

Grain Handling and Storage Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 states the purpose of the Act.

Clause 2 provides for the commencement of the Act.

Clause 3 contains self-explanatory definitions of terms used in the Act.

Clause 4 provides that the Act binds the Crown in the right of Victoria, and so far as legislative power permits the Crown in its other capacities.

PART 2—THE AGREEMENT

Clause 5 provides that the agreement, a copy of which is in Schedule 1, is ratified and approved.

Clause 6 authorises the implementation of the State Agreement and authorises, empowers and requires the Government, the Ministers, instrumentalities and bodies created by or under an Act to give full effect to the State Agreement. It further provides that a person must not interfere with the operation or the implementation of the State Agreement.

Clause 7 provides for the modification of the law of Victoria to the extent of any inconsistency between it and provisions of the State Agreement.

Clause 8 permits parties to the State Agreement to agree to variation and for the Minister to cause a copy of the agreement to be tabled in Parliament. The Clause further provides for revocation of such agreement made in this section through resolution of either House of Parliament.

Clause 9 enables the enforcement of the State Agreement only by the State, another party to it or a successor or assignee of another party.

Clause 10 declares that section 23 (1) of the **Crown Proceedings Act 1958** authorises the granting and enforcement of a decree of performance against the Crown.

Clause 11 enables the Treasurer to repay GEB liabilities from the sale proceeds and appropriates the Consolidated Fund accordingly.

Clause 12 provides for superannuation in respect of GEB employees and officers. It enables an officer to transfer a transfer amount to a complying superannuation scheme, enables the Minister for Finance to determine the terms and conditions of the transfer, provides for the Victorian Superannuation Board to make payments of transfer amounts and to pay amounts from the Purchaser into relevant superannuation funds. It also provides for the application of the **Superannuation (Portability) Act 1989**.

PART 3—OFFICE OF THE REGULATOR-GENERAL

Clause 13 provides that this Part is relevant legislation for the purposes of the **Office of the Regulator-General Act 1994**.

Clause 14 states the objectives of the Office in relation to the regulated industry.

Clause 15 provides for the purposes of Part 3 of the **Office of the Regulator-General Act 1994**, the definition of the regulated industry, the scope of the prescribed prices for the regulated industry and the scope of the prescribed services for the regulated industry. The Clause further provides for the matters to which the Office must have regard in making a determination in respect of prescribed prices.

Clause 16 provides for the rules of access for a facility used in provision of prescribed services.

Clause 17 obliges the owner of a prescribed facility to provide access on fair and reasonable terms and conditions and the Clause sets out the circumstances under which the terms and conditions of access may vary.

Clause 18 provides for a procedure for the owner of prescribed services and a person seeking access, if agreement cannot be reached on the terms and conditions of access. It further provides that the Office may make a determination after application is made in writing.

Clause 19 provides for the application of a general determination with regard to the terms and conditions of access to prescribed services.

Clause 20 sets out the requirement that must be met for the permanent closure of a declared grain storage facility.

Clause 21 prohibits the owner of prescribed services or other person having access from hindering access.

Clause 22 provides for the owner of a facility to keep financial records in respect of prescribed services and Part 3A of the **Office of the Regulator-General Act 1994** applies to these records.

Clause 23 obliges the Office to conduct inquiries with regard to prescribed services by the Office, to determine if the services are a significant infrastructure facility. It also provides for the conduct of the inquiry.

Clause 24 revokes any existing determination by the Office if a significant infrastructure facility ceases to be a significant infrastructure facility.

Clause 25 provides for the Office make price determinations in respect of prescribed services where the facility has ceased to be a significant infrastructure facility.

PART 4—TRANSFER OF PROPERTY

Clause 26 provides for the transfer of GEB property, rights and liabilities.

Clause 27 provides for the Purchaser to become party to agreements in the place of the GEB and, after the completion date, an agreement has effect as if the Purchaser had always been a party to the agreement.

Clause 28 provides that GEB instruments relating to transferred property continue to have effect.

Clause 29 provides that after the completion date the transferee is substituted for the GEB as a party to proceedings

Clause 30 provides that the transferee of transferred property is to be taken as the registered proprietor and has the same rights and remedies in respect of the interest.

Clause 31 makes provision for the amendment to the Register of Titles, are necessary for the operation of this Act.

Clause 32 provides that no stamp duty is payable for anything done under the Act or in compliance with a Direction for the transfer of property rights or liabilities of the GEB to a Purchaser or to a Subsidiary.

Clause 33 provides for the Subsidiary, in the transfer of rights and liabilities of the GEB, in accordance with the Direction, to become party to agreements in the place of the GEB and, after the completion date, an agreement has effect as if the Subsidiary had always been a party to the agreement.

Clause 34 provides that where GEB liabilities are transferred to a subsidiary in accordance with the direction, the GEB ceases to have the rights and obligations and the Subsidiary has the rights and obligations.

PART 5—GENERAL

Clause 35 provides for the Purchaser or other persons to exercise certain rights for the construction and operation of works subject to the **Port of Portland Act 1958**.

Clause 36 provides for the Purchaser or other persons to exercise rights in respect of certain facilities in the Port of Geelong.

Clause 37 provides for the validity of things done under this Act or in compliance with a Direction, and nothing effected or suffered is to be regarded as frustrating any contract or releases any surety or obligee from any obligation.

PART 6—AMENDMENTS AND REPEAL

Clause 38 inserts into the definition of “public authority” in the **Treasury Corporation of Victoria Act 1992**, the words “Grain Elevators Board”.

Clause 39 repeals certain sections of the **Grain Elevators Act 1958**, and 39(2) repeals the **Grain Elevators Act 1958**.

SCHEDULES

Schedule 1 is the Agreement.

Schedule 2 contains the base charge for receipt and shipping of unprocessed grains.

