution by Schedule 1 [9] to the amending Act of Part 3 of the unamended Act does not affect any existing poultry growing agreement.
- (2) The price for batch poultry received by a processor from a grower under an existing poultry growing agreement is to be calculated:
  - (a) at the rate that would be applicable to the poultry under Part 3 of the unamended Act were that Part still in force, or
  - (b) at such other rate as the processor and grower may from time to time agree.
- (3) Subclause (2) (a) ceases to have effect at the end of 31 December 2005.
- (4) Section 9 of the amended Act applies to any agreement and conduct with respect to an agreement referred to in subclause (2) (b) in the same way as it applies to any agreement and conduct with respect to a poultry growing agreement entered into in accordance with the amended Act.

(5) In this clause, **existing poultry growing agreement** means an agreement entered into, in accordance with Part 3 of the unamended Act, before the substitution of that Part by Schedule 1 [9] to the amending Act.

#### **15 Continued application of section 9A of unamended Act**

Section 9A of the unamended Act continues to apply to any agreement and conduct to which it applied immediately before the repeal of that section as if that section had not been repealed.

### **Part 4 Provisions consequent on enactment of [Statute Law \(Miscellaneous Provisions\) Act 2008](#)**

#### **16 Transitional provision**

A person appointed as a member of the Advisory Group under section 6A (3) (c) and holding office as such immediately before the commencement of the amendment made to that provision by the [Statute Law \(Miscellaneous Provisions\) Act 2008](#) is taken to have been appointed under that provision as so amended.