

GRAIN ELEVATORS (AMENDMENT) BILL 1977.

EXPLANATORY MEMORANDUM.

Clause 1 covers the Short Title and commencement of the proposed Act. The several provisions of the Act will come into operation on the day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette*.

Clause 2 makes the necessary amendments to the interpretations in the *Grain Elevators Act 1958* to widen the operation of the Act from the handling by the Grain Elevators Board of only wheat and barley to include all grain and to remove the previous exclusion relating to the port of Portland.

The Bill specifically excludes from the ambit of the Act "on farm" storages and storages where the grain is stored by the owner of the grain for manufacturing purposes or for sale for sowing purposes. Also excluded are storages of grain for sale for feeding purposes where the grain stored has been supplied from an elevator under the control of the Grain Elevators Board or for sale for feeding purposes in quantities totalling in the aggregate not more than 50 tonnes in any financial year.

Clause 3 in paragraph (a) increases the membership of the Grain Elevators Board from three members to six members whilst by paragraph (b) the need for the Board to obtain the approval of the Minister to sell, lease, hire or rent land and real and personal property surplus to its requirements is repealed.

Clause 4 provides for the reconstitution of the Grain Elevators Board with effect from the 1st July, 1977 with six members of whom one will be a person (not being an officer of the public service or the railway service) having business training and experience; three will be growers of grain each of whom derives a substantial portion of his income from the production of grain; one will be a member of the Victorian Railways Board or (if a member of that Board is not appointed as a member) an officer of the Victorian Railways Board or the Railways Construction Board nominated by the Minister of Transport; and one will be an officer of the Department of Agriculture nominated by the Minister of Agriculture.

The three grower members will be appointed on the recommendation of the Minister of Agriculture after consideration of panels of not less than three nor more than five names submitted by any organization or organizations considered by the Minister to represent growers and which has or have been invited by the Minister to submit panels of names.

Clause 4 also provides for the Governor in Council to appoint a Chairman and a Deputy Chairman and specifies that either the Chairman or the Deputy Chairman shall be a grower. The Clause further provides for a member's term of office of not more than three years with eligibility for re-appointment and for a quorum of four members one of whom shall be the Chairman or Acting Chairman (if any) or the Deputy Chairman.

Clause 5 updates the references in the *Grain Elevators Act 1958* to the *Public Service Act 1958*, now the *Public Service Act 1974*.

Clause 6 provides that the term of office of current members of the Grain Elevators Board will expire on the 30th June, 1977 and that each member shall be eligible for re-appointment, if then qualified.

Clause 7 provides that the reconstituted Board shall be deemed to be the same Board as previously.

Clause 8 (1) is a consequential repeal of the quorum provisions in the *Grain Elevators Act 1958* while *Clause 8* (2) removes the requirement that a copy of all decisions of the Board be submitted to the Minister within fourteen days after each meeting.

Clause 9 requires the Board to appoint a general manager who subject to the general direction and control of the Board, will be responsible for the administration of the undertakings of the Board.

Clause 10 effects a number of amendments to section 10 of the *Grain Elevators Act 1958*.

Paragraph (a) of Clause 10 repeals the exemption currently applicable to the grain terminal at the port of Portland and also provides that the Board may construct elevators and appurtenances for handling grain in bulk whether the grain is grown in Victoria or elsewhere and may receive and store grain whether grown in Victoria or elsewhere.

Paragraph (b) of Clause 10 provides power for the Board to appoint agents for operating, maintaining and controlling its elevators and appurtenances. Power is also provided for the revocation of such an appointment after the Expiration of three months notice in writing by the Board.

Paragraphs (c) and (e) of Clause 10 replace the references to wheat or barley in section 10 (2) of the *Grain Elevators Act 1958* with a reference to grain and in effect provides that the Board through its By-laws, which have to be confirmed by the Governor in Council, may prescribe the kinds of grain which shall be delivered to the Board for transport or for storage.

Paragraph (d) of Clause 10 increases the penalty provisions for non delivery as required from not more than \$200 to not more than \$500.

Clause 11 repeals the exemption currently applicable to the port of Portland with relation to the powers and duties of the Grain Elevators Board.

Clauses 12, 13 and 14 are consequential amendments relating to the port of Portland which add the Portland Harbor Trust Commissioners to the provisions of the *Grain Elevators Act 1958* concerning the Melbourne Harbor Trust Commissioners and The Geelong Harbor Trust Commissioners relating to sites for the construction of elevators and railway tracks to elevators and relating to the construction and operation of works on piers as well as the extension and maintenance of such piers.

Clause 15 amends Section 18 of the *Grain Elevators Act 1958* by inserting a requirement of Ministerial approval before the Grain Elevators Board may either by agreement or compulsorily purchase, enter upon and use any land and then removes the exemption which currently applies to land vested in the Victorian Railways Board, The Melbourne Harbor Trust Commissioners, The Geelong Harbor Trust Commissioners, the Portland Harbor Trust Commissioners or any harbor board under the *Harbor Boards Act 1958*.

Clause 16 repeals Section 21 of the Principal Act which provides that the Grain Elevators Board shall not afford any preference or advantage in charges or in any way whatsoever to any person. This particular provision has proved to be unduly restrictive and has given rise to administrative difficulties, particularly in relation to the fixing of charges. *Clause 16* also repeals Section 21A which is no longer applicable as the *Wheat Marketing Act 1969* has ceased to operate.

Clause 17 makes consequential amendments to Section 22 of the *Grain Elevators Act 1958* to remove the specific references to wheat and barley and also in paragraph (d) repeals provisions which referred to the *Wheat Marketing Act 1969* which is no longer in operation.

Clause 18 repeals Section 22A of the *Grain Elevators Act 1958* which provided power for the Grain Elevators Board to enter into agreements for the storage of wheat or barley produced in specified areas of New South Wales. With the repeal of Section 21 and the amendments to Section 10 the provisions of Section 22A are no longer required.

Clause 19 and 20 are consequential amendments to Sections 25 and 26 of the *Grain Elevators Act 1958* to replace the references to wheat or barley with references to grain.

Clause 21 is a consequential amendment to Section 30 of the *Grain Elevators Act 1958* following the amendment in *Clause 3* to sub-section (4) of the Section 4.

Clause 22 increases the amount in Section 35 of *Grain Elevators Act 1958* above which tenders must be invited by the Board for contracts from \$3,000 to \$5,000 ; and increases the limit of the borrowing powers of the Grain Elevators Board as provided in Section 38 and 40 of the *Grain Elevators Act 1958*, subject to the approval of the Treasurer of Victoria, from \$37,000,000 to \$45,000,000. It is expected that the increased borrowing powers of the Board will be required to enable the Board to carry out its extended powers.

This Clause also substitutes the sanction of the Minister in lieu of the sanction of the Governor in Council for contracts made by the Board, the consideration of which exceeds \$50,000.

Clause 23 replaces Section 44 of the *Grain Elevators Act 1958* which relates to the power of the Grain Elevators Board to borrow moneys on overdraft. This amendment has been included at the request of Treasury to bring the overdraft provisions into line with recent legislation which provides the necessary flexibility for meeting the Grain Elevators Board's requirements from time to time by giving the Treasurer of Victoria the power to specify the amount of overdraft limit.

Clause 24 provides that the owner of an elevator who considers that he has suffered financial loss as a direct result of the Grain Elevators Board taking over the handling of the grain for the storage of which the elevator was operated may apply to the Board for compensation.

This Clause provides that the Board may out of the general fund pay to the applicant such amount by way of compensation as it considers reasonable and further provides that where any person feels aggrieved at a refusal by the Board to pay compensation or at the amount of any compensation awarded by the Board he may appeal in writing to the Minister who may refer the matter to arbitration.

Clause 24 in sub-clause (2) also provides that the limit of the Board's general reserve fund may be extended beyond \$4,000,000 with the approval of the Treasurer of Victoria.

Clause 25 provides that as soon as possible after the coming into operation of the section the Board shall by notice published in the *Government Gazette* and in at least two daily newspapers require all owners of elevators in Victoria to provide the Board with information with respect to the location, type and capacity of any such elevator within two months of the date of the publication of the notice in the *Government Gazette*. The owner of any elevator with respect to which the required information is not forwarded by the date specified shall not be entitled to apply for the payment of this compensation.

Clause 26 prohibits the erection of any elevator after the coming into operation of the section without the approval of the Grain Elevators Board. Where Board approval is not given the applicant has the right of appeal to the Minister who may refer the matter to arbitration.

Clause 27 is a consequential amendment to Section 57 of the *Grain Elevators Act 1958* to replace the reference to wheat or barley with a reference to grain.

Clause 28 has also been inserted at the request of Treasury to update references to the Loan Fund in the *Grain Elevators Act 1958* as a consequence of the changes made in the *Public Account Act 1970*. Section 45 of the *Grain Elevators Act 1958* has been repealed as a consequence of the insertion of a new Section 44 by Clause 22.

Clause 29 makes the necessary consequential amendments to the *Portland Harbor Trust Act 1958* and specifically provides that the Portland Harbor Trust Commissioners may act as agents of the Grain Elevators Board.

Clause 30 safeguards the agreement in force between the Portland Harbor Trust Commissioners and the Australian Barley Board. This agreement provides for the reservation of space at Portland for barley and for the annual payment by the Australian Barley Board to the Portland Harbor Trust Commissioners of a capital facilities allowance.