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COMMITTEE NOTES

ON THE

WESTERN AUSTRALIAN MEAT INDUSTRY

AUTHORITY AMENDMENT BILL 1998.

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CLAUSE 1: THE SHORT TITLE OF THE ACT IS THE *WESTERN AUSTRALIAN MEAT INDUSTRY AUTHORITY AMENDMENT ACT 1998*.

CLAUSE 2: THE ACT COMES INTO OPERATION ON THE DAY ON WHICH IT RECEIVES ROYAL ASSENT. THIS WILL ALLOW THE EFFECTS OF THE AMENDMENTS TO PROCEED AT THE FIRST OPPORTUNITY.

CLAUSE 3: THE *WESTERN AUSTRALIAN MEAT INDUSTRY AUTHORITY ACT 1976* IS IDENTIFIED AS THE PRINCIPAL ACT BEING AMENDED.

CLAUSE 4: PART (1) OF THIS CLAUSE ADDS SUBSECTIONS (1a) AND (1b) TO SECTION 7 OF THE PRINCIPAL ACT, THIS ESTABLISHES THE AUTHORITY AS A BODY CORPORATE WITH PERPETUAL SUCCESSION, AND ALLOWS PROCEEDINGS TO BE TAKEN BY OR AGAINST THE AUTHORITY IN ITS CORPORATE NAME. THIS IS THE PRIMARY PURPOSE OF THIS AMENDMENT ACT, AS AT PRESENT THE AUTHORITY IS UNABLE TO OPERATE AS A CORPORATE BODY. THIS RESTRICTS ITS FUNCTION TO MANAGE MIDLAND SALEYARD.

PART (2) OF CLAUSE 4 ADDS SUBSECTION (4) TO SECTION 7 OF THE PRINCIPAL ACT. THIS MAKES SUBSECTION 7(3) SUBJECT TO THE *STATUTORY CORPORATIONS (LIABILITY OF DIRECTORS) ACT 1996*. SUBSECTION 7(3) PERMITS THE MINISTER TO GIVE DIRECTIONS IN WRITING TO THE AUTHORITY WITH RESPECT TO ITS FUNCTIONS, AND REQUIRES THE AUTHORITY TO GIVE EFFECT TO THOSE DIRECTIONS. THE AMENDMENT BINDS THE AUTHORITY TO THE REQUIREMENTS OF THE *STATUTORY CORPORATIONS (LIABILITY OF DIRECTORS) ACT 1996* WHEN GIVING EFFECT TO SUCH DIRECTIONS.

CLAUSE 5: THIS CLAUSE ADDS SUBSECTION 14(2) TO SECTION 14 OF THE PRINCIPAL ACT. THIS MAKES SUBSECTION 14(1) SUBJECT TO THE *STATUTORY CORPORATIONS (LIABILITY OF DIRECTORS) ACT 1996*. SECTION 14 ESTABLISHES THAT MEMBERS OR DEPUTY MEMBERS OF THE AUTHORITY ARE NOT PERSONALLY LIABLE FOR ACTS DONE IN GOOD FAITH BY THE AUTHORITY. THE AMENDMENT MAKES MEMBERS AND DEPUTY MEMBERS OF THE AUTHORITY SUBJECT TO THE PROVISIONS OF THE *STATUTORY CORPORATIONS (LIABILITY OF DIRECTORS) ACT 1996* REGARDING PERSONAL LIABILITY, TO REFLECT THE BODY CORPORATE STATUS OF THE AUTHORITY.

CLAUSE 6: THIS CLAUSE ADDS A NEW “PART IIA - FINANCIAL PROVISIONS” HEADING AFTER SECTION 15 OF THE PRINCIPAL ACT. THIS PROVIDES A HEADING TO COVER EXISTING SECTIONS 15A AND 15B PLUS NEW SECTIONS 15C, 15D, 15E AND 15F.

CLAUSE 7: THIS CLAUSE ADDS SUBSECTION 15B.(2)(aa) TO SECTION 15B. THIS REQUIRES MONEY BORROWED BY THE AUTHORITY UNDER NEW SECTIONS 15C OR 15D TO BE CREDITED TO THE FUND ESTABLISHED AT THE TREASURY OR AT A BANK WITH THE APPROVAL OF THE TREASURER UNDER EXISTING SECTION 15B.(1). THIS PROVIDES CONSISTENT PROCEDURES FOR ALL MONEY HANDLED BY THE AUTHORITY.

PART (2) OF CLAUSE 7 ADDS SUBSECTION 15B(3) (aa) TO THE PRINCIPAL ACT. IT ENABLES THE PAYMENT FROM THE WESTERN AUSTRALIAN MEAT INDUSTRY AUTHORITY FUND OF INTEREST, FEES AND REPAYMENTS IN RESPECT OF BORROWINGS BY THE AUTHORITY.

CLAUSE 8: THIS CLAUSE ADDS SECTIONS 15C, 15D, 15E AND 15F AFTER SECTION 15B OF THE PRINCIPAL ACT.

SECTION 15C PERMITS THE AUTHORITY TO BORROW FROM THE TREASURER SUCH AMOUNTS AND ON SUCH TERMS AND CONDITIONS AS THE TREASURER APPROVES. THIS WILL PROVIDE THE AUTHORITY WITH THE CAPACITY TO CARRY OUT ANY CAPITAL WORKS AT MIDLAND SALEYARD AS REQUIRED TO MAINTAIN THE SALEYARD AS A FIRST CLASS SELLING VENUE.

THE ANNUAL REVENUE TO THE AUTHORITY IS UNDER \$10 MILLION WHICH MEANS IT IS NOT SUBJECT TO COMPETITIVE NEUTRALITY REVIEW WITH REGARD TO PROVISION OF LOANS, AND CAN TAKE ADVANTAGE OF THE BENEFITS OF LOANS FROM THE TREASURER.

SECTION 15D PERMITS THE AUTHORITY WITH THE APPROVAL OF THE TREASURER TO BORROW MONEY FROM OTHER THAN THE TREASURER FOR THE PURPOSE OF PERFORMING ITS FUNCTIONS. THIS MAY BE APPROPRIATE IN SOME CIRCUMSTANCES WHERE TREASURY MONEY IS NOT AVAILABLE.

SUBSECTIONS 15D(2) AND (3) PERMIT SUCH LOANS TO BE AS ONE LOAN OR AS SEVERAL LOANS, AND SUBJECTS SUCH LOANS TO BE IN SUCH MANNER AS THE TREASURER APPROVES, AND TO NOT EXCEED AN AMOUNT IN EACH FINANCIAL YEAR AS THE TREASURER APPROVES. THIS PROVIDES THE NECESSARY CHECKS AND BALANCES ON AUTHORITY BORROWING.

SECTION 15E PROVIDES THAT THE TREASURER MAY GUARANTEE REPAYMENT OF MONEY BORROWED UNDER 15D. THE GUARANTEE WILL BE IN SUCH FORM AS THE TREASURER DETERMINES AND WILL BE GIVEN ONLY WHEN SUCH SECURITY AS THE TREASURER REQUIRES, AND WHEN ALL INSTRUMENTS AS ARE NECESSARY ARE IN PLACE. THIS WILL PROVIDE GUARANTEE FOR BORROWINGS BY THE AUTHORITY.

SECTION 15F PROVIDES THAT PAYMENT OF MONEY UNDER A GUARANTEE MADE UNDER SECTION 15E SHALL BE MADE BY THE TREASURER AND PAID OUT OF THE CONSOLIDATED FUND. MONEY RECEIVED OR RECOVERED FROM THE AUTHORITY IN RESPECT OF SUCH A GUARANTEE SHALL BE CREDITED TO THE CONSOLIDATED FUND. THIS IS A STANDARD PROVISION FOR SUCH GUARANTEE PAYMENTS AND PERMITS THE TREASURER TO ACCESS MONEY FOR THIS PURPOSE.

CLAUSE 9: THIS CLAUSE REPEALS SECTION 16(2) OF THE PRINCIPAL ACT, WHICH REFERS TO POWERS OF THE AUTHORITY. THIS WILL BE REPLACED WITH MORE DETAILED POWERS PROVIDED IN CLAUSE 10.

CLAUSE 10: THIS CLAUSE ADDS SUBSECTIONS 16A, 16B, AND 16C TO THE PRINCIPAL ACT. THESE SECTIONS DETAIL THE POWERS OF THE AUTHORITY, THE ARRANGEMENT OF FINANCIAL TRANSACTIONS AND RECORDS, AND THE DELEGATION OF PERFORMANCE OF CERTAIN FUNCTIONS.

SECTION 16A(1) ESTABLISHES A GENERAL POWER FOR THE AUTHORITY TO DO THINGS NECESSARY OR CONVENIENT IN CONNECTION WITH PERFORMANCE OF ITS FUNCTIONS, WHICH REPLACES IN PART THE POWERS IN THE REPEALED SECTION 16(2).

SECTION 16A(2)(a) ESTABLISHES POWERS WITH REGARD TO REAL AND PERSONAL PROPERTY AND REPLACES AND EXPANDS ON PART OF THE REPEALED SECTION 16(2). THE POWERS INCLUDE THE MANAGEMENT, IMPROVEMENT AND DEVELOPMENT OF PROPERTY AS IS REQUIRED FOR THE MANAGEMENT OF MIDLAND SALEYARD.

SECTION 16A(2)(b) ESTABLISHES THE POWERS TO ENTER INTO CONTRACTS, AND 16A(2)(c) ESTABLISHES THE POWER, WITH THE APPROVAL OF THE MINISTER, TO ENTER INTO BUSINESS ARRANGEMENTS OR TO HOLD INTERESTS IN BUSINESS ARRANGEMENTS. THESE POWERS ALLOW THE AUTHORITY SOME FLEXIBILITY IN HOW THE FUNCTIONS OF THE AUTHORITY ARE CARRIED OUT.

SECTION 16(2)(d) PERMITS THE AUTHORITY TO APPOINT AGENTS OR ENGAGE PERSONS UNDER CONTRACTS TO PROVIDE ASSISTANCE TO THE AUTHORITY. THIS ALLOWS THE AUTHORITY TO ENGAGE PERSONS OR APPROPRIATE EXPERTISE TO ASSIST WITH THE PERFORMANCE OF THE FUNCTIONS OF THE AUTHORITY.

SECTION 16(3) RESTRICTS THE ENTERING INTO BUSINESS ARRANGEMENTS UNDER THE PROVISIONS OF SECTION 16A(2)(c). THE AUTHORITY IS LIMITED IN ITS ABILITY TO ENTER INTO BUSINESS ARRANGEMENTS TO ONLY THOSE FUNCTIONS ASSOCIATED WITH MANAGEMENT OF MIDLAND SALEYARD; ANY UNDERTAKING DIRECTED BY THE MINISTER OR THE ENCOURAGEMENT OR PROMOTION OF EFFICIENCY THROUGHOUT THE MEAT INDUSTRY. THIS WOULD NOT ALLOW THE ENTERING INTO BUSINESS ARRANGEMENTS IN RESPECT OF THE REGULATORY FUNCTIONS OF THE AUTHORITY.

SECTION 16A(4) PROVIDES THAT IN EXERCISING THE POWERS UNDER SECTION 16A THE AUTHORITY MAY ACT IN CONJUNCTION WITH ANY PERSON, FIRM, PUBLIC AUTHORITY OR DEPARTMENT OF THE PUBLIC SERVICE OF ANY AGENCY OF THE STATE OR COMMONWEALTH. THIS IS TO MAKE CLEAR WHO THE AUTHORITY MAY DEAL WITH IN REGARD TO EXERCISING ITS POWERS.

SECTION 16A(5) DEFINES WORDS AND PHRASES USED IN THE BODY OF THIS SECTION TO MAKE CLEAR WHAT IS INTENDED.

SECTION 16B PROVIDES INSTRUCTION ON HOW FINANCIAL TRANSACTIONS AND RECORDING IS TO BE APORTIONED.

SECTION 16B(2) INSTRUCTS THAT THE AUTHORITY IN APPROPRIATE MANNER APPORTIONS THE FINANCIAL TRANSACTIONS AND RECORDING THEREOF FOR THE MANAGEMENT OF MIDLAND SALEYARD OR ANY OTHER FACILITY AS DIRECTED BY THE MINISTER AND KEEPS THEM SEPARATE FROM FINANCIAL TRANSACTIONS AND RECORDING RELATING OTHER FUNCTIONS. THIS PREVENTS THE USE OF MONEY FROM THE AUTHORITY'S REGULATORY FUNCTION BEING USED TO SUPPORT ITS SALEYARD BUSINESS FUNCTIONS.

SECTION 16B(3) DIRECTS THAT WHERE AN ASSET PAID FOR SOLELY FROM SALEYARD FUNCTIONS OR FROM OTHER FUNCTIONS IS USED FOR THE BENEFIT OF THE OTHER OPERATION, AN APPROPRIATE CHARGE SHALL BE MADE TO THE CREDIT OF THE OPERATION THAT PAID FOR THE ASSET. THIS IS TO PREVENT INDIRECT CROSS SUBSIDY BETWEEN SALEYARD AND REGULATORY FUNCTIONS.

SECTION 16 B (4) ALLOWS THE AUTHORITY SOME FLEXIBILITY IN THE USE OF MONEY AND OTHER ASSETS SO THAT THE REQUIREMENTS OF THIS SECTION DO NOT PRECLUDE SENSIBLE MANAGEMENT OF THE AUTHORITIES OPERATIONS.

SECTION 16C INSTRUCTS ON DELEGATION OF FUNCTIONS.

SECTION 16C(1) ALLOWS THE AUTHORITY TO DELEGATE IN WRITING PERFORMANCE OF ANY OF ITS FUNCTIONS RELATING TO MANAGEMENT OF MIDLAND SALEYARD OR OTHER MANAGEMENT DUTIES THAT MAY BE DIRECTED BY THE MINISTER. THIS WILL ALLOW THE AUTHORITY TO DELEGATE DAY TO DAY DUTIES AT MIDLAND SALEYARD TO THE MOST APPROPRIATE PERSON.

SECTION 16C(2) SPECIFIES WHO SUCH DELEGATION MAY BE MADE TO, AND REQUIRES THAT WHERE IT IS NOT TO A MEMBER OR AN EMPLOYEE OF THE AUTHORITY, THAT THE PERSON BE APPROVED BY THE MINISTER.

SECTION 16C(3) SPECIFIES THAT A FUNCTION PERFORMED BY A DELEGATE IS TO BE TAKEN TO BE PERFORMED BY THE AUTHORITY, SO THAT THERE IS NO QUESTION OF THE DELEGATES AUTHORITY TO CARRY OUT THE FUNCTION.

SECTION 16C(4) DETERMINES THAT THE DELEGATION PERMITTED IN THIS SECTION DOES NOT LIMIT THE ABILITY OF THE AUTHORITY TO ACT THROUGH ITS OFFICERS AND AGENTS, SO THAT THE AUTHORITY IS NOT RESTRICTED BY SUCH DELEGATION.

CLAUSE 11: THIS CLAUSE ADDS A NEW SUBSECTION 25A THAT PROVIDES FOR EXECUTION OF DOCUMENTS AND USE OF THE COMMON SEAL OF THE AUTHORITY. THE NEW SUBSECTIONS 25A(1) TO 25A(7) PROVIDE FOR THE AUTHORITY TO HAVE A COMMON SEAL AND DESCRIBE HOW THE SEAL IS TO BE USED TO EXECUTE DOCUMENTS. THESE ARE STANDARD PROVISIONS FOR THE USE OF A COMMON SEAL BY A BODY CORPORATE.

CLAUSE 12: THIS CLAUSE ADDS THE MEMBERS OF THE WESTERN AUSTRALIAN MEAT INDUSTRY AUTHORITY TO THE SCHEDULE OF PERSONS WHO ARE DIRECTORS UNDER PART 3 OF THE *STATUTORY CORPORATIONS (LIABILITY OF DIRECTORS) ACT 1996*, WHICH DEALS WITH THE DUTIES OF DIRECTORS OF STATUTORY CORPORATIONS. THIS IS TO MAKE MEMBERS OF THE AUTHORITY SUBJECT TO THAT ACT.