

1983-84

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Presented and read a first time, 5 September 1984

(*Minister for Primary Industry*)

A BILL

FOR

An Act to repeal the *Egg Export Control Act 1947* and the *Egg Export Charges Act 1947* and for related purposes

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

1. This Act may be cited as the *Egg Export Legislation Repeal Act 1984*.

5 **Commencement**

2. This Act shall come into operation on 1 January 1985.

Interpretation

3. In this Act, unless the contrary intention appears—

10 “Board” means the Australian Egg Board established by sub-section 5 (1) of the repealed Control Act;

“Egg Board”, in relation to a State, means the authority that is, for the purposes of the *Poultry Industry Levy Collection Act 1965*, the State Egg Board for the State;

“first relevant period” means the period commencing at the commencement of this Act and ending when the Minister gives a direction under sub-section 10 (2);

“Fund” means the Egg Export Fund established by sub-section 18 (1) of the repealed Control Act; 5

“prescribed liability” means—

(a) a liability of the Board to pay an amount to or in respect of a person employed by the Board, being a liability arising under—

(i) the terms and conditions of the person’s employment;

(ii) an industrial award as defined in sub-section 7 (1) of the *Public Service Act 1922*; 10

(iii) the *Long Service Leave (Commonwealth Employees) Act 1976*;

(iv) regulations made under the *Commonwealth Employees (Redeployment and Retirement) Act 1979*; or 15

(v) the *Superannuation Act 1976*; or

(b) a liability of the Board to pay a premium or other charge under or in connection with a contract of insurance;

“repealed Control Act” means the *Egg Export Control Act 1947* as amended and in force immediately before 1 January 1985; 20

“second relevant period” means the period commencing immediately after the end of the first relevant period and ending when a notice is published in the *Gazette* under section 11;

“State”, except in section 13, does not include Tasmania;

“Trust Account” means the Egg Export Trust Account established by sub-section 7 (3). 25

Repeal

4. (1) The following Acts are repealed:

Egg Export Control Act 1947

Egg Export Control Act 1948 30

Egg Export Control Act 1951

Egg Export Control Act 1953

Egg Export Control Act 1954

Egg Export Charges Act 1947

Egg Export Charges Act 1965 35

Egg Export Charges Act 1973.

(2) Notwithstanding the repeals effected by sub-section (1), the *Egg Export Charges Act 1947*, as amended and in force immediately before 1 January 1985, continues to apply in relation to eggs, within the meaning of that Act, exported from Australia before that date. 40

Board to continue in existence for certain purposes

5. Notwithstanding the repeals effected by sub-section 4 (1)—

- 5 (a) the Board continues in existence, by force of this section, for the purpose of complying with this Act, until a notice is published in the *Gazette* under section 11;
- 10 (b) sections 3, 5, 5A, 5B, 6, 7, 9 and 21 of the repealed Control Act continue to have effect while the Board so continues in existence;
- 15 (c) section 10 of the repealed Control Act continues to have effect while the Board so continues in existence, and so continues to have effect as if “powers and functions of the Board as the Minister, upon the recommendation of the Board, approves” were omitted from sub-section (3) of that section and “powers of the Board as the Board from time to time determines” were substituted;
- 20 (d) section 12 of the repealed Control Act continues to have effect while the Board so continues in existence, and so continues to have effect as if “exercising its powers and performing its functions under this Act” were omitted from sub-section (1) of that section and “complying with the *Egg Export Legislation Repeal Act 1984*” were substituted;
- 25 (e) section 18 of the repealed Control Act continues to have effect—
- 30 (i) if, when the Minister gives a direction under sub-section 10 (2), there is money forming part of the Fund—until immediately after that money has vested as mentioned in sub-section 10 (2); or
- 35 (ii) if sub-paragraph (i) does not apply—until immediately after the end of the first relevant period; and
- (f) section 22 of the repealed Control Act continues to have effect in relation to a person who is or has been a member of the Board.

Board to prepare report

30 6. (1) The Board shall, as soon as practicable after 1 January 1985, and, in any event, within 3 months after that date, prepare and submit to the Minister a report as to the general operation of the repealed Control Act during the period that commenced at the end of the last period in respect of which the Board reported to the Minister under section 23 of the repealed Control Act and ended immediately before 1 January 1985.

35 (2) The Minister shall cause copies of the report submitted by the Board under sub-section (1), together with a statement by the Minister as to the operation of the repealed Control Act during the period to which the report relates, to be laid before each House of the Parliament within 15 sitting days of that House after receipt of the report by the Minister.

Discharge of obligations of the Board

7. (1) The Board shall, as soon as practicable after 1 January 1985—

(a) pay or discharge all its debts, liabilities and obligations existing immediately before that date or arising during the first relevant period; and

(b) perform or otherwise discharge its obligations under contracts or arrangements to which it was a party immediately before that date or to which it becomes a party during the first relevant period,

other than debts, liabilities and obligations that arise after the Board has complied with sub-section (4) and are prescribed liabilities.

(2) Where the Board—

(a) incurs a liability during the second relevant period;

(b) is insured against that liability; and

(c) receives from the insurer an amount in respect of that liability,

the Board shall—

(d) apply the amount—

(i) in paying or discharging any debt or liability incurred by the Board in the course of getting in the amount; and

(ii) in discharging the liability referred to in paragraph (a); and

(e) pay the balance (if any) of the amount into the Trust Account.

(3) For the purposes of this Act, there shall be an account, to be known as the Egg Export Trust Account, which shall be a Trust Account for the purposes of section 62A of the *Audit Act 1901*.

(4) The Board shall, as soon as practicable after 1 January 1985, pay into the Trust Account an amount, or amounts totalling an amount, equal to the amount determined in writing by the Secretary to the Department, or by a person authorized by the Secretary for the purpose, to be the total of the amounts of the prescribed liabilities that may reasonably be expected to arise during the remainder of the first relevant period and during the second relevant period.

(5) Money standing to the credit of the Trust Account shall be applied in discharging prescribed liabilities arising after the Board has complied with sub-section (4).

(6) Interest received from the investment of money standing to the credit of the Trust Account forms part of the Trust Account.

Board to prepare financial statements

8. (1) The Board shall, as soon as practicable after the prescribed time, and, in any event, within 3 months after the prescribed time, prepare and submit to the Minister financial statements, in such form as the Minister for Finance approves, in respect of the period that commenced at the end of the last period in respect of which the Board reported to the Minister under section 23 of the repealed Control Act and ended at the prescribed time.

(2) In sub-section (1), “prescribed time” means the earliest time when the Board—

- (a) has complied with sub-sections 6 (1) and 7 (4);
- (b) has paid or discharged all its debts, liabilities and obligations that existed immediately before 1 January 1985; and
- (c) has performed or otherwise discharged its obligations under contracts or arrangements to which it was a party immediately before 1 January 1985.

(3) Before submitting financial statements to the Minister under sub-section (1), the Board shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether, in the Auditor-General’s opinion, the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and, in the Auditor-General’s opinion, show fairly the financial transactions and the state of the affairs of the Board;
- (c) whether, in the Auditor-General’s opinion, the receipt, expenditure and investment of money, and the acquisition and disposal of assets, by the Board during the period to which the statements relate have been in accordance with the applicable provisions of the repealed Control Act and of this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(4) The Minister shall cause copies of the financial statements submitted by the Board under sub-section (1), together with a copy of the report of the Auditor-General relating to the financial statements, to be laid before each House of the Parliament within 15 sitting days of that House after receipt by the Minister of the report of the Auditor-General.

Remuneration, &c., of Board members and deputies

9. The Board shall pay to a member of the Board or to a deputy of such a member, in respect of the performance of the duties of the member or deputy under this Act during the first relevant period, such remuneration and allowances (if any) as the Minister, by notice in writing given to the Board from time to time, directs.

Application of Board’s assets and of the Fund

10. (1) The Board—

- (a) shall continue to maintain the prescribed account or prescribed accounts maintained by the Board immediately before 1 January 1985;
- (b) may, for the purposes of this Act, open and maintain further prescribed accounts;
- (c) shall pay into a prescribed account maintained by the Board all money received by the Board, other than money forming part of the Fund;

(d) shall, as soon as practicable after 1 January 1985—

(i) realize any securities in which money forming part of the Fund is invested and pay the proceeds into the Fund; and

(ii) realize any other securities held by the Board; and

(e) shall apply for the purposes of complying with sub-sections 7 (1) and (4) so much of the money standing to the credit of a prescribed account maintained by the Board, or to the credit of the Fund, as it is necessary to apply for those purposes. 5

(2) If the Minister is satisfied that—

(a) the Board has complied with sub-sections 6 (1) and 7 (4) and with section 8; and 10

(b) the Board has—

(i) paid or discharged all its debts, liabilities and obligations existing immediately before the commencement of this Act or arising since that commencement; and 15

(ii) performed or otherwise discharged its obligations under contracts or arrangements to which it was a party immediately before the commencement of this Act or to which it has become a party since that commencement,

other than debts, liabilities and obligations that have arisen since the Board complied with sub-section 7 (4) and are prescribed liabilities, 20

the Minister may direct in writing that the assets of the Board shall vest in accordance with this sub-section and, if the Minister so directs—

(c) any rights, property or assets that, at the time of the direction, are vested in the Board (other than rights under a contract of insurance and moneys standing to the credit of the Trust Account); and 25

(d) any money that, at the time of the direction, forms part of the Fund, vest, by force of this sub-section, jointly in the Egg Boards of the States.

(3) In this section, “prescribed account” means an account with the Reserve Bank of Australia or with the Commonwealth Bank of Australia. 30

Dissolution of Board

11. If the Minister has given a direction under sub-section 10 (2) and is satisfied that—

(a) the Board has complied with sub-section 7 (2) in relation to each liability incurred by the Board since the direction was given, being a liability against which the Board is insured; 35

(b) all prescribed liabilities that have arisen since the Board complied with sub-section 7 (4) have been discharged; and

(c) if the Board were to continue in existence indefinitely, no further liability of a kind referred to in paragraph (a) of the definition of “prescribed liability” in section 3 could reasonably be expected to arise, 40

the Minister may, by notice in writing published in the *Gazette*, declare that the Board shall cease to exist and, upon publication of the notice—

(c) the Board ceases to exist; and

(d) the money (if any) standing to the credit of the Trust Account vests, by force of this section, jointly in the Egg Boards of the States.

Delegation

12. (1) For the purposes of discharging its obligations under this Act, the Board may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate to a person any of its powers, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this section, be deemed to have been exercised by the Board.

(3) A delegation under sub-section (1) does not prevent the exercise of a power by the Board.

Exemption from taxation

13. An instrument or document that the Secretary to the Department, or an officer of the Department authorized by the Secretary for the purpose, certifies to have been made, executed or given by reason of, or for a purpose connected with or arising out of, the operation of this Act is not liable to stamp duty or other tax under a law of the Commonwealth or of a State or Territory.

Amendment of *Administrative Decisions (Judicial Review Act) 1977*

14. Schedule 2 to the *Administrative Decisions (Judicial Review) Act 1977*¹ is amended by omitting from paragraph (k) "Australian Egg Board".

NOTE

1. No. 59, 1977, as amended. For previous amendments, see No. 66, 1978; No. 111, 1980; Nos. 111, 115, 122, 137, 140 and 153, 1982; Nos. 62 and 144, 1983; and No. 76, 1984.

