

Marketing of Eggs Amendment Bill 2004

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

Marketing of Eggs Amendment Bill 2004

A Bill for

An Act to amend the *Marketing of Eggs Act 1945* to insert expiry and related provisions and to make consequential amendments to the —

- ***Agricultural Products Act 1929;***
- ***Constitution Acts Amendment Act 1899;***
- ***Financial Administration and Audit Act 1985;***
- ***Statutory Corporations (Liability of Directors) Act 1996;***
- ***Stock Diseases (Regulations) Act 1968.***

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Marketing of Eggs Amendment Act 2004*.

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2. Commencement

- (1) This Act, other than sections 6, 7, 8, 9 and 10, comes into operation on a day fixed by proclamation.
- (2) Sections 6, 7, 8, 9 and 10 come into operation on the day on which the *Marketing of Eggs Act 1945* (other than sections 1 and 43 of that Act) expires under section 41(1) of that Act as amended by this Act.

3. The Act amended

The amendments in sections 4 and 5 are to the *Marketing of Eggs Act 1945**.

[* Reprinted as at 22 February 2002.]

4. Section 38A repealed

Section 38A is repealed.

5. Sections 41, 42 and 43 inserted

After section 40 the following sections are inserted —

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41. Expiry of Act and regulations

- (1) This Act (other than sections 1 and 43) and the *Marketing of Eggs Regulations 1945* expire on —
- (a) 31 December 2005; or
- (b) an earlier day fixed by the Governor by order published in the *Gazette*.
- (2) The Board is dissolved on the day on which this Act (other than sections 1 and 43) expires.

42. Arrangements for staff before the expiry

(1) In this section —

“**expiry**” means the expiry of this Act (other than sections 1 and 43) under section 41(1);

“**staff member**” means a person appointed, employed or otherwise engaged by the Board.

(2) Before the expiry the Minister —

(a) after consultation with the Minister for Public Sector Management, is to nominate a person or other body in the Public Sector to be the employer of the staff members on the expiry, and ensure that the employment of each staff member who has agreed to being employed by that person or body has been arranged with that person or body; or

(b) is to ensure that each staff member whose re-employment is not arranged under paragraph (a) is covered by the provisions applicable under the *Public Sector Management Act 1994* Part 6.

(3) Except as otherwise agreed by a staff member, the remuneration, existing or accrued rights, rights under a superannuation scheme or continuity of service of the staff member are not affected, prejudiced or interrupted by —

(a) a change in employment arranged under subsection (2)(a);

(b) the expiry; or

(c) the dissolution of the Board.

43. Regulations as to matters consequent on the expiry

(1) In this section —

“**Board**” means the Board constituted under this Act before the expiry;

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“expiry” means the expiry of this Act (other than sections 1 and 43) under section 41(1);

“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;

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

“specified” means specified in the regulations under this section;

“State tax” includes stamp duty chargeable under the *Stamp Act 1921* and any other tax, duty, fee, levy or charge under a law of the State.

(2) The Governor, with the approval of the Treasurer, may make regulations prescribing all matters that are required, necessary or convenient to be prescribed in relation to anything to be done, or that occurs, because of the expiry.

(3) Without limiting subsection (2), regulations may be made in relation to all or any of the following matters —

(a) the disposition of, or dealing with, the property of the Board on the expiry;

(b) the transfer or discharge of the Board’s rights and liabilities on the expiry;

(c) the continuation of proceedings or remedies by or against the Board that were pending immediately before the expiry;

(d) the commencement of proceedings or remedies that could have been taken by or against the Board but for the dissolution of the Board;

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- (e) the continuation of the effect of any agreement, instrument or policy of insurance to which the Board was a party immediately before the expiry;
 - (f) the interpretation, after the expiry, of references to the Board in a written law or a document referred to in paragraph (e);
 - (g) any act, matter or thing done or omitted to be done by the Board in relation to its rights and liabilities before the expiry;
 - (h) the taking possession of books, documents or other records, however compiled or stored, relating to the operations of the Board, on the expiry;
 - (i) the making and submission of any outstanding annual report and a final report relating to the operations of the Board before the expiry, and the documents and reports to accompany those reports;
 - (j) for the purposes of the regulations under this section to provide, despite the expiry, for the continuation of the Board, constituted by a specified person on specified terms, with the powers necessary or convenient for the purposes of doing anything under the regulations including making and submitting the reports mentioned in paragraph (i);
 - (k) for the purposes of regulations under paragraph (i) to provide, despite the expiry, for the continued application of section 34 until the reports and accompanying documents and reports are tabled in Parliament;

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- (l) the exemption from State tax of —
- (i) anything of a specified kind that occurs because of the expiry; or
 - (ii) anything of a specified kind (including a transaction entered into or an instrument or document made, executed, lodged or given) done under the regulations, or for a purpose connected with or arising out of the expiry.
- (4) For the purposes of regulations under subsection (3)(l) a certificate in writing by the Treasurer or a person authorised by the Treasurer certifying that —
- (a) something mentioned in the certificate occurred because of the expiry; or
 - (b) something mentioned in the certificate was done under the regulations, or for a purpose connected with or arising out of the expiry,
- is conclusive evidence of that fact.

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6. Agricultural Products Act 1929 amended

- (1) The amendment in this section is to the *Agricultural Products Act 1929**.

[* *Reprinted as at 5 March 1999.*

For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 10.]

- (2) Section 2AA is repealed.

7. Constitution Acts Amendment Act 1899 amended

- (1) The amendment in this section is to the *Constitution Acts Amendment Act 1899**.

[* Reprint 12 as at 3 October 2003.

5 For subsequent amendments see *Western Australian Legislation Information Tables for 2003, Table 1, p. 77 and Act No. 35 of 2003.*]

- (2) Schedule V Part 3 is amended by deleting the item relating to the Western Australian Egg Marketing Board.

10 **8. Financial Administration and Audit Act 1985 amended**

- (1) The amendment in this section is to the *Financial Administration and Audit Act 1985**.

[* Reprinted as at 16 September 2002.

15 For subsequent amendments see *Western Australian Legislation Information Tables for 2003, Table 1, p. 140-1 and Act No. 35 of 2003.*]

- (2) Schedule 1 is amended by deleting the item relating to the Western Australian Egg Marketing Board.

20 **9. Statutory Corporations (Liability of Directors) Act 1996 amended**

- (1) The amendment in this section is to the *Statutory Corporations (Liability of Directors) Act 1996**.

[* Reprint 3 as at 7 November 2003.

25 For subsequent amendments Acts Nos. 35 of 2003 and 4 of 2004.]

- (2) Schedule 1 is amended by deleting the item relating to the Western Australian Egg Marketing Board.

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10. *Stock Diseases (Regulations) Act 1968* amended

- (1) The amendments in this section are to the *Stock Diseases (Regulations) Act 1968**.

[* *Reprinted as at 12 November 1999.*

5 *For subsequent amendments see Western Australian
Legislation Information Tables for 2003, Table 1, p. 372 and
Act No. 50 of 2003.]*

- (2) Section 10(2)(j) is amended as follows:

- 10 (a) after “or for the” by inserting —
 “production of eggs or the ”;
 (b) by deleting “for the purpose of hatching”.

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