

Agricultural Produce Commission Amendment Bill 2019

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Western Australia

LEGISLATIVE COUNCIL

**Agricultural Produce Commission Amendment
Bill 2019**

A Bill for

An Act to amend the Agricultural Produce Commission Act 1988.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Agricultural Produce Commission Amendment*
3 *Act 2019*.

4 **2. Commencement**

5 This Act comes into operation as follows —

6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;

8 (b) the rest of the Act — on the day after that day.

9 **3. Act amended**

10 This Act amends the *Agricultural Produce Commission*
11 *Act 1988*.

12 **4. Section 3 amended**

13 (1) In section 3(1) insert in alphabetical order:

14

15 *authorised officer* means a person designated under
16 section 19B as an authorised officer;

17

18 (2) In section 3(1) in the definition of *agricultural industry* delete
19 “as may be prescribed but excluding broadacre cropping and
20 grazing industries;” and insert:

21

22 prescribed for the purposes of this definition;

23

24 **5. Section 5 amended**

25 In section 5(1) after “of” insert:

26

27 3 or

28

1 **6. Section 6 amended**

2 (1) In section 6(1):

3 (a) in paragraph (a) delete “in relation to” and insert:

4

5 with responsibility for

6

7 (b) after paragraph (a) insert:

8

9 (aa) allocate responsibility for agricultural produce
10 to existing producers’ committees; and

11 (ab) remove responsibility for agricultural produce
12 from producers’ committees; and

13

14 (c) delete paragraphs (d) and (e) and insert:

15

16 (d) conduct polls under this Act; and

17 (da) wind up the affairs of producers’ committees
18 and appoint liquidators for that purpose; and

19 (e) dissolve producers’ committees; and

20

21 (d) after paragraph (f) insert:

22

23 (fa) provide, as are necessary from time to time,
24 persons to assist producers’ committees in
25 carrying out their functions under this Act; and

26

27 (2) In section 6(2):

28 (a) delete “established —” and insert:

29

30 established with responsibility, or be allocated
31 responsibility for —

32

s. 7

- 1 (b) in paragraphs (a) and (b) delete “in relation to”;
2 (c) in paragraph (c) delete “to achieve” and insert:
3
4 achieving
5

6 **7. Section 9 amended**

7 In section 9 delete “officers, servants and other”.

8 Note: The heading to amended section 9 is to read:

9 **Commission may employ or engage persons**

10 **8. Part 3 Division 1 heading inserted**

11 At the beginning of Part 3 insert:
12

13 **Division 1 — Establishing producers’ committees**
14

15 **9. Section 10 amended**

16 (1) Delete section 10(1) and insert:
17

18 (1A) A producer or producers of agricultural produce, or a
19 body representing the interests of such producers, may
20 request the Commission to conduct a poll for the
21 purpose of establishing a producers’ committee with
22 responsibility for the agricultural produce for the whole
23 State or a part of the State.

24 (1B) A request made under subsection (1A) must —

- 25 (a) be made in writing; and
26 (b) specify the agricultural produce for which the
27 producers’ committee is proposed to have
28 responsibility; and

- 1 (c) specify the objects sought to be effected by
2 establishing the producers' committee; and
- 3 (d) if the producers' committee is proposed to be
4 established only in relation to a particular part
5 of the State, specify the part of the State in
6 relation to which it is proposed to be
7 established.
- 8 (1) The Commission must publish notice of a proposal to
9 establish the producers' committee.
10
- 11 (2) In section 10(2):
- 12 (a) delete "shall" (each occurrence) and insert:
13
14 must
15
- 16 (b) after paragraph (a) insert:
17
- 18 (aa) must specify the name or names of the producer
19 or producers, or body, that made the request;
20 and
21
- 22 (c) in paragraph (c) delete "the subject of the proposal; and"
23 and insert:
24
25 for which the producers' committee is proposed to have
26 responsibility; and
27
- 28 (3) In section 10(2a) delete "section and section 11, the
29 Commission shall" and insert:
30
31 Division, the Commission must
32

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- 1 (4) In section 10(3):
2 (a) delete “shall” (1st occurrence) and insert:
3
4 must
5
6 (b) delete “shall” (last occurrence) and insert:
7
8 must, subject to subsection (5),
9
- 10 (5) In section 10(4):
11 (a) delete “facilitating its consideration of the submissions
12 under subsection (3)” and insert:
13
14 subsection (3),
15
16 (b) delete “producers who in the opinion of the Commission
17 have” and insert:
18
19 producer who in its opinion has
20
- 21 (6) Delete section 10(5) to (7) and (9) and insert:
22
- 23 (5) The Commission must not conduct a poll for the
24 establishment of a producers’ committee unless the
25 producer or producers, or body, that requested the poll
26 deposits with the Commission such sum as is
27 determined by the Commission as the reasonable costs
28 of the poll and the estimated initial costs of the
29 establishment of the producers’ committee.
- 30 (6) If the Commission resolves to establish the producers’
31 committee, any money paid to the Commission under
32 subsection (5) must be repaid by the producers’

- 1 committee out of the funds of the producers’
2 committee to the producer or producers, or body, that
3 made the deposit under that subsection.
- 4 (7) The Commission must not establish a producers’
5 committee with responsibility for agricultural produce
6 unless —
- 7 (a) the Commission has —
- 8 (i) complied with subsections (1) and (2);
9 and
10 (ii) conducted a poll among the producers
11 of the agricultural produce in the whole
12 of the State, or a part of the State, as is
13 relevant to the proposal to establish the
14 producers’ committee;
- 15 and
- 16 (b) the poll is in favour of the proposal.
- 17 (8) Even if the Commission has complied with
18 subsections (1) to (5) and (7) and a poll of producers
19 vote in favour of the proposal, the Commission may
20 refuse to establish, or defer the establishment of, the
21 producers’ committee if the Commission considers
22 that, having regard to the circumstances of the case, it
23 is not desirable or practicable to do so.
24

25 **10. Section 11 amended**

- 26 (1) Delete section 11(1)(a)(i) and insert:
27
- 28 (i) the agricultural produce for which the
29 producers’ committee has
30 responsibility; and
31

s. 11

1 (2) In section 11(1a)(b) delete “the poll” and insert:

2

3 a poll

4

5 **11. Part 3 Divisions 2 and 3 inserted**

6 After section 11 insert:

7

8 **Division 2 — Allocating responsibility for produce to an**
9 **existing producers’ committee**

10 **11A. Preliminary requirements for allocating**
11 **responsibility for agricultural produce to existing**
12 **producers’ committee**

13 (1) Subject to subsection (2), a producer or producers of
14 agricultural produce, or a body representing the
15 interests of such producers, may request the
16 Commission to conduct a poll for the purpose of
17 allocating responsibility for the agricultural produce to
18 an existing producers’ committee.

19 (2) A request cannot be made under subsection (1) unless
20 the producers’ committee has given its written approval
21 to the request being made.

22 (3) A request made under subsection (1) must —
23 (a) be made in writing; and
24 (b) specify the producers’ committee and the
25 additional agricultural produce for which it is
26 proposed to have responsibility; and
27 (c) specify the objects sought to be effected by
28 allocating responsibility for the additional
29 agricultural produce to the producers’
30 committee; and

- 1 (d) attach the producers' committee's written
2 approval to the request being made.
- 3 (4) The Commission must publish notice of a proposal to
4 allocate responsibility for agricultural produce to an
5 existing producers' committee.
- 6 (5) A notice referred to in subsection (4) must —
- 7 (a) be published in the manner directed by the
8 Minister; and
- 9 (b) specify the name or names of the producer or
10 producers, or body, that made the request; and
- 11 (c) specify the producers' committee and the
12 additional agricultural produce for which it is
13 proposed to have responsibility; and
- 14 (d) explain in simple terms the objects sought to be
15 effected by the proposal; and
- 16 (e) invite submissions from producers who may be
17 affected by the proposal.
- 18 (6) In performing its functions under this Division, the
19 Commission must have regard to any submissions
20 made to it under subsection (5)(e).

21 **11B. Polls to allocate responsibility for produce to**
22 **existing producers' committee**

- 23 (1) If a request is made under section 11A(1) to conduct a
24 poll for the purpose of allocating responsibility for
25 agricultural produce to an existing producers'
26 committee, the Commission must, subject to
27 subsections (2) and (4), conduct the poll.
- 28 (2) The Commission must not conduct the poll if, in its
29 opinion, allocating responsibility for the agricultural
30 produce to the producers' committee would be
31 materially to the financial detriment of a producer or
32 producers of the agricultural produce.

s. 11

- 1 (3) For the purposes of subsection (2), the Commission
2 may invite any producer who in the opinion of the
3 Commission has an interest in the matter to attend
4 meetings of the Commission.
- 5 (4) The Commission must not conduct the poll unless the
6 producer or producers, or body, that requested the poll
7 deposits with the Commission such sum as is
8 determined by the Commission as the reasonable costs
9 of the poll.
- 10 (5) If the Commission resolves to allocate responsibility
11 for agricultural produce to the producers' committee,
12 any money paid to the Commission under
13 subsection (4) must be repaid by the producers'
14 committee out of the funds of the producers'
15 committee to the producer or producers, or body, that
16 made the deposit under that subsection.

17 **11C. Allocating responsibility for agricultural produce to**
18 **existing producers' committee**

- 19 (1) The Commission must not allocate responsibility for
20 agricultural produce to an existing producers'
21 committee unless —
22 (a) the Commission has —
23 (i) complied with section 11A(4) and (5);
24 and
25 (ii) conducted a poll under section 11B
26 among the producers of the agricultural
27 produce;
28 and
29 (b) the poll is in favour of the proposal.
- 30 (2) Even if the Commission has complied with
31 sections 11A(4) and (5) and 11B(1) to (4), the
32 Commission may refuse to allocate responsibility for

1 the agricultural produce to the producers' committee if
2 the Commission considers that, having regard to the
3 circumstances of the case, it is not desirable or
4 practicable to do so.

5 (3) If the Commission resolves to allocate responsibility
6 for agricultural produce to the producers' committee,
7 then on a day specified by the Commission in a notice
8 under section 11D(1) the producers' committee
9 commences to have responsibility for the agricultural
10 produce.

11 **11D. Notice of allocation of responsibility for agricultural**
12 **produce to existing producers' committee and**
13 **appointing additional members**

14 (1) If the Commission resolves to allocate responsibility
15 for agricultural produce to an existing producers'
16 committee, the Commission must by notice published
17 in the *Gazette* —

- 18 (a) specify the producers' committee and the
19 agricultural produce for which it is allocated
20 responsibility; and
21 (b) specify the day on which the producers'
22 committee commences to have responsibility
23 for the agricultural produce; and
24 (c) invite nominations from among the producers
25 of the agricultural produce for appointment to
26 the producers' committee.

27 (2) After receiving nominations the Commission —

- 28 (a) must decide how many members, in addition to
29 the current number of members, there is to be
30 on the producers' committee; and
31 (b) if it is of the opinion that a poll of the producers
32 of the agricultural produce should be held to
33 elect the members, must conduct a poll.

s. 11

- 1 (3) A person is not eligible to stand at a poll under this
2 section to elect members of a producers' committee
3 unless the person is qualified to be appointed to the
4 producers' committee in relation to the agricultural
5 produce in question.
- 6 (4) Subject to subsection (5), a person elected at a poll
7 under this section to be a member of a producers'
8 committee must be appointed by the Commission to be
9 a member of the producers' committee.
- 10 (5) The Commission must not appoint a person under this
11 section to be a member of a producers' committee
12 unless the Commission is of the opinion that the person
13 is qualified to be so appointed in relation to the
14 agricultural produce in question.

15 **Division 3 — Appointment of non-producers to**
16 **producers' committees**

17 **11E. Appointment of non-producers to producers'**
18 **committees**

- 19 (1) A producers' committee may nominate for
20 appointment to that producers' committee a person
21 who would not be eligible to stand at a poll under
22 section 11 or 11D to elect members of the producers'
23 committee.
- 24 (2) The Commission may appoint a person nominated
25 under subsection (1) by a producers' committee to be a
26 member of the producers' committee if —
- 27 (a) the Commission is of the opinion that it would
28 be desirable and practicable to do so; and
- 29 (b) the Commission is of the opinion that the
30 person has experience relevant to the
31 producers' committee's functions; and

1 (c) after the person is appointed, the majority of
2 members of the producers' committee would be
3 producers of the agricultural produce for which
4 the producers' committee has responsibility.

5 (3) A person appointed to a producers' committee under
6 subsection (2) may take part in the consideration and
7 discussion of any matter before a meeting of the
8 producers' committee, but cannot vote on any matter.
9

10 **12. Part 3 Division 4 heading inserted**

11 Before section 12 insert:
12

13 **Division 4 — Functions of producers' committees**
14

15 **13. Section 12 amended**

16 (1) In section 12(1):

17 (a) delete “in relation to which it is established —” and
18 insert:

19
20 for which the producers' committee has
21 responsibility —
22

23 (b) in paragraph (d) delete “relating to the production of”
24 and insert:

25
26 that, in the opinion of the producers' committee, may be
27 of advantage to producers of the
28

s. 13

- 1 (c) in paragraph (k) before “promotion” insert:
2
3 production,
4
- 5 (d) in paragraph (la) before “action” insert:
6
7 a pest or disease of that produce or
8
- 9 (e) in paragraph (m) delete “organization or in conjunction
10 with the Commission or any other person or
11 organization.” and insert:
12
13 organisation or in conjunction with the Commission or
14 any other person or organisation.
15
- 16 (2) Delete section 12(2).
- 17 (3) In section 12(3):
18 (a) delete “shall” and insert:
19
20 must
21
- 22 (b) delete “for which the producers’ committee was
23 established” and insert:
24
25 the producers’ committee is authorised to provide
26
- 27 (4) After section 12(4) insert:
28
- 29 (5) A producers’ committee may, for the purposes of
30 providing services in relation to agricultural produce —
31 (a) communicate, consult or liaise with producers
32 of agricultural produce; and

- 1 (b) hold meetings with producers of agricultural
2 produce.
3

4 **14. Section 12A amended**

5 In section 12A(1):

- 6 (a) delete “officers, employees and other persons employed
7 or engaged under section 12(2) by a producers’
8 committee established to administer a fruit fly foliage
9 baiting” and insert:

10
11 person employed or engaged by the Commission to
12 assist a producers’ committee with responsibility for
13 administering a fruit fly control
14

- 15 (b) delete “committee.” and insert:

16
17 committee or carry out any other control measures
18 determined by the producers’ committee.
19

20 Note: The heading to amended section 12A is to read:

21 **Power to enter orchards to administer fruit fly control scheme**

22 **15. Section 13 amended**

- 23 (1) Before section 13(1) insert:
24

25 (1A) In this section —

26 ***prescribed person*** means a person prescribed for the
27 purposes of this definition.
28

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1 (2) In section 13(1) delete “producer require the producer to furnish
2 in writing in the form of” and insert:

3

4 producer, or a prescribed person, require the producer or
5 prescribed person to furnish in writing in

6

7 (3) Delete section 13(2) and insert:

8

9 (2) A person must not without reasonable excuse fail to
10 comply with a requirement in a notice under this
11 section.

12 Penalty for this subsection: a fine of \$1 000.

13

14 Note: The heading to amended section 13 is to read:

15 **Power to require statistical information**

16 **16. Section 14 amended**

17 (1) After section 14(2) insert:

18

19 (2A) Without limiting subsection (1) or (2), the cost or
20 estimated cost of providing a service includes any cost
21 of or associated with communicating, consulting,
22 liaising or meeting with producers of agricultural
23 produce for the purposes of providing the service.

24

25 (2) After section 14(3) insert:

26

27 (4) A charge imposed under this section that is paid to, or
28 collected by, a person is held by that person on trust for
29 the producers’ committee providing the service for
30 which it is imposed until it is paid to the Commission
31 in accordance with the regulations.

- 1 (5) The regulations may provide for the circumstances in
2 which a charge imposed under this section may be
3 waived, refunded or reduced, in whole or in part.
4

5 **17. Part 3 Division 5 inserted**

6 After section 14 insert:
7

8 **Division 5 — Removing responsibility for agricultural**
9 **produce from or dissolving producers' committees**

10 **14A. Removing responsibility for agricultural produce**
11 **from producers' committee after poll**

- 12 (1) The Commission may conduct a poll of the producers
13 of agricultural produce for which a producers'
14 committee has responsibility for the removal of
15 responsibility for the agricultural produce from the
16 producers' committee.
- 17 (2) If the poll is in favour of removing responsibility for
18 the agricultural produce from the producers'
19 committee, then on a day specified by the Commission
20 by notice published in the *Gazette*, the producers'
21 committee ceases to have responsibility for the
22 agricultural produce.

23 **14B. Removing responsibility for agricultural produce**
24 **from producers' committee without poll**

- 25 (1) The Commission may remove responsibility for
26 agricultural produce from a producers' committee if the
27 Commission is satisfied that the producers'
28 committee —
- 29 (a) is operating in a manner that is materially to the
30 financial detriment of a producer or producers
31 of the agricultural produce; or

s. 18

1 (b) is no longer providing any service the
2 producers' committee is authorised to provide.

3 (2) If the Commission resolves to remove responsibility
4 for agricultural produce from a producers' committee,
5 then on a day specified by the Commission by notice
6 published in the *Gazette* the producers' committee
7 ceases to have responsibility for the agricultural
8 produce.

9
10 **18. Section 15 amended**

11 (1) Delete section 15(1) to (3) and insert:

12
13 (1) The Commission may conduct a poll of producers of
14 the agricultural produce for which a producers'
15 committee has responsibility for the dissolution of the
16 producers' committee.

17 (2) If the poll is in favour of the dissolution of the
18 producers' committee, then on a day specified by the
19 Commission by notice published in the *Gazette* the
20 affairs of the producers' committee must commence to
21 be wound up by —

22 (a) the Commission; or

23 (b) a liquidator appointed by the Commission.

24 (3) The day specified under subsection (2) must not be
25 later than 6 months after the taking of the poll.

26 (3A) On the day specified by the Commission under
27 subsection (2), the producers' committee must cease to
28 act.

- 1 (3B) On and from the day specified by the Commission
2 under subsection (2), the Commission or the liquidator,
3 as is relevant, may for the purposes of winding up the
4 affairs of the producers' committee —
5 (a) perform the functions of the producers'
6 committee; and
7 (b) do such other acts and things as the
8 Commission, or liquidator, thinks fit.
9

- 10 (2) Delete section 15(8).

11 Note: The heading to amended section 15 is to read:

12 **Dissolution of producers' committee after poll**

13 **19. Section 15A inserted**

14 After section 15 insert:
15

16 **15A. Dissolution of producers' committee without poll**

- 17 (1) The Commission may dissolve a producers' committee
18 if the Commission is satisfied that the producers'
19 committee —
20 (a) is operating in a manner that is materially to the
21 financial detriment of a producer or producers
22 of agricultural produce for which it has
23 responsibility; or
24 (b) is no longer providing any service the
25 producers' committee is authorised to provide.
26 (2) If the Commission resolves to dissolve a producers'
27 committee, then on a day specified by the Commission
28 by notice published in the *Gazette*, the affairs of the
29 producers' committee must commence to be wound up
30 by —
31 (a) the Commission; or

s. 20

- 1 (b) a liquidator appointed by the Commission.
- 2 (3) Section 15(3A) to (7) applies, with any necessary
- 3 modifications, to the dissolution of a producers’
- 4 committee under this section.
- 5

6 **20. Part 3 Division 6 heading inserted**

7 Before section 16 insert:

8

9 **Division 6 — Conducting polls**

10

11 **21. Section 16 amended**

12 Delete section 16(1) and insert:

13

- 14 (1) For the purposes of conducting a poll under this
- 15 Act the Commission must —
- 16 (a) in the case of a producers’ committee that has,
- 17 or is proposed to have, responsibility for
- 18 agricultural produce for the whole of the
- 19 State — compile a list of producers of the
- 20 agricultural produce in the whole of the State;
- 21 and
- 22 (b) in the case of a producers’ committee that has,
- 23 or is proposed to have, responsibility for
- 24 agricultural produce only in relation to a
- 25 particular part of the State — compile a list of
- 26 producers of the agricultural produce in that
- 27 part of the State.
- 28

1 **22. Sections 16A and 16B inserted**

2 After section 16 insert:

3

4 **16A. Weighted voting**

- 5 (1) The Commission may in compiling a list of producers
6 of agricultural produce, determine in writing the
7 number of votes each producer is to have in a poll of
8 the producers of the agricultural produce.
- 9 (2) In determining the number of votes each producer is to
10 have in the poll, the Commission is to ensure that each
11 producer —
- 12 (a) has at least 1 vote; and
- 13 (b) has such number of votes as is proportionate to
14 the percentage of the relevant agricultural
15 produce produced in the State, or the relevant
16 part of the State, that was produced by the
17 producer in the 3 year period preceding the year
18 in which the determination is made.
- 19 (3) The Commission must not make a determination under
20 subsection (1) unless it is satisfied that —
- 21 (a) there is sufficient industry data available to the
22 Commission for it to make the determination;
23 and
- 24 (b) it is in the best interests of the agricultural
25 industry to do so.
- 26 (4) As soon as practicable after making a determination
27 under subsection (1), the Commission must give a copy
28 of the determination to each producer of the
29 agricultural produce concerned.
- 30 (5) In a poll for which a determination has been made
31 under subsection (1), the number of votes a producer
32 has is to be in accordance with the determination.

- 1 **16B. Commission’s costs of conducting polls**
- 2 (1) Subject to subsection (2), the Commission is entitled to
- 3 recover from the funds of a producers’ committee the
- 4 Commission’s costs of conducting a poll in relation to
- 5 the producers’ committee.
- 6 (2) The amount the Commission may recover under
- 7 subsection (1) —
- 8 (a) for a poll under section 10 or 11 — is the
- 9 amount by which the costs of the poll exceed
- 10 the sum deposited with the Commission under
- 11 section 10(5) for the purposes of establishing
- 12 the producers’ committee; and
- 13 (b) for a poll under section 11B — is the amount
- 14 by which the costs of the poll exceed the sum
- 15 deposited with the Commission under
- 16 section 11B(4) for the purposes of the poll.
- 17

18 **23. Section 17 amended**

19 Delete section 17(2).

20 **24. Part 3 Division 7 heading inserted**

21 After section 17 insert:

22

23 **Division 7 — Other matters**

24

1 **25. Section 19 amended**

2 In section 19(1) delete “a producers’ committee has not been
3 established under this Act in relation to that group of producers”
4 and insert:

5

6 there is no producers’ committee with responsibility

7

8 **26. Part 3A inserted**

9 After section 19A insert:

10

11 **Part 3A — Compliance**

12 **Division 1 — Authorised officers**

13 **19B. Authorised officers**

14 The Commission may, by instrument in writing,
15 designate any person employed or engaged by the
16 Commission as an authorised officer for the purposes
17 of this Part.

18 **Division 2 — Powers of authorised officers**

19 **19C. Terms used**

20 In this Division —

21 *charge* means a charge imposed under this Act;

22 *compliance purposes* means the following purposes —

23 (a) monitoring compliance with a requirement
24 under this Act to pay or collect a charge;

25 (b) monitoring compliance with a requirement
26 under this Act to give information, or produce a
27 record, relating to the production, processing,

- 1 sale or purchase of agricultural produce or the
2 payment or collection of a charge;
- 3 (c) monitoring compliance with a requirement in a
4 notice under section 13;
- 5 (d) investigating a suspected contravention of a
6 requirement referred to in paragraph (a), (b) or
7 (c) or an offence under this Act;
- 8 **record** includes a receipt, return or other document;
- 9 **relevant person** means a person who is or was —
- 10 (a) a producer of agricultural produce for which a
11 producers' committee has responsibility; or
- 12 (b) a person required under this Act to pay or
13 collect a charge; or
- 14 (c) a person required under this Act to give
15 information, or produce a record, relating to the
16 production, processing, sale or purchase of
17 agricultural produce or the payment or
18 collection of a charge; or
- 19 (d) a person required to comply with a requirement
20 in a notice under section 13;
- 21 **relevant record** means a record that —
- 22 (a) is required to be kept or given under this Act;
23 or
- 24 (b) relates to the production, processing, sale or
25 purchase of agricultural produce in relation to
26 which a charge is payable; or
- 27 (c) relates to the payment or collection of a charge;
28 or
- 29 (d) contains any information that is, or may be,
30 relevant for compliance purposes.

1 **19D. Obtaining information and relevant records**

- 2 (1) An authorised officer may, for compliance purposes,
3 do 1 or more of the following —
- 4 (a) direct a relevant person —
- 5 (i) to give any information as is required;
6 or
7 (ii) to answer a question put to the person;
- 8 (b) direct a relevant person to produce to the
9 authorised officer a relevant record in the
10 person’s custody or under the person’s control.
- 11 (2) An authorised officer may examine and make a copy of
12 a record produced in response to a direction under
13 subsection (1)(b), and retain the record for as long as is
14 reasonably necessary.
- 15 (3) A direction under subsection (1)(a) —
- 16 (a) may be given orally or in writing; and
17 (b) must specify the time at, or within which, the
18 information or answer must be given to the
19 authorised officer; and
20 (c) may require that the information or answer —
- 21 (i) be given orally or in writing; or
22 (ii) if it is directed to be given in writing, be
23 given by means specified in the
24 direction; or
25 (iii) be verified by statutory declaration.
- 26 (4) A direction under subsection (1)(b) —
- 27 (a) must be in writing given to the person required
28 to produce the record; and
29 (b) must specify the time at, or within which, the
30 record is to be produced; and

s. 27

- 1 (c) may require that the record be produced to the
2 authorised officer —
3 (i) at a place specified in the direction; and
4 (ii) by the means specified in the direction.

5 **19E. Failure to comply with directions**

6 A person must not without reasonable excuse fail to
7 comply with a direction given to the person under
8 section 19D(1).

9 Penalty: a fine of \$1 000.

10 **19F. Self-incrimination not an excuse**

11 (1) An individual is not excused from complying with a
12 direction under section 19D(1) to provide information
13 or answer questions, or to produce a record, on the
14 ground that the information, answer or record might
15 incriminate the individual or make the individual liable
16 to a penalty.

17 (2) However, any information or answer provided, or
18 record produced, by an individual in compliance with a
19 direction under section 19D(1) is not admissible in
20 evidence in any proceedings against the individual
21 other than proceedings for perjury or an offence against
22 section 19G(2).
23

24 **27. Section 19G inserted**

25 At the beginning of Part 4 insert:
26

27 **19G. False or misleading information**

28 (1) In this section —
29 *record* has the meaning given in section 19C.

- 1 (2) A person must not give false or misleading information
2 to —
- 3 (a) an authorised officer pursuant to a direction
4 under section 19D(1); or
- 5 (b) the Commission pursuant to a notice under
6 section 13; or
- 7 (c) any person pursuant to a requirement under this
8 Act to give information, or produce a record, to
9 that person relating to the production,
10 processing, sale or purchase of agricultural
11 produce or the payment or collection of a
12 charge imposed under this Act.
- 13 Penalty for this subsection: a fine of \$1 000.
- 14 (3) For the purposes of subsection (2), a person gives false
15 or misleading information if the person does 1 or more
16 of the following —
- 17 (a) states anything that the person knows is false or
18 misleading in a material particular;
- 19 (b) omits from a statement anything without which
20 the statement is, to the person’s knowledge,
21 misleading in a material particular;
- 22 (c) gives or produces any record that —
- 23 (i) the person knows is false or misleading
24 in a material particular; or
- 25 (ii) omits anything without which the record
26 is, to the person’s knowledge,
27 misleading in a material particular.
28

1 **28. Section 20A inserted**

2 After section 20 insert:

3

4 **20A. Giving notices and other documents electronically**

5 (1) A notice or other document required or permitted under
6 this Act to be given to a person may be given to the
7 person by emailing it to an email address —

8 (a) provided by the person; or

9 (b) appearing on recent correspondence addressed
10 by or on behalf of the person to the
11 Commission or a producers' committee; or

12 (c) otherwise notified to the Commission or a
13 producers' committee, or published by the
14 person.

15 (2) This section is in addition to the *Interpretation*
16 Act 1984 section 76.

17

18 **29. Section 24 amended**

19 (1) At the beginning of section 24 insert:

20

21 (1) In this section —

22 *officer or employee* —

23 (a) in relation to the Commission —

24 (i) means a person employed or engaged by
25 the Commission; and

26 (ii) includes an authorised officer;

27 and

1 (b) in relation to a producers' committee — means
2 a person employed or engaged by a producers'
3 committee.
4

5 (2) In section 24:

6 (a) delete “A person” and insert:
7

8 (2) A person
9

10 (b) delete “him” and insert:
11

12 the person
13

14 Note: The heading to amended section 24 is to read:

15 **Protection from liability**

16 **30. Section 25 amended**

17 In section 25(2)(e) delete “organizations; and” and insert:
18

19 organisations; and
20

21 **31. Sections 26 and 27 deleted**

22 Delete sections 26 and 27.
23

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