

# **TOBACCO INDUSTRY (RESTRUCTURING) BILL 1996**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **Objectives for the legislation**

The objectives of the Bill are to deregulate and restructure Queensland's tobacco industry.

#### **Reasons for the Bill**

Queensland's tobacco industry has been regulated for many years under the *Tobacco Industry Stabilisation Act 1965* and the *Primary Producers' Organisation and Marketing Act 1926* in addition to regulation at the national level. Production is limited by quotas, administered by the Tobacco Quota Committee. A compulsory marketing scheme is administered by the Tobacco Leaf Marketing Board.

The tobacco industry has undergone major changes over recent years, and these controls are no longer necessary nor relevant. Industry participants wish to manage the industry on a commercial basis, and the Bill is designed to allow that to happen.

Some consequential amendments and minor amendments to other Acts are also made in Schedule 1.

#### **Ways in which the objectives are to be achieved in the Bill**

The objectives are achieved by transferring the assets and liabilities of the Tobacco Leaf Marketing Board to the Queensland Tobacco Marketing Cooperative Association Limited, distributing shares in the Association to tobacco growers, and repealing the legislation that regulates the industry.

#### **Alternatives to the Bill**

The industry could be partly restructured under the *Primary Producers' Organisation and Marketing Act 1926*. However the process for this is cumbersome, time consuming and costly to industry participants. The deregulatory objective, particularly repealing the quota scheme, is only able to be achieved by legislation.

**Estimated cost for government implementation**

Nil.

**Consistency with fundamental legislative principles**

The provisions of the Bill are consistent with fundamental legislative principles as set out in the *Legislative Standards Act 1992*.

**Consultation**

Over the last four years or so, industry has been consulted on deregulation matters. Commonwealth initiated deregulation of the barriers to imported tobacco leaf and the dismantling of the national agreement for Australian leaf content in tobacco products manufactured in Australia impacted on State regulations. Over the last 18 months or so, intense negotiations with industry bodies, such as manufacturers, the Tobacco Leaf Marketing Board, North Queensland Tobacco Growers Co-operative Association Ltd, and growers has resulted in an agreement for the facilitating legislation and the outcomes sought.

**NOTES ON PROVISIONS****PART 1—PRELIMINARY**

*Clause 1* provides that the short title of the Act will be the *Tobacco Industry (Restructuring) Act 1996*.

*Clause 2* states the objects of the Act.

*Clause 3* provides for a dictionary of terms, as set out in schedule 2.

## **PART 2—TRANSFER OF BOARD’S ASSETS AND LIABILITIES TO THE ASSOCIATION**

*Clause 4* provides for the association to assume the assets and liabilities of the board, and for the association in return to issue shares to the board. These shares will be distributed under Part 3 among tobacco growers by the board’s administrator (part 4).

*Clause 5* provides a process for determining the net value of the board’s assets. This value is used to determine the total value of the shares to be issued (clause 9).

*Clause 6* requires transfer instruments to be executed and stamped as if the transfer to the board were made on sale of the shares.

## **PART 3—SHARE DISTRIBUTION SCHEME**

*Clause 7* provides that shares are to be distributed to tobacco growers in accordance with the share distribution scheme described in this part.

*Clause 8* provides that the shares are to be issued to the growers fully paid up. Each share has a face value of 25 cents.

*Clause 9* provides that the total value of the shares to be issued must equal the net assets of the board, calculated under clause 5.

*Clause 10* provides that the number of shares to which growers are entitled is worked out by dividing the net value of the assets to be transferred by the board to the association by the face value of the shares. Under this formula there will be four shares for each dollar of the net value of those assets, because the face value of a share is 25 cents.

*Clause 11* provides that each grower’s entitlement to shares in the

association is calculated by dividing the grower's basic quota by the total of all basic quotas, and multiplying the result by the total number of shares available for distribution. This clause also provides that only quota holders or their nominees (see clause 17), being "genuine growers" as defined in schedule 2, may receive the shares in the distribution.

*Clause 12* provides that the shares to which growers are entitled are those shares issued by the association to the board under clause 4.

## **PART 4—ADMINISTRATION OF BOARD**

*Clause 13* provides that on the transfer day (defined in schedule 2 as 1 September 1996), the board's directors go out of office, the board goes into administration, and for certain technical aspects of the administration.

*Clause 14* provides for suspension of the board's powers. However power is given to the board to effect the transfer of assets and liabilities and the share distribution.

*Clause 15* states that from the transfer day the costs of the board, including the costs of the administration, are to be paid by the association.

## **PART 5—DISTRIBUTION OF SHARES IN THE ASSOCIATION**

*Clause 16* provides that the administrator of the board must invite quota holders to apply for the shares to which they are entitled. The invitation is to be made by letter sent to the quota holder.

*Clause 17* allows quota holders to nominate another genuine grower (as defined in schedule 2) to receive the quota holder's share entitlement.

*Clause 18* provides that shares not taken up are to be forfeited and their value credited to the association. Further, if a quota holder's entitlement is calculated to include a part of a share, the entitlement is to be rounded down to a whole number of shares, the parts forfeited and their value also credited to the association. The value of the forfeited shares and parts of shares will

be held in a forfeited share reserve.

*Clause 19* requires the administrator of the board to distribute the shares in the association gratuitously. A quota holder or nominee's acceptance of the shares will signify that person's agreement to be bound by the association's rules. The time frame for the distribution is governed by the sunset date (clause 23).

## **PART 6—DISSOLUTION OF FORMER BOARD**

*Clause 20* requires the administrator to notify the Minister when the share distribution has been completed.

*Clause 21* provides for a "dissolution date" to be declared by regulation. On that date, the board is dissolved.

## **PART 7—MISCELLANEOUS**

*Clause 22* empowers the Governor in Council to make regulations.

*Clause 23* provides a sunset day for the Act on 31 December 1997.

## **PART 8—TRANSITIONAL PROVISIONS**

*Clause 24* provides for continuity of employment of the board's staff as staff of the association.

*Clause 25* provides for continuity between the board and the association of legal proceedings by or against the board, and contracts made by the board.

*Clause 26* provides that the association's initial directors remain in office until a special general meeting is held within 3 months of the dissolution date. This avoids double elections for a new Board by the shareholders and

ensures all growers who are eligible to receive shares are given the opportunity to vote for the new directors.

## **PART 9—REPEALS AND AMENDMENTS**

*Clause 27* repeals the *Tobacco Industry Stabilisation Act 1965* from the transfer day (1 September 1996). This effects the Bill's objective of industry deregulation.

*Clause 28* provides for amendment of other Acts as set out in schedule 1.

## **SCHEDULE 1**

### **AMENDMENTS OF OTHER ACTS**

This Schedule makes consequential amendments and minor amendments in the nature of statute law revision to several other Acts administered by the Minister. The latter amendments are to references to regulation making powers or references to definitions of special terms in other Acts, or bring provisions into line with other changes in the law.

## **PART 1—CONSEQUENTIAL AMENDMENTS**

### ***PRIMARY PRODUCERS' ORGANISATION AND MARKETING ACT 1926***

*Clause 1* omits section 34B from that Act. That section requires the Director of Marketing to report on the activities of the marketing boards and

associated bodies. With deregulation of the tobacco industry, there are no functioning marketing boards nor any associated bodies on which to report.

*Clause 2* omits Schedule 1 of the Act. That Schedule lists the marketing boards and other bodies that were automatically members of the now defunct Council of Agriculture.

## **PART 2—OTHER AMENDMENTS**

### ***CHEMICAL USAGE (AGRICULTURAL AND VETERINARY) CONTROL ACT 1988***

*Clause 3* alters the section heading to section 38 to be “Regulation-making power” in line with the *Acts Interpretation Act 1954*.

### ***CITY OF BRISBANE MARKET ACT 1960***

*Clause 4* alters the section heading to section 48 to be “Regulation-making power” in line with the *Acts Interpretation Act 1954*.

### ***GRAIN INDUSTRY (RESTRUCTURING) ACT 1991***

*Clause 5* changes and simplifies the regulation making power in the Act in line with the *Acts Interpretation Act 1954*.

### ***GRAIN RESEARCH FOUNDATION ACT 1976***

*Clause 6* alters the section heading to section 4 to be “Definitions” in line

with drafting practice.

*Clause 7* changes and simplifies the regulation making power in the Act in line with the *Acts Interpretation Act 1954*.

### ***SUGAR INDUSTRY ACT 1991***

*Clause 8* alters the section heading to section 106 to be “Definitions for pt 7” in line with drafting practice.

*Clause 9* alters the section heading to section 242 to be “Regulation-making power” in line with the *Acts Interpretation Act 1954*.

### ***VETERINARY SURGEONS ACT 1936***

*Clause 10* alters the incapacity provision in section 21 to bring the provision into line with anti-discrimination laws.

*Clause 11* alters the section heading to section 37 to be “Regulation-making power” in line with the *Acts Interpretation Act 1954*.

## **SCHEDULE 2**

### **DICTIONARY**

This Schedule defines certain terms used in the Bill.

