

Western Australia

LEGISLATIVE ASSEMBLY

Marketing of Meat Amendment Bill 1999

A Bill for

**An Act to amend the *Marketing of Meat Act 1971* and to
consequentially amend certain other Acts.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Marketing of Meat Amendment Act 1999*.

5 **2. Commencement**

(1) Subject to this section, this Act comes into operation on the day on which it receives the Royal Assent.

10 (2) Parts 2 and 3 come into operation on such day as is fixed by proclamation, but the proclamation cannot be made until the Minister has certified to the Governor that the Minister is satisfied that all necessary arrangements have been made for the commencement of those Parts.

3. Arrangements for commencement of Parts 2 and 3

15 (1) The Minister may give to the Governor the certificate required by section 2(2) when the Minister is satisfied that —

(a) there are in existence —

20 (i) a company registered as a co-operative company under Part VI of the *Companies (Co-operative) Act 1943* by the name “Western Australian Meat Marketing Co-operative Ltd” (“**the Company**”); and

25 (ii) a trust deed (“**the trust deed**”) under the provisions of which trustees may hold shares in the Company in trust for the benefit of, and distribute those shares among, lamb producers;

(b) the provisions —

(i) of the memorandum and articles of association of the Company; and

- (ii) of the trust deed,
are appropriate to achieve the purposes of Part 1A;
- (c) the shareholding in the Company is appropriate for the purposes of Part 1A;
- 5 (d) suitable trustees have been appointed for the purposes of the trust deed;
- (e) the Company has in writing notified the Minister that it agrees to the provisions of Part 1A, so far as they affect the Company; and
- 10 (f) the employment of each person appointed under section 14 of the principal Act has been arranged with the Company or the person is covered by provisions applicable under Part 6 of the *Public Sector Management Act 1994*.
- 15 (2) In subsection (1) —
- “**Minister**” means the Minister who is responsible for the administration of the principal Act;
- “**Part 1A**” means Part 1A to be inserted in the principal Act by section 7;
- 20 “**principal Act**” means the *Marketing of Meat Act 1971*.

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Part 2 — Amendments to the *Marketing of Meat Act 1971*

4. The Act amended

5 The amendments in this Part are to the *Marketing of Meat Act 1971**.

[* Reprinted as at 22 August 1988.

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, pp. 145-6.]

5. Long title replaced

10 The long title is repealed and the following long title is inserted instead —

“

An Act to provide for —

- 15
- **the transfer of the assets and liabilities of the Western Australian Meat Marketing Corporation by way of sale to a co-operative company controlled by lamb producers; and**
 - **the conferral on that company of certain exclusive marketing rights for slaughtered lamb,**
- 20 **and for related purposes.**

”.

6. Section 4 amended

(1) Section 4(1) is amended —

25 (a) by inserting the following definitions in their appropriate alphabetical positions —

“

“amending Act” means the *Marketing of Meat Amendment Act 1999*;

“**appointed day**” means the day fixed by proclamation made under section 2(2) of the amending Act;

“**Company**” means the company referred to in section 3(1)(a)(i) of the amending Act;

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”;

(b) in the definition of “Corporation” by inserting after “section 5” —

“ as in force immediately before the appointed day ”;

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(c) by deleting the definitions of “chairman”, “lamb product”, “livestock”, “manager”, “meat”, “meat product” and “member”; and

(d) after the definition of “lamb producer” by deleting the semicolon and inserting a full stop instead.

(2) Section 4(2) and (3) are repealed.

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7. Part IA inserted

After Part 1 the following Part is inserted —

“

Part 1A — Transfer of business of Western Australian Meat Marketing Corporation to a co-operative company

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Division 1 — Preliminary

4A. Definitions

In this Part, unless the contrary intention appears —

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“**assets**” means property of every kind whether tangible or intangible or real or personal, and includes without limitation —

(a) choses in action;

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(b) goodwill;

(c) rights, interests and claims of every kind in or to property,

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whether arising from, accruing under, created or evidenced by or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective;

10

“liability” means any liability, duty or obligation whether actual, contingent or prospective, liquidated or unliquidated, or whether owed alone or jointly or jointly and severally with any other person;

15

“right” means any right, power, privilege or immunity whether actual, contingent or prospective;

“trustees” means the trustees appointed for the purposes of the trust deed referred to in section 3(1)(a)(ii) of the amending Act;

“trust deed” means the trust deed referred to in section 3(1)(a)(ii) of the amending Act.

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4B. Purposes of this Part

(1) The purposes of this Part are to bring about —

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(a) the transfer of the assets and liabilities of the Corporation to the Company by way of sale of the Corporation’s business; and

(b) the issue to the trustees of shares in the Company (**“the shares”**) equal to the net value of that business.

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(2) This is to be done on the basis that —

(a) the trustees will have the shares vested in them without their giving consideration; and

(b) under the provisions of the trust deed, the trustees —

(i) will hold the shares in trust for the benefit of lamb producers; and

5 (ii) will be required to distribute the shares in the Company among lamb producers.

4C. Restrictions on amendment of governing documents

The provisions of —

10 (a) the memorandum and articles of association of the Company; or

(b) the trust deed,

must not be amended without the prior approval of the Minister.

Division 2 — Sale of Corporation's business to Company

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4D. Transfer of Corporation's business to Company

(1) On the appointed day the assets and rights of the Corporation are by force of this section transferred to the Company by way of sale and without the need for any conveyance or assignment.

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(2) On and after the appointed day the liabilities of the Corporation are, by force of this section, the liabilities of the Company.

4E. Determination of amount of consideration for sale

25 (1) The Minister, after consultation with the Company, is to determine the net value of the business of the Corporation as at the appointed day.

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- (2) The net value of the business is the total value of the assets and rights transferred to the Company by section 4D(1) less the amount of the liabilities transferred to the Company by section 4D(2).
- 5 (3) The Minister is to notify the Company in writing of —
- (a) the net value determined under subsection (1); and
 - (b) the nominal value of the shares to be issued by the Company under section 4F.
- 10 (4) A copy of the notice given under subsection (3) is to be given to the Corporation.
- (5) For the purposes of subsection (1), section 8A as in force immediately before the appointed day applies —
- (a) as if it had not been repealed; and
 - 15 (b) as if references in the section to the Corporation were references to the Company.

4F. Consideration to be satisfied by allotment of shares

- (1) The consideration for the transfer effected by section 4D is that the Company must allot and issue to
- 20 the trustees fully paid shares in the Company that have a total par value equal to the net value specified in the notice given to the Company under section 4E(3) (“**the notice**”).
- (2) The shares are to have a nominal value specified in the
- 25 notice.
- (3) The allotment and issue of shares is to be made as soon as is practicable after the notice is given.

4G. Corporation to prepare statement

(1) As soon as is practicable after notice is given to the Corporation under section 4E(3) the Corporation is to prepare a statement showing as at the appointed day —

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(a) a description of the assets and rights of the Corporation that have been transferred to the Company under section 4D; and

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(b) a description of the liabilities of the Corporation that have become the liabilities of the Company under that section.

(2) The statement is to also specify —

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(a) the value of each asset as at the appointed day; and

(b) the amount of each liability, or category of liabilities, as at that day,

as determined by the Minister under section 4E(1).

(3) The Corporation is to cause the statement to be published in the *Gazette* for public information.

4H. Values etc. may be estimated if necessary

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It is sufficient for the purposes of this Division for a value or amount to be estimated if it is not reasonably practicable, for those purposes, for —

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(a) a definite value to be assigned to an asset or right as at the appointed day; or

(b) the exact amount of a liability, or category of liabilities, to be determined as at that day.

Division 3 — Other provisions relating to transfer to Company

4I. References to Corporation in agreements and instruments

- 5 On and after the appointed day agreements and instruments —
- (a) to which the Corporation is a party; or
 - (b) which contain a reference to the Corporation, have effect, by force of this section, as if —
 - 10 (c) the Company were substituted for the Corporation as a party to the agreement or instrument; and
 - (d) any reference to the Corporation were, unless the context otherwise requires, a reference to the Company.

15 **4J. Proceedings and remedies**

- On and after the appointed day —
- (a) the Company is a party to any proceedings by or against the Corporation commenced before the appointed day;
 - 20 (b) any proceedings or remedy that might have been commenced by, or available against or to, the Corporation may be commenced by, and are available against or to, the Company.

4K. Other things in progress

- 25 (1) Any act, matter or thing done or made known, or omitted to be done, before the appointed day by, to or in respect of the Corporation is to be taken to have been done, made known or omitted by, to or in respect of the Company.

- (2) Subsection (1) applies only to the extent that the act, matter or thing has any force, effect or significance after the appointed day.

4L. Records of Corporation

- 5 (1) The Corporation is to deliver to the Company all registers, papers, documents, minutes, receipts, books of account and other records (however compiled, recorded or stored) relating to the operations of the Corporation.
- 10 (2) The Corporation's obligations under subsection (1) are subject to its requirements to have access to information for the purposes of giving effect to Division 2.

4M. Stamp duty

- 15 (1) Stamp duty under the *Stamp Act 1921* is not chargeable on the transfer of assets and liabilities effected by operation of section 4D.
- (2) The Minister may certify in writing that a specified asset or liability was transferred by operation of section 4D, and such a certificate is conclusive evidence of that fact, unless the contrary is shown.
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4N. Annual report for part of year

25 The accountable authority, within the meaning in the *Financial Administration and Audit Act 1985*, of the Corporation is to report as required by section 66 of that Act for the period from the preceding 1 July to the appointed day, and Division 14 of Part II of that Act applies as if that period were a full financial year.

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4O. Completion of things commenced

5 Anything commenced to be done by the Corporation under this Act before the appointed day may be continued by the Company so far as the doing of that thing is within the powers of the Company under this Act after that day.

4P. Performance of necessary transitional functions

- 10 (1) Despite the repeal effected by section 8 of the amending Act, the Corporation continues in existence for the purpose of —
- (a) receiving the notice referred to in section 4E(4);
 - (b) performing the functions described in sections 4G and 4L; and
 - (c) reporting as required by section 4N.
- 15 (2) The accountable authority, within the meaning in the *Financial Administration and Audit Act 1985*, of the Corporation also continues in existence for the purpose described in subsection (1)(c).
- (3) For the purposes of subsection (1) the Corporation —
- 20 (a) is to be constituted by a person appointed by the Minister; and
- (b) is to perform the functions referred to in that subsection through that person.
- (4) The person referred to in subsection (3) holds office at the pleasure of the Minister and on such terms and conditions as the Minister determines.
- 25 (5) The Corporation as constituted under this section has the powers that are necessary or convenient for the purposes of subsection (1).

- (6) The Minister is to provide the clerical or other assistance that the Corporation reasonably requires for the purposes of subsection (1).

4Q. Further transitional provision may be made

- 5 (1) If there is no sufficient provision in this Part for any matter or thing necessary or convenient to give effect to the transition from the Corporation to the Company the Minister may make that provision by order published in the *Gazette*.
- 10 (2) An order under this section may be made so as to have effect from the appointed day.
- (3) To the extent that a provision of any such order has effect on a day that is earlier than the day of its publication in the *Gazette*, the provision does not
- 15 operate so as —
- (a) to affect, in a manner prejudicial to any person (other than the State), the rights of that person existing before the day of its publication; or
- (b) to impose liabilities on any person (other than the
- 20 State) in respect of anything done or omitted to be done before the day of publication.

4R. Saving

The operation of any provision of this Part is not to be regarded —

- 25 (a) as a breach of contract or confidence or otherwise as a civil wrong;
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or
- 30 liabilities or the disclosure of information;

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- 5
- (c) as giving rise to any remedy by a party to an instrument or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability;
 - (d) as causing any contract or instrument to be void or otherwise unenforceable; or
 - (e) as releasing or allowing the release of any surety.
- ”.

10 **8. Part II repealed**

Part II is repealed.

9. Sections 16, 17 and 18 repealed

Sections 16, 17 and 18 are repealed.

10. Section 20 amended

15 Section 20(c) is deleted and the following paragraph is inserted instead —

“

- 20
- (c) the slaughtering is declared by the regulations to be exempted from the provisions of that section.

”.

11. Sections 21, 21A, 22, 26, 27 and 28 repealed

Sections 21, 21A, 22, 26, 27 and 28 are repealed.

12. Section 30 amended

- 25
- (1) Section 30(1) is amended by deleting “,whether civil or penal,”.
 - (2) Section 30(2) is repealed.

13. Section 31 amended

Section 31(2)(a), (b), (c) and (d) are deleted.

14. Section 32 replaced

Section 32 is repealed and the following section is inserted
5 instead —

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32. Duration of Act

(1) This Act continues in operation until the end of the
10 termination day, and no longer.

(2) In subsection (1) —

“**termination day**” means —

(a) 31 December 1999; or

(b) an earlier day fixed by the Governor by order
15 published in the *Gazette*.

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**15. Various sections amended to change “Corporation” to
“Company”**

The Act is amended by deleting “Corporation” wherever it
20 occurs in the provisions referred to in the Table to this section
and in each case inserting instead —

“ Company ”.

Table

sections 19(1), 30(1) and 31(1).

Part 3 — Consequential amendments to other Acts

16. *Constitution Acts Amendment Act 1899*

5 Schedule V to the *Constitution Acts Amendment Act 1899** is amended, in Part 3, by deleting the item relating to The Western Australian Lamb Marketing Board.

[* *Reprinted as at 22 January 1997.*

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 49 and Acts Nos. 4, 10, 13, 23 and 65 of 1998.]

10 **17. *Financial Administration and Audit Act 1985***

Schedule 1 to the *Financial Administration and Audit Act 1985** is amended by deleting the item relating to the Western Australian Meat Marketing Corporation.

[* *Reprinted as at 10 January 1997.*

15 *For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 84 and Acts Nos. 22 of 1997 and 4, 23, 25, 30, 42 and 65 of 1998 and Gazette 12 May 1998, 7 August 1998 and 18 September 1998.]*

18. *Government Employees Superannuation Act 1987*

20 Schedule 1 to the *Government Employees Superannuation Act 1987** is amended, in Part B, by deleting the item relating to The Western Australian Meat Marketing Corporation.

[* *Reprinted as at 27 May 1996.*

25 *For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 98 and Acts Nos. 4, 10, 23, 30 and 42 of 1998.]*

19. *Statutory Corporations (Liability of Directors) Act 1996*

Schedule 1 to the *Statutory Corporations (Liability of Directors) Act 1996** is amended by deleting the item relating to the Western Australian Meat Marketing Corporation.

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[* *Act No. 41 of 1996.*

For subsequent amendments see Acts Nos. 4, 25, 30 and 46 of 1998.]

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