

PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL (No. 2) 1997

EXPLANATORY NOTES

GENERAL OUTLINE

Short Title

This Act will be known as the *Primary Industries Legislation Amendment Act (No. 2) 1997*.

Objectives of the Legislation

The Bill amends or repeals the following Acts administered by the Minister for Primary Industries, Fisheries and Forestry:

Dairy Industry Act 1993

Deer Farming Act 1985

Exotic Diseases in Animals Act 1981

Fisheries Act 1994

Fruit Marketing Organisation Act 1923

Primary Producers' Organisation and Marketing Act 1926

Tobacco Industry (Restructuring) Act 1996

Wheat Marketing (Facilitation) Act 1989

Reasons for the Bill

Dairy Industry Act 1993

Under the current wording of the *Dairy Industry Act 1993* all processors of dairy produce are required to hold a processors licence. There is no necessity to licence processors of dairy produce other than market milk.

The Bill removes this requirement.

Deer Farming Act 1985

Until recently certain species of deer have been a declared pest under the *Rural Lands Protection Act 1985*. This pest status necessitated regulation of the farming of deer, and this was the purpose of the *Deer Farming Act 1985*. Deer have now been removed from the lists of pests, after a recognition that they were no greater threat to the environment than any other farmed animal. As the regulation of farmed deer is no longer being required, the Bill repeals the *Deer Farming Act 1985*.

Exotic Diseases in Animals Act 1981

Under the *Exotic Diseases in Animals Act 1981* the State is required to pay compensation for animals or property that die or are destroyed as a result of the outbreak of an exotic disease.

Under existing provisions the owner of stock which dies or is destroyed is only entitled to compensation assessed on the basis of the market value of the stock at the time of death. The market value of stock during an exotic disease outbreak is frequently below the market value at any other time. This has the potential to cause severe hardship to owners of stock, as the cost of re-establishing the herd is often significantly greater than the amount of compensation paid. The availability of adequate compensation is an important motivation for animal owners to report possible exotic disease outbreaks as early as possible, a key to successful responses to such outbreaks. The Bill therefore provides for a second payment of compensation after a quarantine period ends.

Further, the terminology used in the *Exotic Diseases in Animals Act 1981* is not consistent with legislation applying to exotic disease outbreaks in other States. This can cause some confusion during an exotic disease outbreak which extends beyond the bounds of one State. The Bill changes the terminology accordingly.

Fisheries Act 1994

Enforcement of fisheries legislation requires considerable resources. The Queensland Boating and Fisheries Patrol has enforcement responsibilities in

over 800,000 square kilometres of tidal water under either Queensland or Commonwealth jurisdiction. Fisheries enforcement is therefore expensive and, in many situations, illegal activity is unlikely to be detected.

Opportunities are available for use of enhanced electronic surveillance and monitoring in the enforcement of fisheries legislation. This also offers opportunities for electronic catch reporting, boating safety and communication. The *Fisheries Act 1994* is to be amended to provide a framework for this electronic surveillance and monitoring.

Fruit Marketing Organisation Act 1923

The Deciduous Group Committee of the Queensland Fruit and Vegetable Growers' Organisation is constituted under section 11 of the *Fruit Marketing Organisation Act 1923* and is based on the geographical area of the Granite Belt, namely the shires of Inglewood, Stanthorpe and Warwick (excluding the former shire of Allora).

The Deciduous Group Committee conducts grower representative activities on behalf of all fruit and vegetable growers in its area. By contrast, the industry in the rest of Queensland is conducted on commodity lines in that the sectional groups represent specific commodities for the State. Effective industry representation is more likely to be achieved by arranging representation on a commodity basis. The Deciduous Group Committee is therefore to be abolished under this Bill.

The Queensland Fruit and Vegetable Growers' Organisation no longer exercises any marketing or regulatory functions and operates purely as a producer representative body and references to the Director of Marketing are not relevant in the Act. The Bill removes the position of Director of Marketing from membership on the board of the organisation.

Primary Producers' Organisation and Marketing Act 1926

Under provisions of the *Primary Producers' Organisation and Marketing Act 1926* the maximum number of members on a mill suppliers committee is ten. The Act also provides that the elected members of the district canegrowers executive are members of the mill suppliers committee by virtue of office. This causes some difficulty during the election process for these bodies, as the number of persons who are to be elected to the mill suppliers committee cannot be known until after the district executive is

elected, so that it can be determined whether a member of the district executive will take up the ex officio membership of the mill suppliers committee.

In certain areas there is only one mill within a district and it is therefore unnecessary to elect separate mill suppliers committees and district canegrowers executives. The Act is to be amended to provide for a single election in such circumstances.

The *Queensland Commercial Fishermen's Organisation Regulations 1989* currently contains references to licences under the *Fishing Industry Organisation and Marketing Act 1982*. The *Fisheries Act 1994* changed the name of Master Fisherman's Licences to Commercial Fisher Licences. The Bill amends the *Primary Producers' Organisation and Marketing Act 1926* to confirm that references in the *Queensland Commercial Fishermen's Organisation Regulations 1989* to licences under the *Fishing Industry Organisation and Marketing Act 1982* are taken to be references to equivalent licences under the *Fisheries Act 1994*.

Tobacco Industry (Restructuring) Act 1996

The *Tobacco Industry (Restructuring) Act 1996* established a scheme for the dissolution of the Tobacco Leaf Marketing Board, distribution of shares in the Queensland Tobacco Marketing Cooperative Association Limited ("the Association") to tobacco growers, and the appointment of an administrator to oversee the scheme. The Act has a sunset date of 31 December 1997, set by section 23.

The Queensland Tobacco Assistance Package, approved by the Queensland Government on 14 October 1997, could significantly change the identity of quota holders who are eligible to take shares in the Association, particularly those who exit the industry on welfare grounds under the Assistance Package.

Developing this scheme has taken considerable time, and it is unlikely that the share distribution scheme can be completed in a fair and reasonable manner as required by the Act before the sunset date. The Act is to be amended to extend the sunset date from 31 December 1997 to 31 December 1998.

Wheat Marketing (Facilitation) Act 1989

The Australian Wheat Board is established under the Commonwealth *Wheat Marketing Act 1989* (“the Commonwealth Act”) to regulate the sale of wheat in Australia. The Australian Wheat Board derives its power to operate on intrastate trade in Queensland through the *Wheat Marketing (Facilitation) Act 1989* (“the Queensland Act”).

Amendments to the Commonwealth Act which take effect from 1 October 1997 transfer the commercial wheat marketing and financing functions of the Australian Wheat Board to a wholly owned holding company and subsidiary companies. The changed marketing arrangements of the Australian Wheat Board need to be reflected in the Queensland Act to ensure the continuation of its intra-state trading powers in Queensland. The amendments allow the Australian Wheat Board’s holding and subsidiary companies to exercise the same powers granted to the Australian Wheat Board under the Queensland Act.

Estimated Costs for government implementation

The implementation of the amendments to the *Fisheries Act 1994* will involve additional costs for infrastructure, software development, transmission and enforcement costs. A total of \$3.15 million has been allocated to implement the vessel monitoring system.

Consistency with fundamental legislative principles

The Bill complies with the fundamental legislative principles contained in the *Legislative Standards Act 1992*.

The proposed amendments to the *Fisheries Act 1994* will provide for the compulsory use of the electronic vessel monitoring system (“VMS”). Vessel owners may be compelled to install the system. This is necessary in order to allow the proper implementation of the system. The system will eventually ensure efficient surveillance of the Queensland fishing fleet. It is not feasible to introduce this on a voluntary basis.

This is not considered to constitute a breach of fundamental legislative principles. The Bill defines the scope of the administrative power which may be exercised in compelling an owner to install VMS equipment. All administrative decisions under the *Fisheries Act 1994* are subject to appropriate review as the Act includes a right of appeal to the Fisheries

Tribunal.

The proposed amendment to the *Primary Producers' Organisation and Marketing Act 1926* confirming that references in the *Queensland Commercial Fishermen's Organisation Regulations 1989* to licences under the *Fishing Industry Organisation and Marketing Act 1982* are taken to be references to equivalent licences under the *Fisheries Act 1994* is likely to have a retrospective effect.

The intention of the amendment is to ensure that all holders of Master Fisherman's Licences under the *Queensland Commercial Fishermen's Organisation Regulations 1989* will continue to remain members of the Queensland Commercial Fishermen's Organisation, notwithstanding that the name of the licence under the *Fisheries Act 1994* has changed to Commercial Fisher Licence. The amendment removes any uncertainty in relation to the transitional arrangements arising from the change in the name of the licence. It therefore reflects the original policy intent of the *Fisheries Act 1994* and *Fisheries Regulation 1995*.

Consultation

Relevant industry groups have been consulted in relation to the proposed amendments. In particular the following producer groups and statutory authorities have been consulted in relation to the following amendments.

Dairy Industry Act 1993

Queensland Dairy Authority

Queensland Dairyfarmers' Organisation

Exotic Diseases in Animals Act 1981

Beef Industry Development Advisory Committee

Fisheries Act 1994

Queensland Commercial Fisherman's Organisation

Queensland Fisheries Management Authority

Fruit Marketing Organisation Act 1923

Queensland Fruit and Vegetable Growers Organisation

Primary Producers' Organisation and Marketing Act 1926

Queensland Commercial Fisherman's Organisation

Queensland Dairyfarmers' Organisation

Queensland Fruit and Vegetable Growers' Organisation

Queensland Graingrowers Association

Queensland Pork Producers' Organisation

Tobacco Industry (Restructuring) Act 1996

Tobacco Leaf Marketing Board

Queensland Tobacco Marketing Cooperative Association Limited

Wheat Marketing (Facilitation) Act 1989

Queensland Graingrowers Association

Results of consultation

All of the relevant industry bodies and statutory authorities support the proposed amendments.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Clause 1 provides that the short title of the Act will be the *Primary Industries Legislation Amendment Act (No. 2) 1997*.

Clause 2 provides for the commencement of the Bill's provisions. Amendments are to be commenced on a day to be fixed by proclamation.

PART 2—AMENDMENT OF DAIRY INDUSTRY ACT 1993

Clause 3 provides that this part amends the *Dairy Industry Act 1993*.

Clause 4 provides that only processors of market milk are required to hold a processor's licence. Processors of other dairy products, for example cheese and ice cream will not be required to hold a processor's licence.

PART 3—REPEAL OF DEER FARMING ACT 1985

Clause 5 repeals the *Deer Farming Act 1985*.

PART 4—AMENDMENT OF EXOTIC DISEASES IN ANIMALS ACT 1981

Clause 6 provides that this part amends the *Exotic Diseases in Animals Act 1981*.

Clause 7 changes certain definitions under the Act. The term “quarantine zone” is replaced with the term “infected premises”. The term “infected zone” is replaced with the term “restricted area”. The term “control zone” is replaced with the term “control area”. These amendments implement common terminology throughout Australia.

Clause 8 amends the heading of part 2 division 2 to reflect the change in terminology from “quarantine zone” to “infected premises”.

Clause 9 amends section 9 to reflect the change in terminology from “quarantine zone” to “infected premises”.

Clause 10 amends the heading of part 2 division 3 to reflect the change of terminology from “infected zone” to “restricted area”.

Clause 11 amends section 10 to reflect the change from “infected zone” to “restricted area”.

Clause 12 amends section 11 to reflect the change of terminology from “infected zone” to “restricted area”.

Clause 13 amends section 12 to reflect the change of terminology from “infected zone” to “restricted area”.

Clause 14 amends section 13 to reflect the change of terminology from “infected zone” to “restricted area”.

Clause 15 amends section 14 to reflect the change of terminology from “infected zone” to “restricted area”.

Clause 16 amends section 15 to reflect the change of terminology from “infected zone” to “restricted area”.

Clause 17 amends the heading of part 2 division 5 to reflect the change in terminology from “control zone” to “control area”.

Clause 18 amends section 18 to reflect the change in terminology from “control zone” to “control area”.

Clause 19 amends section 19 to reflect the change in terminology from “control zone” to “control area”.

Clause 20 amends section 21 to reflect the changes in terminology from “quarantine zone” to “infected premises”, from “infected zone” to “restricted area”, and from “control zone” to “control area”.

Clause 21 amends provisions relating to payment of compensation to persons who owned animals which were destroyed or died as the result of an outbreak of an exotic disease.

The clause provides for an assessment of compensation within 90 days after the destruction of the animal or property, or the death of the animal. It then provides for a further assessment of compensation within 30 days after the end of a quarantine imposed under section 9(1B) of the Act. A person may only seek a second payment of compensation if the market value of the animal or property at the time when the quarantine ends is greater than the

amount of compensation paid at the time the animal died or was destroyed.

Other than these changes the clause reflects the existing operation of the Act.

Clause 22 omits the existing provision relating to the assessment of compensation.

Clause 23 makes transitional provisions resulting from the change of terminology used in the Act.

Clause 24 amends schedule 2 to reflect the change in terminology from “quarantine zone” to “infected premises”, from “infected zone” to “restricted area” and from “control zone” to “control area”.

PART 5—AMENDMENT OF FISHERIES ACT 1994

Clause 25 provides that this part amends the *Fisheries Act 1994*.

Clause 26 provides a definition of “VMS equipment”.

Clause 27 provides, as an example, that a management plan may include a requirement upon a commercial fisher to install, maintain and use VMS equipment.

Clause 28 amends references in the Act to reflect the numbering of sections of the *Statutory Instruments Act 1992*.

Clause 29 provides that the conditions which may be imposed on the issue or renewal of an authority under the Act may include a condition requiring the holder of the authority to install, maintain and use VMS equipment.

Clause 30 provides that recognition of signals obtained from a vessel monitoring system may be used as evidence of the position of a boat.

PART 6—AMENDMENT OF FRUIT MARKETING ORGANISATION ACT 1923

Clause 31 provides that this part amends the *Fruit Marketing Organisation Act 1923*.

Clause 32 makes provision for the removal of the position of “director of marketing” from the Queensland Fruit and Vegetable Growers’ Organisation.

Clause 33 omits references to the Stanthorpe Fruit and Vegetable Area and to the Deciduous Group Committee.

Clause 34 inserts provisions allowing for the dissolution of the Deciduous Group Committee and the vesting of assets, rights and liabilities of the Deciduous Group Committee in—

- (a) the Tomato Group Committee;
- (b) the Heavy Produce Group Committee;
- (c) the Other Fruits Group Committee; and
- (d) the Vegetable Group Committee.

The proportions of the distribution and the date of commencement are to be prescribed by regulation.

PART 7—AMENDMENT OF PRIMARY PRODUCERS’ ORGANISATION AND MARKETING ACT 1926

Clause 35 provides that this part amends the *Primary Producers’ Organisation and Marketing Act 1926*.

Clause 36 corrects a typographical error in the Act.

Clause 37 makes provision for the Governor in Council to prescribe that a person elected as a member of a particular mill suppliers committee may be taken also to be a member of the district canegrowers executive for the mill.

The clause also provides that the elected representatives on the district canegrowers executive, who are by virtue of office members of the mill suppliers committee, shall not be counted towards the maximum

membership of 10 members under the Act. The existing section 30(5A) is replaced by section 30(5F).

Clause 38 includes a transitional provision in the Act confirming the continued operation of the Queensland Dairyfarmers' Organisation and the Queensland Pork Producers' Organisation.

Clause 38 also includes a transitional provision in the Act confirming that references in the *Queensland Commercial Fishermen's Organisation Regulations 1989* to licences under the former *Fishing Industry Organisation and Marketing Act 1982* are taken to include references to equivalent licences under the *Fisheries Act 1994*.

PART 8—AMENDMENT TO TOBACCO INDUSTRY (RESTRUCTURING) ACT 1996

Clause 39 provides that this part amends the *Tobacco Industry (Restructuring) Act 1996*.

Clause 40 extends the expiry date for the Act from 31 December 1997 to 31 December 1998.

PART 9—AMENDMENT TO WHEAT MARKETING FACILITATION ACT 1989

Clause 41 provides that this part amends the *Wheat Marketing (Facilitation) Act 1989*.

Clause 42 changes the definition of Australian Wheat Board to include a designated company within the meaning of the *Wheat Marketing Act 1989* (Cth).

