

## **MARKETING OF POTATOES AMENDMENT AND REPEAL BILL 2016 – EXPLANATORY MEMORANDUM**

In April 2016, Government announced that Western Australia's ware potato industry would be deregulated from 30 June 2016, with the *Marketing of Potatoes Act 1946* and the *Marketing of Potatoes Regulations 1987* repealed by the end of 2016.

This Bill seeks to amend and ultimately repeal the *Marketing of Potatoes Act 1946* to deregulate the State's ware potato industry, and provide for consequential amendments to other Acts and related purposes.

The Bill will amend the Act to retain those sections that allow the Potato Marketing Corporation to regulate the final ware potato pool (Pool One) up to September 30 2016, after which the Corporation will wind up its activities, the Act will be repealed and the Corporation is abolished by 31 December 2016. Note that Pool One was already in the ground when deregulation was announced and will be harvested and marketed July, August and September. There will not be any further regulated pools after this time.

An explanation of each clause of the Bill is below:

### **Clause 1: Short title**

This Act will be known as the *Marketing of Potatoes Amendment and Repeal Act 2016* in accordance with normal practice.

### **Clause 2: Commencement.**

This Act comes into operation in different parts:

- **Part 1** deals with preliminary matters announcing the deregulation with the *Marketing of Potatoes Amendment and Repeal Act 2016* on the date this Act

receives Royal Assent. This will see the Act amended so that the Potato Marketing Corporation only retains those functions it requires to regulate the last remaining pool;

- **Part 2** amends the *Marketing of Potatoes Act 1946* on 30 September 2016 – there will be no more regulated potato market from this point on;
- **Part 3 in Division 1** by 31 December 2016 repeals the *Marketing of Potatoes Act 1946* and the *Marketing of Potatoes Regulations 1987*; and
- **Part 3 in Division 2** by 31 December 2016 deals with repeals and consequential amendments.
- There are some consequential amendments that will delete the Potato Marketing Corporation of Western Australia from the schedules of certain Acts that relate to statutory authorities. These consequential amendments come into operation on the expiry of the *Marketing of Potatoes Act 1946*;
- The rest of this Act is on a date fixed by proclamation, or different days may be fixed for different provisions.

## **Part 2 – Amends the *Marketing of Potatoes Act 1946*.**

**Clause 3** – states it is amending the *Marketing of Potatoes Act 1946*.

**Clause 4** – is replacing the 1946 long title of the *Marketing of Potatoes Act 1946* with “an Act to provide for the winding up of the Potato Marketing Corporation of Western Australia and related purposes.”

**Clause 5** of the *Marketing of Potatoes Act 1946* is amended and a new clause 5(1) is inserted.

This new clause 5(1) contains a transition day definition. The definition is referencing when the Marketing of Potatoes Amendment and Repeal Act 2016 comes into operation.

A new **Clause 5A** is inserted to limit the application of the 1946 Act to specific matters by inserting right at the very end of that 1946 Act a new Part 6.

Part 6 contains the transitional provisions for the Marketing of Potatoes Amendment and Repeal Act 2016 as listed below:

- the terms used;
- abolishing the Potato Marketing Corporation of Western Australia;
- the remaining employees;
- transfer of contracts for service;
- transfer of assets and liabilities;
- proceedings and remedies and immunities;
- closure of accounts;
- agreements, instruments and documents;
- completion of things commenced by the Potato Marketing Corporation of Western Australia;
- continuation of things done by the Potato Marketing Corporation of Western Australia;
- effect on other instruments, rights and obligations;
- clarifies the *Interpretation Act 1984* is not affected; and

- provides for transitional regulations.

**Clause 7** deletes section 8 of the *Marketing of Potatoes Act 1946* containing the provision to elect members to the Potato Marketing Corporation Board.

**Clause 8** inserts a new section 17AA into the *Marketing of Potatoes Act 1946* confining the Potato Marketing Corporation Board to continue performing its purposes for the completion of the last regulated pool of ware potatoes (Pool One), which was already in the ground when deregulation was announced, and for the winding up.

**Clause 9** deletes section 19A of the *Marketing of Potatoes Act 1946* containing the review of the State Administrative Tribunal to a decision of the Potato Marketing Corporation of Western Australia.

**Clause 10** deletes section 20B of the *Marketing of Potatoes Act 1946* containing consultative groups to advise the Potato Marketing Corporation of Western Australia.

**Clause 11** deletes section 44 of the *Marketing of Potatoes Act 1946* containing the power to review the 1946 Act.

**Clause 12** inserts Part 6 discussed above

### **Part 3 – deals with the Repeal & Consequential Amendments**

**Part 3 in Division 1 Clause 13** repeals the *Marketing of Potatoes Act 1946* and the Marketing of Potatoes Regulations 1987.

**Part 3 in Division 2** deals with some consequential amendments to other Acts. These consequential amendments will delete the Potato Marketing Corporation of Western Australia from the schedules of certain Acts that relate to statutory authorities:

**Clause 14** has the *Constitutional Act Amendment Act 1899* amended;

**Clause 15** has the *Financial Management Act 2006* amended; and

**Clause 16** has the *Statutory Corporations (Liability of Directors) Act 1996* amended.