

Farm Produce Wholesale (Amendment) Bill

EXPLANATORY MEMORANDUM

- Clause 1 provides that the main purposes of the Act are to repeal the **Farm Produce Wholesale Act 1990**, make interim arrangements for the administration of that Act by the Melbourne Market Authority until its repeal and to make consequential amendments to other Acts.
- Clause 2 is the commencement provision. The preliminary provisions of the Act come into operation the day the Act receives Royal Assent. All other provisions, other than section 23, come into operation when proclaimed and, if not proclaimed within 12 months after the Act receives Royal Assent, then on the day after the end of that period. Section 23, which repeals the **Farm Produce Wholesale Act 1990**, comes into operation on 31 December 1997.
- Clause 3 provides for the **Farm Produce Wholesale Act 1990** to be called the Principal Act in Part 2 of this Act.
- Clause 4 defines "Authority" as the Melbourne Market Authority.
- Clause 5 amends section 5 of the Principal Act to empower the Authority to appoint a Registrar and Deputy Registrar.
- Clause 6 amends section 7 of the Principal Act enabling the Registrar to delegate his or her powers to the Deputy Registrar.
- Clause 7 repeals a redundant provision about annual reports.
- Clause 8 alters the procedures for applications for the renewal or transfer of a licence.
- Clause 9 amends section 13(1) of the Principal Act in relation to the grant, renewal and transfer of licences by—
- substituting "Authority" for "Minister";
 - amending paragraph (f) to enable the Registrar or the Authority to refuse to grant a licence or approve the transfer of a licence where the applicant or proposed transferee has been found guilty, but not convicted of, an offence against the Principal Act, the **Fair Trading Act 1985** or the **Trade Practices Act 1974**; and

- inserting after paragraph (f) two new paragraphs that will provide additional grounds for the Authority or the Registrar refusing to grant, renew or approve the transfer of an existing licence where the applicant or the proposed transferee may be deemed to be insolvent or is an externally administered body corporate within the meaning of the Corporations Law.
- Clause 10 inserts into the Principal Act new provisions that describe the circumstances in which a person may be considered not to be a fit and proper person to hold a licence.
- Clause 11 amends section 14 of the Principal Act to provide that the period of a licence is a period fixed by the Authority not exceeding 2 years.
- Clause 12 amends section 15(1) of the Principal Act in relation to the suspension and cancellation of a licence by—
- substituting "Authority" for "Minister";
 - amending paragraph (a) to enable the Authority to suspend or cancel a licence or where the licensee has been found guilty, but not convicted of, an offence against the Principal Act, the **Fair Trading Act 1985** or the **Trade Practices Act 1974**; and
 - inserting after paragraph (e) two new paragraphs that will provide additional grounds for the Authority to suspend or cancel a licence where the licensee may be deemed to be insolvent or is an externally administered body corporate within the meaning of the Corporations Law.
- Clause 13 make consequential amendments.
- Clause 14 amends section 20(3) of the Principal Act in relation to decisions of the Registrar or the Authority that may be reviewed by the Administrative Appeals Tribunal.
- Clause 15 inserts into the Principal Act a new section 22 that empowers the Registrar to determine that a producer has suffered a pecuniary loss as a result of the failure of licensee to pay for produce.
- Clause 16 amends section 23 of the Principal Act to—
- empower the Registrar to certify that a producer has suffered a pecuniary loss if the Registrar is satisfied that a licensee is unable to pay an amount owed to a producer

provide that if the aggregate of determined losses in respect of a licensee exceeds the amount available under the indemnity lodged by the licensee each producer must be reimbursed according to the proportion which his or her determined loss bears to the aggregate.

- Clause 17 amends section 32 to provide for the transfer of responsibility for the Market Reporting Service from the Registrar to the Melbourne Market Authority.
- Clause 18 amends section 36(1) of the Principal Act to provide that if so required a producer must supply written information to the Authority.
- Clause 19 amends section 43(3) of the Principal Act to provide for the service of documents on the Melbourne Market Authority.
- Clause 20 repeals section 45 of the Principal Act which is now redundant.
- Clause 21 inserts into the **Melbourne Market Authority Act 1977** a new section which provides that the market land is to be treated as a market for the purposes of paragraph (j) of the definition of a public place in section 3 of the **Summary Offences Act 1966**.
- Clause 22 amends section 5 of the **Melbourne Market Authority Act 1977** to expand the objects of the Authority to deal with the regulation of wholesaling.
- Clause 23 repeals the **Farm Produce Wholesale Act 1990**.
- Clause 24 details transitional arrangements for indemnities in force before the repeal the **Farm Produce Wholesale Act 1990**.

