

PRIMARY INDUSTRIES LEGISLATION AMENDMENT BILL 1998

EXPLANATORY NOTES

GENERAL OUTLINE

Short Title

This Act will be known as the *Primary Industries Legislation Amendment Act 1998*.

Objectives of the Legislation

The Bill amends the following Acts administered by the Minister for Primary Industries:

Agricultural Standards Act 1994

Brands Act 1915

City of Brisbane Market Act 1960

Forestry Act 1959

Grain Industry Restructuring Act 1991

Meat Industry Act 1993

Reasons for the Bill

Agricultural Standards Act 1994

There have been a number of serious threats to access to overseas markets over the past 25 years as a result of various incidents of avoidable chemical residue contamination in beef. There has been national acknowledgment that the ability of Australian industry to avoid such trade issues has been hampered, in part, because effective “vendor declaration” and “vendor liability” arrangements are still not routinely in use in Australia

when cattle are traded.

The cattle industry has responded to these concerns and has instituted a voluntary declaration system – the National Vendor Declaration (Cattle) – in which sellers make and supply declarations about the chemical treatments and history of their sale cattle. This system is now widely used in the cattle industry.

Deterrent effect from significant regulatory penalties for false declarations is necessary to add confidence and general rigour to the otherwise voluntary system.

The Bill will:

- Clarify that the objectives of the Act extend to wholesomeness and integrity issues in relation to the sale of stock;
- Create a new offence for sellers/vendors of stock to make false declarations or other representations about the stock in relation to specific wholesomeness and product integrity issues. Regulations made under the Act will provide details of the stock species and the specific issues the penalty provisions will apply to;
- Increase penalties under the Act to a level currently commensurate with the seriousness of the offences involv

Brands Act 1915

Australia is one of the world's major exporters of cattle hides—most other countries consume all their available leather making material internally. Queensland cattle hides are regarded in the world hide trade as being of inferior quality, with damage from fire brands being one of the major causes. Branding on the ribs of cattle is particularly implicated in reducing the value of hides.

The branding legislation currently limits the ability to brand on the cheek, and this position has not been widely used in the past. However, there is evidence of increased usage recently to avoid the hide damage caused by branding on the body, the prime hide area.

While there are no definitive scientific studies on the relative painfulness of branding on the cheek compared to other positions on the hide, there is sufficient veterinary opinion that this site is likely to be more sensitive than others.

The Bill will allow more flexible branding options, add value by reducing hide damage, encourage market acceptance for cattle hides and for beef generally; as well as achieving consistent branding practices for the Thoroughbred horse industry in Australia and New Zealand. The Bill will:

- Eliminate the rib branding positions for cattle and horses, and the cheek position for cattle and sheep;
- Include the twist position as a prescribed position;
- Include the thigh position as a separate prescribed position;
- Allow vertical branding;
- Eliminate the prescribed order of branding; and
- Allow for optional placement of age numerals and stud references below the brand or on any of the other prescribed position

City of Brisbane Market Act 1960

The Bill will amend the *City of Brisbane Market Act 1960* so that section 29 of the Act is “sunsetting” to expire on 31 August 1999. This section in effect provides the Brisbane Market Authority with exclusive right (ie. a statutory monopoly) to operate a wholesale fruit and vegetable market within the local authority area of the City of Brisbane. Termination (or deregulation) of the exclusivity arrangements was a unanimous recommendation in the May 1998 report to Government by the Brisbane Market Authority Review Committee.

The significance of the 31 August 1999 termination date is to line up the removal of the legislative provision with the expiry of the current wholesaler selling floor leases at the Market. This has specifically been requested by the wholesaler representative body (Brismark) who want adequate notice of the termination of exclusivity to be given. This in turn allows the wholesalers to decide whether to exercise a 5 year extension option on their leases to remain at Rocklea, or move to an alternative location.

Forestry Act 1959

The Bill will amend the *Forestry Act 1959* to specifically authorise the sale of forest products by the Primary Industries Corporation under the native Forest Sawlog Allocation System for the *Trade Practices Act 1974*

for a period of one year.

It is under the native Forest Sawlog Allocation System that the Primary Industries Corporation allocates the majority of the native forest sawlog resource to sawmillers who are Native Forest Sawlog Allocation Holders. Following the application of the *Trade Practices Act 1974* (“the TPA”) through the *Competition Policy Reform Act 1995* (Cth) to State Government businesses, the Primary Industries Corporation conducted an initial audit which found the Allocation System to be possibly in breach of the TPA.

Approximately 40 percent of the Allocation Holders have allocations under long-term contracts exempt from the TPA until their expiry between 2004 and 2007. To protect arrangements for the remaining sixty percent of allocation holders, a short-term authorisation of the Allocation System was enacted through the *Competition Policy Reform (Queensland -Exemptions) Regulation 1996*. This Authorisation expired on 27 September 1998.

The Bill will extend the TPA exemption for one year. The extension will allow the Primary Industries Corporation to continue current allocations until a long-term policy for the allocation of native sawlogs can be developed. This timing will allow consideration of the Regional Forest Agreement (“RFA”) in South-East Queensland, which is scheduled for completion by 31 December 1998 to be factored into the policy.

Grain Industry Restructuring Act 1991

The Bill will omit the Schedule to the *Grain Industry Restructuring Act 1991*. The Schedule deals with transitional provisions that were required on commencement of the Act. Now that the transitional period is over the provisions in the Schedule are superfluous.

Meat Industry Act 1993

The Bill removes the requirement in the Meat Industry Act 1993 that standards made by the Queensland Livestock and Meat Authority be approved by regulation. This section is superfluous as, according to the Statutory Instruments Regulation 1992, such standards are subordinate legislation in any event. The Bill will insert a provision in the Act stating clearly that standards are subordinate legislation and thereby do not require approval by regulation.

Estimated costs for government implementation

Nil.

Consistency with fundamental legislative principles

The provisions of the Bill are consistent with fundamental legislative principles as set out in the *Legislative Standards Act 1992*.

Consultation

Relevant industry groups have been consulted in relation to the proposed amendments. In particular, the following producer groups and statutory authorities have been consulted in relation to the following amendments.

Agricultural Standards Act 1994

There has been extensive consultation with the beef industry over several years. This has been primarily channelled through the Beef Industry Development Advisory Council which has representation from the:

Australian Lot Feeders' Association
Australian Meat Council (Queensland Association)
Cattlemen's Union
National Meat Association of Australia (Queensland Division)
Queensland Livestock Agents' Association
Queensland Livestock and Meat Authority
Retailers' Association of Queensland
United Graziers' Association of Queensland
Queensland Livestock Exporters' Association
Queensland Beef Industry Institute
Minister for Primary Industries
Department of Primary Industries

Brands Act 1915

Extensive public and industry consultation occurred during the Systematic Review process through the release of a discussion paper and two industry reference group workshops.

Consultation has primarily been channelled through the Beef Industry Development Advisory Committee (BIDAC). BIDAC has representatives from the industry organisations listed above.

City of Brisbane Market Act 1960

Brismark (the wholesale organisation) at the Brisbane Markets; Queensland Fruit and Vegetable Growers (the producer organisation); the Brisbane Market Authority and retailer representatives were consulted through their representatives on the Brisbane Market Authority Review Committee.

Forestry Act 1959

DPI Forestry has had ongoing discussions with the public and with industry, principally through the Australian Industry Stabilisation Conference and the Queensland Timber Board, regarding allocation arrangements beyond 30 September 1998.

Grain Industry Restructuring Act 1991 and Meat Industry Act 1993

Since the amendments are of a purely technical nature no consultation was undertaken.

Results of consultation

All of the relevant industry bodies and statutory authorities support the proposed amendments.

NOTES ON PROVISIONS**PART 1—PRELIMINARY**

Clause 1 provides that the short title of the Act will be the *Primary Industries Legislation Amendment Act 1998*.

PART 2—AMENDMENT OF AGRICULTURAL STANDARDS ACT 1994

Clause 2 provides that this part amends the *Agricultural Standards Act 1994*.

Clause 3 amends the definition section of the Act. The substantive amendment clarifies that the definition of “agriculture” in the Act extends to the sale of stock.

Clause 4 amends section 5 of the Act to extend the Chief Executive’s power to make standards to standards concerning the selling of stock.

Clause 5 increases the penalty for making a false or misleading representation about agricultural requirements to 100 penalty units.

Clause 6 increases the penalty for possessing an agricultural requirement in trade or commerce containing a prohibited material or too much of a harmful ingredient to 100 penalty units.

Clause 7 increases the penalty for making a false or misleading representation about the use or non-use of hormonal growth promotants to 100 penalty units.

Clause 8 inserts a new provision that creates an offence for sellers of stock making false declarations or other representations about the stock in relation to specific wholesomeness and stock integrity issues. Regulations made under the Act will provide details of the stock species and the specific issues the penalty provisions will apply to.

PART 3—AMENDMENT OF BRANDS ACT 1915

Clause 9 provides that this part amends the *Brands Act 1915*.

Clause 10 amends the definition section of the Act consequent on the removal of the cheek and rib branding positions and including the twist position as a prescribed position.

Clause 11 deletes sub sections 6A(3) and (4) of the Act. Those provisions allowed the Registrar of Brands to give an authority to imprint a symbol brand in a position other than a position stated under section 7. The provisions are being deleted because the Bill will ban cheek and rib branding and it would not be appropriate for the Registrar to be able to override the ban and authorise their use for symbol brands.

Clause 12 omits section 7 and inserts a new section 7. The new section 7 omits references to cheek and rib branding and inserts reference to the twist position, the thigh position, and vertical branding. The new section 7 also eliminates the prescribed order of branding.

Clause 13 amends section 8 of the Act to allow for optional placement of age numerals and stud references below the brand or on any of the other prescribed positions.

Clause 14 amends section 9 of the Act, relating to special brands, to remove reference to cheek brands.

Clause 15 omits section 9A(4) of the Act. That provision allowed the Registrar of Brands to give an authority to imprint a special brand in a position other than a position stated under section 7. The provision is being deleted because the Bill will ban cheek and rib branding and it would not be appropriate for the Registrar to be able to override the ban and authorise their use for special brands.

Clause 16 amends section 10 of the Act, which relates to registration of sheep brands and marks, to remove references to face branding.

Clause 17 amends section 14 of the Act, which relates to distinguishing brands to be used by each public pound, to omit references to cheek and rib branding and the prescribed order of branding.

Clause 18 omits a redundant transitional provision and inserts a new one. The new transitional provision ends authority by the registrar to imprint a symbol brand or a special brand on the cheek or ribs. The registrar is required to give each person who holds an authority 30 days notice of the positions in which the person may imprint a symbol brand or special brand.

**PART 4—AMENDMENT OF CITY OF BRISBANE
MARKET ACT 1960**

Clause 19 provides that this part amends the *City of Brisbane Market Act 1960*.

Clause 20 amends section 29 of the Act by providing that the section expires on 31 August 1999. Section 29 provides the Brisbane Market Authority with exclusive right (ie. a statutory monopoly) to operate a wholesale fruit and vegetable market within the local authority area of the City of Brisbane.

PART 5—AMENDMENT OF *FORESTRY ACT 1959*

Clause 21 provides that this part amends the *Forestry Act 1959*.

Clause 22 inserts a new Part 7A into the Act. The new Part will specifically authorise the sale of forest products by the Primary Industries Corporation under the native Forest Sawlog Allocation System for the *Trade Practices Act 1974* for a period of one year. The new Part will expire 1 year after commencement.

PART 6—AMENDMENT OF *GRAIN INDUSTRY RESTRUCTURING ACT 1991*

Clause 23 provides that this part amends the *Grain Industry Restructuring Act 1991*.

Clause 24 omits the Schedule to the Act, which relates to transitional provisions because it is now superfluous.

PART 7—AMENDMENT OF *MEAT INDUSTRY ACT 1993*

Clause 25 provides that this part amends the *Meat Industry Act 1993*.

Clause 26 amends the definition section of the Act to insert a definition of “Chief Meat Officer”. The definition is required because the Act makes reference to that officer without defining the term.

Clause 27 omits section 71 of the Act which requires that standards made by the Queensland Livestock and Meat Authority be approved by regulation. The omitted section is superfluous as, according to the *Statutory Instruments Regulation 1992*, such standards are subordinate legislation in any event. The clause also inserts a new section 71 which explicitly provides that a standard is subordinate legislation, thereby removing the requirement for approval of the standard by regulation.

Clause 28 and *29* amend sections 104 and 109 of the Act respectively to update reference to the District Court. The update reflects the fact that there are no longer a number of District Courts throughout the State but one District Court with a number of registries.

Clause 30 omits section 162 of the Act and inserts a new section which updates a reference the Act governing the Queensland Public Service.

Clause 31 omits Parts 9 and 10 of the Act and inserts a new Part 9. The omitted Part 9 refers to an expired section and is therefore superfluous. The omitted Part 10 contained only a section which stated that the Act expires 7 years after section 22 commences. The new Part 9 clarifies the expiry date of the Act by explicitly stating the date on which it expires.