Primary Industries and Energy Legislation Amendment Bill 1988

Date Introduced: 13 April 1988
House: House of Representatives
Presented by: Hon. John Kerin, M.P., Minister for Primary Industries and Energy

Digest of Bill

Purpose

To facilitate amendments to legislation administered within the Primary Industries and Energy portfolio. This is an omnibus bill which amends some Acts and repeals others. The most significant matters affect legislation concerning the canned fruits and wool industries.

Canned Fruits Industry Legislation

Background

The Bill provides for the repeal of the *Canned Fruits Marketing Act 1979* and two associated Acts, the *Canned Fruits Levy Act 1979* and the *Canned Fruits Levy Collection Act*. These pieces of legislation provided for the statutory marketing of canned fruits (peaches, apricots, pears and mixtures thereof preserved in cans). These amendments will terminate all direct Commonwealth intervention in the marketing of canned deciduous fruits. This intervention dates back to 1920 when all production was acquired and pooling arrangements operated for domestic and export sales. The Australian Canned Fruits Board was established in 1926 with powers over export marketing.

In 1979, legislation was enacted by the Commonwealth along with complementary legislation in NSW, Victoria and South Australia establishing the Australian Canned Fruits Corporation (ACFC). One of the prime objectives of the new Act was the extension of marketing powers to the domestic market. The ACFC also operates a pool whereby returns from the domestic and specified export markets are equalised and an equalised return paid to canners.
In 1987, the Industries Assistance Commission (IAC) recommended that, with the exception of domestic prices, all statutory controls terminate at the end of 1987 and that domestic price setting powers be terminated one year later. These recommendations were based on the conclusions that the arrangements were costly and delayed structural adjustment in the industry.

The Government announced in September 1987 that it would adopt the IAC's recommendations but, following consultations with industry, agreed to extend the marketing arrangements for one year. All Commonwealth controls over the marketing of canned deciduous fruits will now cease at the end of 1988.

The Government considers that repeal of these Acts will allow for necessary structural adjustment and encourage more innovation. At the time of the announcement, the Government was aware of plans by canneries to amalgamate thereby improving efficiency and reducing costs. Amalgamation now however, seems highly unlikely.

This Bill provides for the ACFC to wind up its affairs in 1989.

**Main Provisions**

Clause 6 repeals the legislation under which the ACFC operates. The ACFC will continue (Clause 8) with existing members being re-appointed (Clause 9) in order to wind up its affairs as specified by Clauses 10 to 13. When this is complete, the Minister will dissolve the ACFC by notification in the Gazette (Clause 14). Levies will still be payable on fruit produced prior to the repeal (Clause 7).

**Wool Marketing Act 1987**

**Background**

The *Wool Marketing Act 1987* provided for major changes governing the operations of the Australian Wool Corporation (AWC) in line with Government policy for the reform of statutory marketing authorities and the wool auction system. For further details see Digest 87/73.

A number of situations have subsequently arisen which the Government considers need further attention.

The quality control powers of the AWC are presently limited to wool sold at auction and thus do not cover the 20% of the woolclip sold outside the system. This means the AWC is presently unable to prevent the export of wool which is contaminated by pesticide residues but sold by private sale.
The present penalty provisions of the Wool Marketing Act and Wool Marketing Regulations are considered ineffective with respect to the prosecution of corporations.

Regulations can be made in relation to registration of wool testing laboratories but there is no legislative authority which enables premises to be inspected for registration or compliance with approved procedures. The Government argues that there is a need for such authority to maintain the confidence of buyers in the integrity of Australia's wool testing and marketing system.

The Attorney General's Department has advised that delegated legislation could not confer power over another Commonwealth body. For the AWC this means that it could not use its regulation-making powers to obtain from the Commissioner of Taxation, information to facilitate the payment of refunds of the wool tax. Consequently, there is a need for specific provisions directing the Commissioner of Taxation to supply the relevant information.

**Main Provisions**

The proposed amendments of paragraphs 74 (1) (a), (c) and (i); and 74 (2) (a) and (d) will empower the AWC to prevent the sale for export of all wool which does not meet industry standards or terms, or which has not been prepared by a registered woolclasser.

This Bill provides for a new section 126A which is a standard corporate knowledge provision along the lines of Section 84 of the Trade Practices Act 1974 enabling prosecution of corporations.

The proposed amendments to paragraphs 127 (2) (c) and (d) will provide the legislative authority for inspection of wool testing laboratories.

Two paragraphs from the repealed Wool Industry Act will effectively be reinstated with the proposed new subsections 51A and 51B. These require the Commissioner of Taxation to provide the information necessary to facilitate the payment of refunds of the wool tax

*Minerals (Submerged Lands) Act 1981*

**Background**

As detailed in Digest 81/82, this Act provides for a regime to allow exploration for, and exploitation of, minerals from the seabed. Administration of the regime is to be shared jointly by the Commonwealth, States and Northern Territory. The Act has yet to be proclaimed because the complementary legislation is yet to be passed.
Through this amendment, the Government proposes to remove the requirement for a legislative basis for the State and Territory Ministers to carry out the day-to-day administration and authorise same by administrative action.

Main Provisions

The proposed amendments to Section 3 will allow State and Northern Territory Ministers to be authorised by administrative action.

*Plant Variety Rights Act 1987*

Background

Two anomalies have been identified in the Act in its present form. First, use of the term ‘public knowledge’ in the Act does not reflect the intent of the Act or conform with international practice. The concept of the term requires that only one person know about the new variety whereas ‘common knowledge’ infers widespread knowledge of the variety within the trade.

Secondly, members of the Plant Variety Rights Advisory Committee are not remunerated equally even though their contribution is equal.

Main Provisions

The proposed amendments to subsections 3(1) and 3(7) will change ‘public knowledge’ to ‘common knowledge’ while the proposed amendment to section 46 will provide for equal remuneration of all members of the Plant Variety Rights Advisory Committee.

Clarifying Amendments


Other Amendments
