

EXPLANATORY MEMORANDUM

AGRICULTURAL PRACTICES (DISPUTES) REPEAL BILL 2011

This is an Act to repeal the *Agricultural Practices (Disputes) Act 1995* and for related purposes.

Part 1 – Preliminary

Clause 1 – Short title

This clause states the short title of the Bill.

There is a note advising that under section 20(2) of the *Interpretation Act 1984* the Act will come into operation on the 28th day after the day on which it receives the Royal Assent. As there are no preliminary matters to be attended to before the Act commences there is no need to provide for commencement on a day to be fixed by proclamation.

Part 2 - Agricultural Practices (Disputes) Act 1995 repealed

Clause 2 – Agricultural Practices (Disputes) Act 1995 repealed

This clause will repeal the Act cited.

Part 3 – Other Acts amended

Clause 3 – Constitution Acts Amendment Act 1899 amended

This clause deletes reference to the Agricultural Practices Board, the Board established by the Act being repealed, from Schedule V Part 3 of the *Constitution Acts Amendment Act 1899*. This is the list of bodies membership of which is vacated on election.

Clause 4 – Environmental Protection Act 2006 amended

This clause amends the Act cited. The amendments to be made are set out in subclause (2).

Section 74B(1) of the Environmental Protection Act provides a defence to a charge of causing serious or material environmental harm if the environmental harm was, or resulted from, an “authorised” act which did not contravene any other written law. Section 74B(2) prescribes “authorised” acts. Paragraphs (c) and (d) refer to the *Agricultural Practices (Disputes) Act 1995*.

Under paragraph (c) of the *Environmental Protection Act 1995* an authorised act includes the carrying out of an agricultural practice in accordance with an order made under the *Agricultural Practices (Disputes) Act 1995* or as a normal farm practice as specified in an order made under that Act. This will be replaced by provision referring to an act of a kind specified in an order made by for the chief executive officer of the department assisting in the administration of the *Biosecurity and Agriculture Management Act 2007* to be a normal farm practice for the purpose of the paragraph.

It is not expected that use of this paragraph will prove necessary to protect from prosecution for environmental harm a person carrying on an agricultural practice, but it is there should it ever be required.

Under paragraph (d) of section 74B(2) of the *Environmental Protection Act 1995* an authorised act also includes an agricultural practice within the meaning of the *Agricultural Practices (Disputes) Act 1995* and an act done in the management or harvesting of a plantation if these acts are done in compliance with a code of practice issued under the Environmental Protection Act or made or approved under any other written law. This will be replaced by a paragraph simply referring to an agricultural activity (including the management or harvesting of a plantation) that is done in accordance with such a code of practice.

This is equivalent to the current section 74B(2)(d) because under the *Agricultural Practices (Disputes) Act 1995* the term “agricultural practice” is defined as it is normally understood:

Clause 5 - Financial Management Act 2006 amended

This clause deletes the Agricultural Practices Disputes Board from Schedule 1 of the Financial Management Act – the schedule that lists the bodies that are “statutory authorities” for the purposes of that Act.