

Agricultural Acts (Amendment) Act 1987

No. 11 of 1987

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Victoria

No. 11 of 1987

Agricultural Acts (Amendment) Act 1987

[Assented to 5 May 1987]

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purpose.

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

Commencement.

2. This Act comes into operation on a day or days to be proclaimed.

PART 2—AMENDMENTS TO *MARKETING OF PRIMARY PRODUCTS ACT 1958*

Parts.

3. In section 1 of the *Marketing of Primary Products Act 1958* omit the expression beginning “, and is divided” and ending at the end of the section.

No. 6304.
Reprinted to No.
8965 and
subsequently
amended by
Nos. 9921,
10024, 10243
and 61/1986.

Substitution of section 12.

4. For section 12 of the *Marketing of Primary Products Act 1958* substitute—

Accounts and records.

“12. (1) Every board must ensure that there are kept proper accounts and records of the transactions and affairs of the board and such other records as will sufficiently explain the financial operations and financial positions of the board.

(2) Every board must do all things necessary for the following:

- (a) To ensure that all money payable to the board is properly collected;
- (b) To ensure that all money expended by the board is properly expended and properly authorised;
- (c) To ensure that adequate control is maintained over assets owned by, or in the custody of, the board;
- (d) To ensure that all liabilities incurred by the board are properly authorised;
- (e) To ensure that efficiency and economy of operations are achieved and that waste and extravagance are avoided;
- (f) To develop and maintain an adequate budgeting and accounting system;
- (g) To develop and maintain an adequate internal audit system.”.

Annual report.

“12A. (1) In this section “financial year” in relation to a board means each 12 month period ending on the date fixed by the Minister in relation to that board.

(2) Every board must, in respect of each financial year, prepare an annual report containing—

- (a) a report of its operations during the financial year; and
- (b) financial statements for the financial year—

and submit the report to the Minister not later than 3 months after the end of the financial year, or any later date that the Minister approves.

(3) The report of operations referred to in sub-section (2) (a) must—

- (a) be prepared in a form and contain information determined by the board to be appropriate; and
- (b) contain any further information required by the Minister.

(4) The financial statements referred to in sub-section (2) (b) must—

- (a) contain information determined by the Treasurer to be appropriate; and

- (b) be prepared in a manner and form approved by the Treasurer; and
- (c) present fairly the results of the financial transactions of the board during the financial year to which they relate and the financial position of the board as at the end of that year; and
- (d) be signed by the principal accounting officer (by whatever name called) of the board and by the chairman and another member who must—
 - (i) state whether in their opinion the financial statements present fairly the results of the financial transactions of the board during the financial year to which they relate and whether they sufficiently explain the financial position of the board as at the end of the financial year; and
 - (ii) state whether at the date of signing the financial statements they were aware of any circumstances that would render any particulars included in the statements misleading or inaccurate and, if so, details of the circumstances; and
- (e) be audited as required by section 12B.

(5) The Minister must cause any annual report submitted to the Minister under this section to be laid before the Legislative Council and the Legislative Assembly before the expiration of the seventh sitting day of the Legislative Council or the Legislative Assembly, as the case may be, after the annual report has been received by the Minister.

(6) If a board fails to submit an annual report to the Minister by 3 months after the end of the financial year, or any later date that the Minister approves, the Minister must report or cause to be reported that failure and the reason for it to each House of the Parliament.

Audit.

“12B. (1) The financial statements referred to in section 12A (2) (b) must be audited by the Auditor-General.

(2) The Auditor-General has, in respect of the audit of the financial statements, all the powers conferred on the Auditor-General by any law relating to the audit of the public accounts.

(3) Without limiting sub-section (2), the Auditor-General and the officers of the Auditor-General—

- (a) have right of access at all times to the accounts and records of every board; and
- (b) may require from an officer or employee of a board any information, assistance and explanations necessary for the

performance of the duties of the Auditor-General in relation to the audit.

(4) Every board must pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of any audit by the Auditor-General under this section.”

Audit of liquidator's accounts and records.

5. After section 13 (5) of the *Marketing of Primary Products Act* 1958 insert—

“(5A) The Auditor-General may audit the accounts and records of a liquidator appointed under sub-section (5).

(5B) The Auditor-General has, in respect of such an audit, all the powers conferred on the Auditor-General by any law relating to the audit of public accounts.

(5C) Without limiting sub-section (5B), the Auditor-General and the officers of the Auditor-General—

- (a) have right of access at all times to the accounts and records of the liquidator; and
- (b) may require from the liquidator any information, assistance and explanations necessary for the exercise of the powers of the Auditor in relation to the audit.

(5D) The liquidator must pay to the Consolidated Fund from the assets of the board an amount to be determined by the Auditor-General to defray the costs and expenses of any such audit.”

Borrowing powers.

6. (1) For section 20 (1) (b) of the *Marketing of Primary Products Act* 1958 substitute—

- “(b) may arrange for financial accommodation—
- (i) with any bank, institution or person; and
 - (ii) in any form or by any method; and
 - (iii) subject to any terms and conditions—
- approved by the Treasurer;”.

(2) After section 20 (1) of that Act insert—

“(1AA) In sub-section (1) (b) (i), “bank” means a bank within the meaning of the *Banking Act* 1959 of the Commonwealth or a bank constituted by a law of a State or the Commonwealth.”

New section 35B inserted.

7. After section 35A of the *Marketing of Primary Products Act 1958* insert—

Objectives of Board.

“35B. In addition to any objectives specified in the *Tobacco Leaf Industry Stabilization Act 1966* the Board has the following objectives:

- (a) To maximise returns for tobacco growers in Victoria;
- (b) To operate a cost-efficient tobacco leaf marketing system on behalf of tobacco growers in Victoria.”.

Annual report

8. Section 44 of the *Marketing of Primary Products Act 1958* is repealed.

**PART 3—AMENDMENTS TO TOBACCO LEAF INDUSTRY
STABILIZATION ACT 1966**

Parts.

9. In section 1 of the *Tobacco Leaf Industry Stabilization Act 1966*—

- (a) for “(1) This” substitute “This”; and
- (b) sub-section (2) is repealed.

No. 7427.
Amended by
Nos. 7887, 8181
and 8974.

Interpretation.

10. In section 2 of the *Tobacco Leaf Industry Stabilization Act 1966*—

- (a) the definitions of “Appeals Tribunal” or “Tribunal” and “Committee” are repealed; and
- (b) in the definition of “Grower’s basic quota”, for “Committee” substitute “State Board”.

Abolition of Tobacco Quota Committee.

11. The Tobacco Quota Committee is abolished and Part III. of the *Tobacco Leaf Industry Stabilization Act 1966* is repealed.

Abolition of Tobacco Quota Appeals Tribunal.

12. The Tobacco Quota Appeals Tribunal is abolished and Part IV. of the *Tobacco Leaf Industry Stabilization Act 1966* is repealed.

Transitional.**13. (1) In this section—**

- (a) “Committee” means the Tobacco Quota Committee established under section 6 of the *Tobacco Leaf Industry Stabilization Act 1966*; and
- (b) “State Board” means the Tobacco Leaf Marketing Board appointed under the *Marketing of Primary Products Act 1958*; and
- (c) “Tribunal” means the Tobacco Quota Appeals Tribunal established under section 14 of the *Tobacco Leaf Industry Stabilization Act 1966*.

(2) On the commencement of this section the members of the Committee and the members of the Tribunal shall go out of office.

(3) On that commencement—

- (a) all rights, property and assets that, immediately before that commencement, were vested in the Committee or the Tribunal are, by force of this sub-section, vested in the State Board; and
- (b) all debts, liabilities and obligations of the Committee or the Tribunal existing immediately before that commencement become, by force of this sub-section, debts, liabilities and obligations of the State Board; and
- (c) the State Board shall, by force of this sub-section, be substituted as a party to any proceedings pending in any court to which the Committee or the Tribunal was a party immediately before that commencement; and
- (d) the State Board shall, by force of this sub-section, be substituted as a party to any arrangement or contract entered into by or on behalf of the Committee or the Tribunal as a party and in force immediately before that commencement; and
- (e) any reference to the Committee or the Tribunal in any Act or in any subordinate instrument within the meaning of the *Interpretation of Legislation Act 1984*, or in any agreement, instrument, deed or other document must, so far as it relates to any period after that commencement and if not inconsistent with the context or subject-matter, be construed as a reference to the State Board.

New section 21A inserted.

14. After section 21 of the *Tobacco Leaf Industry Stabilization Act 1966* insert—

Pecuniary interests of members.

"21A. (1) A member of the State Board who has a pecuniary interest in a matter being considered or about to be considered by the State Board must, as soon as practicable after the relevant facts have come to the member's knowledge, declare the nature of the interest at a meeting of the State Board.

(2) Sub-section (1) does not apply if the interest of the member consists only of being a member or creditor of a company which has an interest in a contract or proposed contract with the State Board and the interest of the member may properly be regarded as not being a material interest.

(3) The person presiding at a meeting at which a declaration is made must cause a record of the declaration to be made in the minutes of the meeting.

(4) After a declaration is made by a member—

- (a) the member must not be present during any deliberation of the State Board with respect to that matter; and
- (b) the member is not entitled to vote on the matter; and
- (c) if the member does vote on the matter, the vote must be disallowed."

Costs.

15. In section 22 (1) of the *Tobacco Leaf Industry Stabilization Act* 1966, for "Tobacco Quota Committee and the Tobacco Quota Appeals Tribunal" substitute "administration of this Act".

Insurance of members.

16. Section 22A of the *Tobacco Leaf Industry Stabilization Act* 1966 is repealed.

New section 22A inserted.

17. Before section 23 of the *Tobacco Leaf Industry Stabilization Act* 1966 insert in Part VI.—

Objective of State Board for quota system.

"22A. The objective of the State Board in administering the quota system is to facilitate the optimum use of resources in the Victorian tobacco leaf industry."

Removal of references to "Committee".

18. (1) In sections 23 (1) (b), 24, 24A (1), 25, 26, 27, 29 and 32 of the *Tobacco Leaf Industry Stabilization Act* 1966, for "Committee" (wherever occurring) substitute "State Board".

(2) In section 30 (b) of that Act—

- (a) omit “by the Committee or” and
- (b) for “Committee” (where secondly and thirdly occurring) substitute “State Board”.

Substitution of section 31.

19. (1) For section 31 of the *Tobacco Leaf Industry Stabilization Act 1966* substitute—

Review of decisions of State Board.

“31. (1) An application may be made to the Administrative Appeals Tribunal for review of a decision of the State Board under this Part.

(2) Despite section 50 of the *Administrative Appeals Tribunal Act 1984*, on a proceeding relating to a decision of the State Board referred to in sub-section (1) the Tribunal must order that costs of the parties to the proceeding are to be paid by the State Board.”.

(2) Where before the commencement of section 12 the hearing of an appeal to the Tobacco Quota Appeals Tribunal had begun, the *Tobacco Leaf Industry Stabilization Act 1966* as in force immediately before the commencement of section 12 continues to apply to and in relation to the appeal as if section 12 had not been enacted.

(3) Where before the commencement of section 12 an appeal had been lodged with the Tobacco Quota Appeals Tribunal but the hearing of the appeal had not begun—

- (a) an application for review shall be deemed to have been made to the Administrative Appeals Tribunal; and
- (b) the Tobacco Quota Appeals Tribunal must send all documents relating to the appeal to the Registrar of the Administrative Appeals Tribunal; and
- (c) the Administrative Appeals Tribunal must hear and determine the matter as if an application had been made under section 31 of the *Administrative Appeals Tribunal Act 1984*.

(4) Notwithstanding sections 12 and 13, the Tobacco Quota Appeals Tribunal as in existence immediately before the commencement of section 12 continues in existence for the purposes of hearing and determining appeals to which sub-section (2) applies.

New section 33 inserted.

20. After section 32 of the *Tobacco Leaf Industry Stabilization Act* 1966 insert—

Annual report.

“33. The State Board must include a report on its administration of the quota system in each annual report that it is required to make under section 12A of the *Marketing of Primary Products Act* 1958.”.

Removal of references to “Committee” and “Appeals Tribunal”.

21. (1) In section 34 (c) and (d) of the *Tobacco Leaf Industry Stabilization Act* 1966 omit “, the Committee or the Appeals Tribunal”.

(2) In section 39 (2) of that Act—

(a) omit paragraphs (a) and (b); and

(b) in paragraphs (c) and (d), for “Committee” (wherever occurring) substitute “State Board”.

PART 4—AMENDMENTS TO WHEAT MARKETING ACT 1984**Interpretation.**

22. In section 3 (1) of the *Wheat Marketing Act* 1984 omit the definition of “Committee”. No. 10182.

Permits for purchase of wheat for stockfeed use.

23. In section 12 (5) of the *Wheat Marketing Act* 1984 omit “after considering the advice of the Committee”.

Advance payments for wheat.

24. In section 15 (16) of the *Wheat Marketing Act* 1984 (definition of “Prescribed day”) omit “after considering the advice of the Committee”.

Abolition of Victorian Wheat Advisory Committee.

25. (1) The Victorian Wheat Advisory Committee is abolished and Part III. of the *Wheat Marketing Act* 1984 is repealed.

(2) On the commencement of this section the members of the Victorian Wheat Advisory Committee shall go out of office.

PART 5—AMENDMENTS TO SWINE COMPENSATION ACT 1967**Parts.**

No. 7614.
Amended by
Nos. 7888, 8411,
8654, 9457,
9576, 9863 and
16/1986.

26. In section 1 (1) of the *Swine Compensation Act 1967* omit the expression beginning "and is divided" and ending at the end of the sub-section.

Swine Compensation Fund.

27. After the proviso to section 10 (3) (d) of the *Swine Compensation Act 1967* insert—

"and (e) to payments made in accordance with section 10A."

New sections 10A and 10B inserted.

28. After section 10 of the *Swine Compensation Act 1967* insert—

Swine industry projects.

"10A. (1) The Treasurer may, on the recommendation of the Minister, make payments from the Fund for projects for the benefit of the swine industry in Victoria.

(2) The Treasurer must not make a payment under sub-section (1) unless if the proposed payment was made the amount standing to the credit of the Fund immediately after the payment would be at least \$500 000.

(3) The Minister must consider recommendations from the committee established under section 10B before making a recommendation to the Treasurer for the purposes of sub-section (1)."

Swine Industry Projects Advisory Committee.

"10B. (1) There is established a committee to be known as the Swine Industry Projects Advisory Committee.

(2) The committee consists of 5 members appointed by the Minister, of whom—

- (a) two are officers of the Department; and
- (b) three are chosen from a panel submitted to the Minister by the Victorian Farmers Federation of the names of at least 5 people whom the Federation considers to represent the swine industry in Victoria.

(3) The failure of the Victorian Farmers Federation to submit a panel of names within 30 days after a request from the Minister does not prevent the Minister from appointing suitably qualified people as members of the committee.

(4) The Minister must appoint one of the members appointed under sub-section (2) (a) as chairperson of the committee.

(5) Each member holds office subject to any terms and conditions, not inconsistent with this Act, that are specified in the instrument of appointment of that member.

(6) Each member of the committee holds office for the term, not exceeding 3 years, that is specified in the instrument of appointment of that member, but is eligible for re-appointment at the end of the term if then qualified.

(7) The office of a member becomes vacant when—

- (a) the term of office expires; or
- (b) the member dies; or
- (c) the member attains the age of 65; or
- (d) the member becomes incapable of performing the functions of a member; or
- (e) the member resigns in writing delivered to the Minister; or
- (f) the member is removed from the office by the Minister; or
- (g) the member becomes bankrupt; or
- (h) the member is convicted of an indictable offence or of an offence which, if committed in Victoria, would be an indictable offence; or
- (i) the member is wilfully absent from 3 consecutive meetings of the committee without leave granted by the Minister.

(8) An act or decision of the committee is not invalid only because of—

- (a) a vacancy in the office of a member; or
- (b) a defect or irregularity in, or in connection with, the appointment of a member.

(9) A person who has attained the age of 65 years is not capable of being appointed or re-appointed as a member.

(10) A member is not, in respect of the office of member, subject to the *Public Service Act 1974*.

(11) The members appointed under sub-section (2) (b) are entitled to receive any fees and allowances that are fixed from time to time by the Minister.

(12) Subject to this section, the committee may regulate its own proceedings.

(13) The functions of the committee are to advise the Minister on—

- (a) any proposed projects for which payment pursuant to section 10A (1) is sought; and
- (b) any other matter that is referred to the committee by the Minister.

(14) In this section "Department" means the administrative unit specified in Column One of Schedule Two to the *Public Service Act* 1974 and called "Agriculture and Rural Affairs".

(15) If under the *Public Service Act* 1974 the name of the Department is changed, a reference in the definition of "Department" in sub-section (14) to "Agriculture and Rural Affairs" is from the date when the name is changed to be treated as a reference to the Department by its new name."

PART 6—AMENDMENTS TO BROILER CHICKEN INDUSTRY ACT 1978

Parts.

29. Section 1 (3) of the *Broiler Chicken Industry Act* 1978 is repealed.

Arbitration.

30. (1) In section 13 (2) of the *Broiler Chicken Industry Act* 1978, for the expression beginning "provisions of" and ending at the end of the sub-section substitute "*Commercial Arbitration Act* 1984 applies to the arbitration."

(2) Sections 13 (4) and (5) of the *Broiler Chicken Industry Act* 1978 are repealed.

No. 9199.
Amended by
No. 16/1986.

NOTES

1. Minister's second reading speech—

Legislative Assembly: 26 March 1987

Legislative Council: 16 April 1987

2. The long title for the Bill for this Act was "A Bill to amend the *Marketing of Primary Products Act* 1958, the *Tobacco Leaf Industry Stabilization Act* 1966, the *Wheat Marketing Act* 1984, the *Swine Compensation Act* 1967 and the *Broiler Chicken Industry Act* 1978 and for other purposes."