

Agricultural Acts (Further Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 16 September 1987

(Brought in by Mr Jolly and Mr Wilkes)

A BILL

to amend the *Dairy Industry Act 1984*, the *Barley Marketing Act 1958*, the *Dried Fruits Act 1958*, the *Abattoir and Meat Inspection Act 1973*, the *Stock Diseases Act 1968*, the *Prevention of Cruelty to Animals Act 1986*, the *Animal Preparations Act 1987*, the *Cattle Compensation Act 1967*, the *Fruit and Vegetables Act 1958*, the *Melbourne Wholesale Fruit and Vegetable Market Trust Act 1977* and the *Canned Fruits Marketing Act 1979* and for other purposes.

Agricultural Acts (Further Amendment) Act 1987

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purpose.

- 5 1. The purpose of this Act is to make a series of amendments to various Acts relating to agricultural matters.

Commencement.

2. (1) Sections 37 and 39 come into operation on the day this Act receives the Royal Assent.
- 10 (2) This Act, except sections 37 and 39, comes into operation on a day or days to be proclaimed.

PART 2—AMENDMENTS TO DAIRY INDUSTRY ACT 1984

New section 119A inserted.

No. 10171.
Amended by
Nos. 10248,
18/1986 and
70/1986.

3. (1) After section 119 of the *Dairy Industry Act* 1984 insert—

Particular defence not available.

“119A. It is not a defence to a prosecution or other legal proceeding under this Act which relates to any dairy produce purchased for analysis under section 117 to prove that the part of the sample of the dairy produce retained for future comparison has from spontaneous natural causes deteriorated, perished or undergone a material change in its constitution.” 5
10

(2) Sub-section (1) does not apply in the case of a prosecution or legal proceeding commenced before the date of commencement of this section.

Amendment to evidentiary provisions.

4. Section 126 of the *Dairy Industry Act* 1984 is amended as follows: 15

(a) After “126.” insert “(1)”;

(b) After sub-section (1) (d) insert—

“; and

(e) subject to sub-sections (2) and (3), if a copy of a certificate of a test bearing an endorsement to the effect that the tests were carried out in a laboratory registered by the National Association of Testing Authorities, Australia, in accordance with the terms of that registration— 20

(i) obtained on behalf of the informant—is served with the summons; or 25

(ii) obtained on behalf of the defendant—is given to the informant at least 7 days before the return date of the summons—

that certificate is evidence of the matters stated in the certificate. 30

(2) If a certificate of a test has been obtained on behalf of a party to a prosecution, any other party may, at least 3 days before the return date of the summons, give notice in writing to the first-mentioned party requiring the person who carried out the test or endorsed the certificate or both to be called as a witness. 35

(3) If on the production of a certificate of a test in any proceedings, the court—

(a) on application by a party; or 40

(b) by any other means—

is satisfied that the person who carried out the test or endorsed the certificate or both should be called as a witness in the proceedings, the Court may order that either or both persons be called as a witness by the party who produced the certificate.”

Regulations.

5. After section 128 (1) (s) (i) of the *Dairy Industry Act 1984*, insert—

“(ia) the cleanliness of the packages in which dairy produce is to be packed;”.

PART 3—AMENDMENTS TO *BARLEY MARKETING ACT 1958*

Hedging purposes.

6. Section 8 of the *Barley Marketing Act 1958* is amended as follows:

(a) After “8.” insert “(1)”;

(b) At the end of the section insert—

“(2) A futures contract shall be taken to be entered into or dealt with for hedging purposes if—

(a) in the case of a contract with respect to corn futures—the contract is entered into or dealt with for the purpose of minimizing the risks of adverse variations in the price obtainable for barley under a contract for the sale of barley that has been, or is to be, entered into by the Board; and

(b) in the case of a currency futures contract or a financial futures contract—the contract is entered into or dealt with for the purpose referred to in paragraph (a) or for the purpose of minimizing the risks of adverse variations in the costs of a borrowing or raising of money by the Board or a proposed borrowing or raising of money by the Board.”.

New section 18B inserted.

7. After section 18A of the *Barley Marketing Act 1958*, insert—

No claim against Board in respect of rights, etc. over barley delivered to Board.

“18B. A person does not have a claim against the Board in respect of any right, title or interest under any bill of sale, lien, pledge, mortgage, charge, encumbrance or other claim over any barley delivered to the Board.”

Extension of application of Act.

8. In section 21 of the *Barley Marketing Act 1958*, for “1987–88” substitute “1992–1993”.

PART 4—AMENDMENTS TO *DRIED FRUITS ACT 1958*

Remuneration and allowances.

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9. (1) For section 12 of the *Dried Fruits Act 1958* substitute—

Remuneration and allowances of members.

“12. A member of the Board, other than a member who is an officer or employee of the public service, is entitled to be paid—

- (a) such remuneration as is fixed from time to time by Order of the Governor in Council; and
- (b) such allowances as are so fixed.”

10

(2) After section 14 of the *Dried Fruits Act 1958* insert—

Allowances may be fixed by reference to Public Service Determinations.

15

“14A. An order of the Governor in Council fixing allowances under sections 12 or 14 (4) may fix such allowances by reference to the allowances determined under section 42 of the *Public Service Act 1974* from time to time.”.

Financial.

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10. (1) Section 15 of the *Dried Fruits Act 1958* is amended as follows:

- (a) In sub-section (2), omit “and shall have no force or effect unless approved by the Governor in Council”;
- (b) In sub-section (4), after “\$6.00” insert “, or such other amount as is fixed from time to time by the Governor in Council,”;
- (c) Sub-section (8) is repealed.

25

(2) In section 16 of the *Dried Fruits Act 1958*, for sub-section (2) substitute—

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“(2) All contributions paid or recovered under section 15 must be paid into the Dried Fruits Fund.”

No. 6239.
Reprinted to No. 7337.
Subsequently amended by Nos. 7818, 7876, 8181, 8590, 8674, 9576, 9681, 9720, 9861 and 59/1986.

Availability of annual report.

11. In section 18A of the *Dried Fruits Act* 1958, for sub-section (3) substitute—

5 “(3) The Board must on the request of a grower, forward a copy of the report to that grower.”.

Minister to exercise certain powers previously exercised by Governor in Council.

12. In section 19 (5) and (7) of the *Dried Fruits Act* 1958, for “Governor in Council” substitute “Minister”.

10 Fees for applications.

13. In section 19 of the *Dried Fruits Act* 1958, for sub-section (8) substitute—

15 “(8) An application for registration, renewal or transfer of registration of a packing house must be accompanied by the fee fixed for the time being by the Governor in Council.”

New section 31 inserted.

14. Before section 32 of the *Dried Fruits Act* 1958, insert—

Delegation.

20 “31. (1) The Minister may, by instrument, delegate to an officer or employee of the public service any power of the Minister under this Act or the regulations, other than this power of delegation.

(2) The Board may, by instrument, delegate to an officer of the Board any power of the Board under this Act or the regulations, other than this power of delegation.”.

25 References to dehydrators omitted.

15. The *Dried Fruits Act* 1958 is amended as follows:

(a) In section 32 (1), paragraph (c) is repealed;

(b) In section 33—

30 (i) omit “or the owner of a dehydrator”; and

(ii) omit “or owner”; and

(iii) omit “or dehydrator”;

(c) In section 39 (1)—

35 (i) in sub-paragraphs (viii) and (ix), omit “and dehydrators” (wherever occurring); and

(ii) in sub-paragraph (x), omit “and the regulation and inspection of dehydrators”; and

(iii) in sub-paragraph (xxii), omit “dehydrators”; and

(iv) in sub-paragraph (xxv), omit “, owners of dehydrators”.

Amendment to regulation-making power.

16. In section 39 (1) of the *Dried Fruits Act 1958*, paragraph (xiv) is repealed.

PART 5—AMENDMENTS TO THE *ABATTOIR AND MEAT INSPECTION ACT 1973* 5

Definition of Director-General.

17. In section 2 (1) of the *Abattoir and Meat Inspection Act 1973*, for the definition of “**Director-General**” substitute “**Director-General** means the Chief General Manager of the Department of Agriculture and Rural Affairs.” 10

No. 8404.
Reprinted to No. 9006.
Subsequently amended by Nos. 9023, 9337, 9666, 9720, 9757, 9817, 10262 and 45/1987.

Powers of Inspectors.

18. In section 13 (f) of the *Abattoir and Meat Inspection Act 1973*, for “prior to slaughter” substitute “, meat or carcasses”.

New section 15A inserted. 15

19. After section 15 of the *Abattoir and Meat Inspection Act 1973* insert—

Director-General may require certain tests to be made for chemical residues.

“15A. (1) In this section, “**approved laboratory**” means a laboratory that has entered into an arrangement with the Director-General for the delivery of test results to the Director-General. 20

(2) The Director-General may, by instrument in writing served on the manager of a meat establishment or on a person who is apparently for the time being in charge of the meat establishment, direct that specified tests for chemical residues be carried out by an approved laboratory on any animal, meat or carcass in the possession of the manager or person apparently in charge and for that purpose— 25

(a) require the manager or person apparently in charge to take samples from any animal, meat or carcass; and 30

(b) specify the number and type of samples which are to be taken, and the manner in which the samples are to be taken; and

(c) specify the person to whom or place to which the samples are to be delivered for testing and the tests which are required to be carried out; and 35

5 (d) require the manager or person apparently in charge to ensure that, for a specified period, an animal, meat or carcass or class of animals, meat or carcasses as specified in the instrument is not removed from the meat establishment and is not destroyed.

(3) The Director-General must serve a copy of the instrument served under sub-section (2) on the owner of the meat establishment.

(4) An instrument under this section may be served personally or by post.”

10 Duties of the manager.

20. In section 16 of the *Abattoir and Meat Inspection Act 1973*, after sub-section (5) insert—

“(6) The manager must comply with the requirements of the Director-General contained in an instrument served under section 15A.”

15 New section 47A inserted.

21. After section 47 of the *Abattoir and Meat Inspection Act 1973* insert—

Delegation.

20 “47A. The Director-General may, by instrument, delegate to an officer or employee of the public service any power, duty or function of the Director-General under this Act, except this power of delegation.”

PART 6—AMENDMENTS TO *STOCK DISEASES ACT 1968*

Expanded definition of “disease”.

25 22. In section 3 of the *Stock Diseases Act 1968*, for the definition of “Disease” substitute—

“‘Disease’ means—

- 30 (a) any contagious or infectious disease to which any stock is subject; or
- (b) the presence in stock or in a class of stock of a specified chemical residue in excess of the specified level or the presence of such a residue—

which the Governor in Council from time to time by order declares to be a disease for the purposes of this Act.’

No. 7724.
Reprinted to N .
8775.
Subsequently
amended by Nos.
9549 and
12/1987.

Orders of the Governor in Council.

23. Section 4 of the *Stock Diseases Act* 1968 is amended as follows:

(a) In sub-section (3), for paragraph (a) substitute—

“(a) may declare—

(i) any contagious or infectious disease to which any stock is subject; or 5

(ii) the presence in stock or in a class of stock of a specified chemical residue in excess of a specified level or the presence of such a residue—

to be a disease for the purposes of this Act; and”; 10

(b) In sub-section (3) (b), after “a free area,” insert “an impending free area.”;

(b) After sub-section (3) insert—

“(4) An Order made under sub-section (3) (b) may—

(a) prohibit a person from transporting, selling or handling stock within or from the declared area; and 15

(b) impose requirements to be complied with in relation to the testing, transportation, sale or handling of stock within the declared area.” 20

Offences.

24. Section 14 of the *Stock Diseases Act* 1968 is amended as follows:

(a) In sub-section (1), for “any stock infected with any disease” substitute “diseased stock”.

(b) In sub-section (2), for “any stock infected with disease” substitute “diseased stock”. 25

Penalties.

25. In section 51 of the *Stock Diseases Act* 1968—

(a) for “\$200” substitute “50 penalty units”; and

(b) for “\$500” substitute “100 penalty units”. 30

PART 7—AMENDMENTS TO PREVENTION OF CRUELTY TO ANIMALS ACT 1986

Cruelty to debark dog except in certain circumstances.

26. Section 9 of the *Prevention of Cruelty to Animals Act* 1986 is amended as follows: 35

(a) In paragraph (l), omit “or debarks”;

(b) After paragraph (l) insert—

“(la) debarks a dog, unless the operation is done on the advice of a veterinary surgeon and in accordance with a Code of Practice; or”.

Correction of reference to the *Stock Diseases Act 1968*.

- 5 27. In section 18 (1) (b) (i) of the *Prevention of Cruelty to Animals Act 1986*, for “1958” substitute “1968”.

Use of animals in scientific procedures.

- 10 28. In section 26 (2) (h) of the *Prevention of Cruelty to Animals Act 1986*, after “a scientific procedure” insert “except in accordance with a Code of Practice”.

PART 8—AMENDMENTS TO ANIMAL PREPARATIONS ACT 1987

Prohibitions.

29. In section 16 (1) of the *Animal Preparations Act 1987*, for “sale and use” substitute “sale or use”. No. 12/1987.

15 **Permits to sell or use certain animal preparations.**

30. Section 17 (1) of the *Animal Preparations Act 1987* is amended as follows:

- (a) For “purchase and use” substitute “sell or use”;
- (b) In paragraph (b), for “sale and use” substitute “sale or use”.

20 **Additional member of the Animal Preparations Board.**

31. Section 22 of the *Animal Preparations Act 1987* is amended as follows:

- (a) In sub-section (2), for “seven members” substitute “eight members”;
- 25 (b) After sub-section (2) (d) insert—
 - “; and
 - (e) one shall be a person whose name is included in a panel of not less than three names submitted to the Minister by a body that the Minister considers to be representative of the users of animal preparations.”;
- 30 (c) In sub-section (4), for “or (c)” substitute “, (c) or (e)”.

Powers of authorised officers.

32. (1) Section 28 of the *Animal Preparations Act 1987* is amended as follows:

- 35 (a) In sub-section (1), omit “and the regulations”;
- (b) Sub-section (3) is repealed;

(c) For sub-section (4) substitute—

“(4) An authorised officer has the following powers:

- (a) To enter at any reasonable time any land or premises (other than residential premises) on or at which the officer reasonably suspects that animal preparations are sold or used or kept for sale or use or stored; 5
- (b) To detain, enter and examine any vehicle which is used or which the officer reasonably suspects is used to transport animal preparations; 10
- (c) To search for any animal preparations on such land, premises or vehicle and take (without payment) in accordance with the regulations a quantity of any animal preparation as a sample for analysis; 15
- (d) To seize and destroy any animal preparation on such land, premises or vehicle the sale and use of which is prohibited, or remove any such animal preparation for the purpose of having it destroyed; 20
- (e) To examine and make copies of or take extracts from, any document on such land, premises or vehicle or remove any document from such land, premises or vehicle for such time as is necessary to enable the making of a copy of it or taking an extract of it; 25
- (f) To require a person present on any such land or premises or driving any such vehicle to give any information which the officer requests; 30
- (g) To examine any substance, material, plant or equipment on such land, premises or vehicle; 30
- (h) To open on such land, premises or vehicle any package, container or receptacle which contains or which the officer reasonably suspects contains an animal preparation; 35
- (i) To take on such land, premises or vehicle— 35
 - (i) samples of any substance which the officer reasonably suspects is an animal preparation, for the purposes of analysis; and
 - (ii) samples from any animal or carcass for the purposes of testing; 40
- (j) To conduct on such land, premises or vehicle any analysis or examination of a substance to determine its composition; 45
- (k) To remove from such land, premises or vehicle any label, advice note or other document purporting to be a label or advice note.”; 45

(d) For sub-section (5) substitute—

“(5) A person must not—

(a) fail or refuse to comply with a request of; or

(b) assault or obstruct—

5 an authorised officer in the exercise or performance of any power under this Act.

Penalty: 15 penalty units.”.

(2) In section 34 (1)—

(a) paragraph (n) is repealed; and

10 (b) in paragraph (o), after “animal preparations” insert “and other substances, and the taking of samples from animals or carcasses”.

PART 9—AMENDMENT TO *CATTLE COMPENSATION ACT 1967*

Correction of definition of “disease”.

15 33. In section 3 of the *Cattle Compensation Act 1967*, in the definition of “Disease”, after “hydatids” omit “or”.

N . 7615.
Amended by
Nos. 8347, 8411,
8654, 8714,
9049, 9253,
9429, 9431,
9863, 10067,
10067 and
16/1986.

Increase in amount of compensation payable.

34. In section 5 (1) of the *Cattle Compensation Act 1967*, for “\$550” substitute “\$700”.

20 Cattle compensation fund.

35. In section 10 (3) of the *Cattle Compensation Act 1967*, after paragraph (c) insert—

“; and

25 (d) to the payment of costs incurred in establishing and administering a program for the labelling of cattle to identify the place from which cattle have come, established pursuant to an Order made under section 4 (3) (b) of the *Stock Diseases Act 1968*—”.

30 PART 10—AMENDMENT TO *FRUIT AND VEGETABLES ACT 1958*

Regulations.

36. After section 54 (2) of the *Fruit and Vegetables Act 1958*, insert—

No. 6256.
Reprinted to N .
6944.
Subsequently
amended by Nos.
7876, 8181,
9005, 9018,
9576, 10067 and
127/1986.

“(3) Any such regulation may apply, adopt or incorporate (with or without modification) any matter contained in an Order relating to fruit or vegetables in force for the time being under the Export Control (Orders) Regulations of the Commonwealth.”.

PART 11—AMENDMENTS TO MELBOURNE WHOLESALE FRUIT AND VEGETABLE MARKET TRUST ACT 1977 5

Constitution of Trust.

N . 8983.
Amended by
Nos. 9066, 9194,
9683, 110/1986
and 41/1987.

37. (1) In section 7 (1) of the *Melbourne Wholesale Fruit and Vegetable Market Trust Act 1977*, for paragraph (b) substitute—

“(b) four members who have business, management, financial or technical expertise or such other expertise as the Minister considers appropriate—”. 10

(2) On the date of commencement of this section, each member of the Melbourne Wholesale Fruit and Vegetable Market Trust holding office under section 7 (1) (b) of the *Melbourne Wholesale Fruit and Vegetable Market Trust Act 1977* as in force immediately before that date is deemed to have been appointed under section 7 (1) (b) of that Act as amended by sub-section (1) on the same terms and conditions on which, and for the remainder of the term for which, the member was appointed under that Act before that date. 15 20

(3) The Melbourne Wholesale Fruit and Vegetable Market Trust constituted under section 7 of the *Melbourne Wholesale Fruit and Vegetable Market Trust Act 1977* as amended by sub-section (1) is the same Trust as the Trust existing under that Act immediately before the date of commencement of this section, despite the change in the Trust's constitution. 25

New section 13A inserted.

38. After section 13 of the *Melbourne Wholesale Fruit and Vegetable Market Trust Act 1977* insert—

Allowances may be fixed by reference to Public Service Determinations. 30

“13A. An order of the Governor in Council fixing allowances under sections 8 or 13 (3) may fix such allowances by reference to the allowances determined under section 42 of the *Public Service Act 1974* from time to time.”. 35

General acquisition powers.

39. (1) The *Melbourne Wholesale Fruit and Vegetable Market Trust Act 1977* is amended as follows:

(a) In sections 4 (4) (b) and (c) and 6 (3) for “Governor in Council” substitute “Minister”; 40

(b) In section 34 omit “, with the approval of the Governor in Council,”.

(2) In section 5 of the *Melbourne Wholesale Fruit and Vegetable Market Trust Act 1977*, after paragraph (b) insert—

5 “(ba) planning what provision is to be made for the future needs of the Melbourne Wholesale Fruit and Vegetable Market and providing for those future needs by acquiring real property; and

10 (bb) the control, maintenance and management of real property that is acquired by the Trust and is not part of the market land; and”.

(3) After section 5 of the *Melbourne Wholesale Fruit and Vegetable Market Trust Act 1977*, insert—

Management of acquired land.

15 “5A. (1) This section applies despite anything to the contrary in this Act.

(2) This section applies to land acquired by the Trust in the performance of its functions under section 5 (ba).

20 (3) Subject to sub-section (4), at any time after the acquisition of land to which this section applies the Trust may declare it to be part of the market land under section 34.

25 (4) If land to which this section applies is in the opinion of the Trust presently required for the needs of the Melbourne Wholesale Fruit and Vegetable Market, the Trust must declare the land to be part of the market land under section 34.

(5) Land to which this section applies is not part of the market land unless and until it is declared to be part of that land in accordance with sub-section (3) or (4).

30 (6) Subject to sub-section (7), sections 6 (2) (a), 32, 33, 35, 36, 37 and 38 apply to land to which this section applies as if it were part of the market land.

(7) If land to which this section applies is subject to a lease to which section 100 of the *Land Act 1958* applies, section 35 does not apply to that lease.

35 (8) Until land to which this section applies becomes part of the market land, the Trust may, in accordance with section 4, hold it or dispose of it for any purpose which the Trust thinks fit.”.

40 (4) If before the date of commencement of this section the Melbourne Wholesale Fruit and Vegetable Market Trust was in the course of acquiring or dealing with property under section 4 (4) (b) or (c) of the *Melbourne Wholesale Fruit and Vegetable Market Trust Act 1977* and the acquisition or dealing has not been completed at that

date, section 4 (4) (b) and (c) of that Act as in force immediately before that date continue to apply to that acquisition or dealing.

Borrowings.

40. The *Melbourne Wholesale Fruit and Vegetable Market Trust Act 1977* is amended as follows: 5

(a) In section 17 (1), for "\$20,000,000" substitute "the amount for the time being fixed by the Minister with the Treasurer's approval";

(b) In section 21 (4) (b) and (c) and in section 21 (5) (b) omit "and the sanction of the Governor in Council". 10

PART 12—AMENDMENTS TO *CANNED FRUITS MARKETING ACT* 1979

Extension of application of Act.

41. In section 3 (1) of the *Canned Fruits Marketing Act 1979*, in the definition of "Season", for "7" substitute "8". 15

No. 9341.
Amended by N .
10137.