

ANIMAL RESOURCES AUTHORITY AMENDMENT AND REPEAL BILL 2021

EXPLANATORY MEMORANDUM

OVERVIEW

The Bill provides for the State to exit ownership and operational control of the Animal Resources Authority, including the ability to realise its assets and discharge its liabilities. When the Bill is enacted and receives Royal Assent, the primary focus of the Authority will shift to implementing an orderly wind-up of its business. It is anticipated that this will involve the transfer of assets to an interested party to continue production operations under new a business model. The Bill requires all wind-up activities to be concluded no later than 30 June 2023. After 30 June 2023, the Authority is abolished and the necessary administrative steps are taken to formalise the resolution of matters.

CLAUSE NOTES

Outlined below is a brief description of each clause of the Animal Resources Authority Amendment and Repeal Bill 2021.

PART 1 PRELIMINARY MATTERS

Clause 1: Short Title

When enacted, the Bill will be cited as the *Animal Resources Authority Amendment and Repeal Act 2021*.

Clause 2: Commencement

This Act comes into operation in different parts.

Part 1 and Part 2 (with the exception of sections 6 and 12) come into operation on the day this Bill receives Royal Assent. On this date:

- the primary function of the Authority is to wind-up its affairs (including realising its assets and discharging its liabilities); and
- the Authority's Board is dissolved and is replaced by the Minister.

Sections 6 and 12 come into operation on 30 June 2023. On this date the Authority is abolished, employees transferred, and its accounts closed.

Remainder of the Act becomes operational on a day fixed by proclamation. On this date the Act is abolished.

PART 2 ANIMAL RESOURCES AUTHORITY ACT 1981 AMENDED

Clause 3: Act amended

States that Part 2 amends the *Animal Resources Authority Act 1981*.

Clause 4: Long Title Replaced

As the primary focus of the Authority becomes to wind-up its affairs the long title of the *Animal Resources Authority Act 1981* is replaced with “an Act to provide for the winding up of the Animal Resources Authority and related matters.”

Clause 5: Terms Used

Deletes the definitions for ***chairman, deputy chairman, committee member*** and ***temporary member***.

Inserts the definition of ***transition day*** which is 30 June 2023.

Clause 6: Application of Act limited

Inserts new section 3(a) which stipulates that this Act ceases to apply on or after the transition day (30 June 2023), except as provided in new Part 6 Division 2 of the Act (Clause 12).

Clause 7: Authority constituted by Minister

This clause provides that the Authority is to be constituted by the Minister for Health (the Minister).

This replaces the provisions in the Act that establish the process by which members are nominated and appointed to the Authority (existing section 5).

Existing section 6 (Constitution and proceedings (Sch.)) is also removed. Clause 13 below removes the Schedule from the Act.

Provisions relating to remuneration of members, personal protection from liability and all interaction with the *Public Sector Management Act 1994* (existing sections 7 and 8) are also removed, as they are no longer required.

Clause 8 Authority to continue performing its functions for certain purposes

New section 9(a) establishes that the primary function of the Authority is to undertake anything necessary or convenient to wind-up the affairs of the Authority and/or prepare reports and financial statements. This provision also overrides the existing functions and

powers of the Authority provided under sections 9 and 10 of the Act to ensure they are aligned with new section 9A.

Clause 9 **Execution of documents by Authority**

Makes consequential amendments to the execution of documents reflecting the removal of the definitions for ***chairman*** and ***deputy chairman*** in Clause 5.

Clause 10 **Proceedings not affected by irregularities**

Existing section 27 establishes that any act or proceeding of the Authority is not invalid due to irregularities in appointing members to a committee, or vacancies of a committee.

As the Authority will be constituted by the Minister (Clause 7), this section is no longer required, and is deleted.

Clause 11 **Part 6 - Transitional provisions for *Animal Resources Authority Amendment and Repeal Act 2021***

Division 1 – Members of Authority

This clause inserts new Part 6 “Transitional provisions for *Animal Resources Authority Amendment and Repeal Act 2021*”.

New section 27 disbands the Board of the Authority. Concurrently, the Minister constitutes the Authority under Clause 7.

When this clause is enacted the primary function of the Authority becomes winding up its affairs.

Clause 12 **Division 2 - Abolition of authority and related provisions**

This clause inserts Division 2 of new Part 6. This clause is enacted on transition day (30 June 2023) and inserts a range of new provisions as summarised below.

Terms used

Inserts a range of new terms into the Act.

Former Authority abolished

Establishes that on transition day, the Authority is abolished.

Staff members

Provides for the redeployment process of the Authority’s remaining employees.

Transfer of assets and liabilities

This provision transfers all assets and liabilities of the Authority to the State on transition day.

Exemption from State tax

Exempts anything done under Part 6 of the Act from State tax. Also exempt is anything done to give effect to Part 6. The Minister may certify what these actions are.

Closure of Account

Provides that on transition day any money standing to the credit of the Authority's bank account must be credited to the Consolidated Account.

Agreements, instruments and documents

Provides that agreements, instruments and documents that reference the Authority have effect from transition day as if that reference was amended to be a reference to the Minister.

Further, agreements, instruments and documents to which the Authority was a party have effect from transition day if the Minister was substituted as a party in those agreements.

Completion of things commenced

Things commenced by the Authority prior to transition day will continue provided they are within the functions of the Minister.

Continuing effect of things done

Provides that the effect of anything done prior to transition day continues after transition day so far as it is relevant to the Minister's functions.

Effect on other instruments, rights and obligations

Provides the legal parameters in which Part 6 must be read.

Clause 13**Schedule deleted**

Clause 13 deletes "Schedule – Provisions as to constitution and proceedings of the Authority."

The schedule provides for the filling of various roles in the Authority (e.g. chairman) and for the meetings and proceedings of the Authority. As these roles will be abolished and replaced by the Minister in Clause 7, this schedule is redundant.

Clauses 14, 15 and 16

Clause 14 repeals the *Animal Resources Authority Act 1981*.

Clauses 15 and 16 delete items relating to the Animal Resources Authority from the *Constitution Acts Amendment Act 1899* and *Financial Management Act 2006*.