

Western Australia

## **Marketing of Meat Act 1971**

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# Marketing of Meat Act 1971

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## **Notes**

Western Australia

## **Marketing of Meat Act 1971**

**An Act to provide for —**

- **the transfer of the assets and liabilities of the Western Australian Meat Marketing Corporation by way of sale to a co-operative company controlled by lamb producers; and**
  - **the conferral on that company of certain exclusive marketing rights for slaughtered lamb,**
- and for related purposes.**

*[Long title inserted by No. 8 of 1999 s.5.]*

## **Part I — Preliminary**

*[Heading inserted by No. 110 of 1987 s.5.]*

### **1. Citation**

This Act may be cited as the *Marketing of Meat Act 1971*<sup>1</sup>.

*[Section 1 amended by No. 107 of 1985 s.5.]*

### **2. Commencement**

This Act shall come into operation on a date to be fixed by proclamation<sup>1</sup>.

*[3. Section 3 repealed by No. 107 of 1985 s.6.]*

### **4. Interpretation**

(1) In this Act unless the contrary intention appears —

“**amending Act**” means the *Marketing of Meat Amendment Act 1999*;

“**appointed day**” means the day fixed by proclamation made under section 2(2) of the amending Act;

“**Company**” means the company referred to in section 3(1)(a)(i) of the amending Act;

“**Corporation**” means the Western Australian Meat Marketing Corporation established by section 5 as in force immediately before the appointed day;

“**lamb**” means a sheep which has not cut a permanent incisor tooth;

“**lamb producer**” means a person who is engaged in the business of raising and finishing lambs for sale.

*[(2) and (3) repealed]*

*[Section 4 amended by No. 55 of 1977 s.3; No. 73 of 1983 s.3; No. 107 of 1985 ss.7 and 26; No. 110 of 1987 s.6; No. 32 of 1993 s.28; No. 8 of 1999 s.6.]*

**Part 1A — Transfer of business of Western Australian  
Meat Marketing Corporation to a co-operative  
company**

*[Heading inserted by No. 8 of 1999 s.7.]*

**Division 1 — Preliminary**

*[Heading inserted by No. 8 of 1999 s.7.]*

**4A. Definitions**

In this Part, unless the contrary intention appears —

**“assets”** means property of every kind whether tangible or intangible or real or personal, and includes without limitation —

- (a) choses in action;
- (b) goodwill;
- (c) rights, interests and claims of every kind in or to property,

whether arising from, accruing under, created or evidenced by or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective;

**“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;

**“trustees”** means the trustees appointed for the purposes of the trust deed referred to in section 3(1)(a)(ii) of the amending Act;

**“trust deed”** means the trust deed referred to in section 3(1)(a)(ii) of the amending Act.

**Marketing of Meat Act 1971**

**Part 1A** Transfer of business of Western Australian Meat Marketing Corporation to a co-operative company

**Division 1** Preliminary

**s. 4B**

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*[Section 4A inserted by No. 8 of 1999 s.7.]*

**4B. Purposes of this Part**

- (1) The purposes of this Part are to bring about —
  - (a) the transfer of the assets and liabilities of the Corporation to the Company by way of sale of the Corporation's business; and
  - (b) the issue to the trustees of shares in the Company (“**the shares**”) equal to the net value of that business.
- (2) This is to be done on the basis that —
  - (a) the trustees will have the shares vested in them without their giving consideration; and
  - (b) under the provisions of the trust deed, the trustees —
    - (i) will hold the shares in trust for the benefit of lamb producers; and
    - (ii) will be required to distribute the shares in the Company among lamb producers.

*[Section 4B inserted by No. 8 of 1999 s.7.]*

**4C. Restrictions on amendment of governing documents**

The provisions of —

- (a) the memorandum and articles of association of the Company; or
- (b) the trust deed,

must not be amended without the prior approval of the Minister.

*[Section 4C inserted by No. 8 of 1999 s.7.]*

**Division 2 — Sale of Corporation's business to Company**

*[Heading inserted by No. 8 of 1999 s.7.]*

**4D. Transfer of Corporation's business to Company**

- (1) On the appointed day the assets and rights of the Corporation are by force of this section transferred to the Company by way of sale and without the need for any conveyance or assignment.
- (2) On and after the appointed day the liabilities of the Corporation are, by force of this section, the liabilities of the Company.

*[Section 4D inserted by No. 8 of 1999 s.7.]*

**4E. Determination of amount of consideration for sale**

- (1) The Minister, after consultation with the Company, is to determine the net value of the business of the Corporation as at the appointed day.
- (2) The net value of the business is the total value of the assets and rights transferred to the Company by section 4D(1) less the amount of the liabilities transferred to the Company by section 4D(2).
- (3) The Minister is to notify the Company in writing of —
  - (a) the net value determined under subsection (1); and
  - (b) the nominal value of the shares to be issued by the Company under section 4F.
- (4) A copy of the notice given under subsection (3) is to be given to the Corporation.
- (5) For the purposes of subsection (1), section 8A as in force immediately before the appointed day applies —
  - (a) as if it had not been repealed; and
  - (b) as if references in the section to the Corporation were references to the Company.

*[Section 4E inserted by No. 8 of 1999 s.7.]*

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**Part 1A** Transfer of business of Western Australian Meat Marketing Corporation to a co-operative company

**Division 1** Preliminary

**s. 4F**

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**4F. Consideration to be satisfied by allotment of shares**

- (1) The consideration for the transfer effected by section 4D is that the Company must allot and issue to the trustees fully paid shares in the Company that have a total par value equal to the net value specified in the notice given to the Company under section 4E(3) (“**the notice**”).
- (2) The shares are to have a nominal value specified in the notice.
- (3) The allotment and issue of shares is to be made as soon as is practicable after the notice is given.

*[Section 4F inserted by No. 8 of 1999 s.7.]*

**4G. Corporation to prepare statement**

- (1) As soon as is practicable after notice is given to the Company under section 4E(3) the Corporation is to prepare a statement showing as at the appointed day —
  - (a) a description of the assets and rights of the Corporation that have been transferred to the Company under section 4D; and
  - (b) a description of the liabilities of the Corporation that have become the liabilities of the Company under that section.
- (2) The statement is to also specify —
  - (a) the value of each asset as at the appointed day; and
  - (b) the amount of each liability, or category of liabilities, as at that day,as determined by the Minister under section 4E(1).
- (3) The Corporation is to cause the statement to be published in the *Gazette* for public information.

*[Section 4G inserted by No. 8 of 1999 s.7.]*

**4H. Values etc. may be estimated if necessary**

It is sufficient for the purposes of this Division for a value or amount to be estimated if it is not reasonably practicable, for those purposes, for —

- (a) a definite value to be assigned to an asset or right as at the appointed day; or
- (b) the exact amount of a liability, or category of liabilities, to be determined as at that day.

*[Section 4H inserted by No. 8 of 1999 s.7.]*

**Division 3 — Other provisions relating to transfer to Company**

*[Heading inserted by No. 8 of 1999 s.7.]*

**4I. References to Corporation in agreements and instruments**

On and after the appointed day agreements and instruments —

- (a) to which the Corporation is a party; or
- (b) which contain a reference to the Corporation,

have effect, by force of this section, as if —

- (c) the Company were substituted for the Corporation as a party to the agreement or instrument; and
- (d) any reference to the Corporation were, unless the context otherwise requires, a reference to the Company.

*[Section 4I inserted by No. 8 of 1999 s.7.]*

**4J. Proceedings and remedies**

On and after the appointed day —

- (a) the Company is a party to any proceedings by or against the Corporation commenced before the appointed day;
- (b) any proceedings or remedy that might have been commenced by, or available against or to, the

**Marketing of Meat Act 1971**

**Part 1A** Transfer of business of Western Australian Meat Marketing Corporation to a co-operative company

**Division 1** Preliminary

**s. 4K**

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Corporation may be commenced by, and are available against or to, the Company.

*[Section 4J inserted by No. 8 of 1999 s.7.]*

**4K. Other things in progress**

- (1) Any act, matter or thing done or made known, or omitted to be done, before the appointed day by, to or in respect of the Corporation is to be taken to have been done, made known or omitted by, to or in respect of the Company.
- (2) Subsection (1) applies only to the extent that the act, matter or thing has any force, effect or significance after the appointed day.

*[Section 4K inserted by No. 8 of 1999 s.7.]*

**4L. Records of Corporation**

- (1) The Corporation is to deliver to the Company all registers, papers, documents, minutes, receipts, books of account and other records (however compiled, recorded or stored) relating to the operations of the Corporation.
- (2) The Corporation's obligations under subsection (1) are subject to its requirements to have access to information for the purposes of giving effect to Division 2.

*[Section 4L inserted by No. 8 of 1999 s.7.]*

**4M. Stamp duty**

- (1) Stamp duty under the *Stamp Act 1921* is not chargeable on the transfer of assets and liabilities effected by operation of section 4D.
- (2) The Minister may certify in writing that a specified asset or liability was transferred by operation of section 4D, and such a certificate is conclusive evidence of that fact, unless the contrary is shown.

*[Section 4M inserted by No. 8 of 1999 s.7.]*

**4N. Annual report for part of year**

The accountable authority, within the meaning in the *Financial Administration and Audit Act 1985*, of the Corporation is to report as required by section 66 of that Act for the period from the preceding 1 July to the appointed day, and Division 14 of Part II of that Act applies as if that period were a full financial year.

*[Section 4N inserted by No. 8 of 1999 s.7.]*

**4O. Completion of things commenced**

Anything commenced to be done by the Corporation under this Act before the appointed day may be continued by the Company so far as the doing of that thing is within the powers of the Company under this Act after that day.

*[Section 4O inserted by No. 8 of 1999 s.7.]*

**4P. Performance of necessary transitional functions**

- (1) Despite the repeal effected by section 8 of the amending Act, the Corporation continues in existence for the purpose of —
  - (a) receiving the notice referred to in section 4E(4);
  - (b) performing the functions described in sections 4G and 4L; and
  - (c) reporting as required by section 4N.
- (2) The accountable authority, within the meaning in the *Financial Administration and Audit Act 1985*, of the Corporation also continues in existence for the purpose described in subsection (1)(c).
- (3) For the purposes of subsection (1) the Corporation —
  - (a) is to be constituted by a person appointed by the Minister; and

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**Part 1A** Transfer of business of Western Australian Meat Marketing Corporation to a co-operative company

**Division 1** Preliminary

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- (b) is to perform the functions referred to in that subsection through that person.
- (4) The person referred to in subsection (3) holds office at the pleasure of the Minister and on such terms and conditions as the Minister determines.
- (5) The Corporation as constituted under this section has the powers that are necessary or convenient for the purposes of subsection (1).
- (6) The Minister is to provide the clerical or other assistance that the Corporation reasonably requires for the purposes of subsection (1).

*[Section 4P inserted by No. 8 of 1999 s.7.]*

**4Q. Further transitional provision may be made**

- (1) If there is no sufficient provision in this Part for any matter or thing necessary or convenient to give effect to the transition from the Corporation to the Company the Minister may make that provision by order published in the *Gazette*.
- (2) An order under this section may be made so as to have effect from the appointed day.
- (3) To the extent that a provision of any such order has effect on a day that is earlier than the day of its publication in the *Gazette*, the provision does not operate so as —
  - (a) to affect, in a manner prejudicial to any person (other than the State), the rights of that person existing before the day of its publication; or
  - (b) to impose liabilities on any person (other than the State) in respect of anything done or omitted to be done before the day of publication.

*[Section 4Q inserted by No. 8 of 1999 s.7.]*

**4R.      Saving**

The operation of any provision of this Part is not to be regarded —

- (a) as a breach of contract or confidence or otherwise as a civil wrong;
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities or the disclosure of information;
- (c) as giving rise to any remedy by a party to an instrument or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability;
- (d) as causing any contract or instrument to be void or otherwise unenforceable; or
- (e) as releasing or allowing the release of any surety.

*[Section 4R inserted by No. 8 of 1999 s.7.]*

*[Part II (sections 5 to 15). Repealed by No. 8 of 1999 s.8.]*

### **Part III — Marketing of lamb**

*[16, 17 and 18. Repealed by No. 8 of 1999 s.9.]*

#### **19. Unauthorized slaughtering prohibited**

- (1) Subject to section 20, a person shall not slaughter a lamb or cause or permit a lamb to be slaughtered unless, at the time of the slaughter, the lamb is the property of the Company and is being slaughtered for or on behalf of the Company.

Penalty —

- (a) for a first offence, \$2 000; and  
(b) for any subsequent offence, \$4 000.
- (2) A court convicting a person of an offence against subsection (1) shall, in addition to any other penalty imposed in respect of that offence, impose a further penalty calculated at the rate of \$200 in respect of each lamb in respect of which the offence is committed, irreducible in mitigation notwithstanding the provisions of any other Act.

*[Section 19 amended by No. 73 of 1983 s.5; No. 107 of 1985 s.26; No. 20 of 1989 s.3; No. 20 of 1989 s.25; No. 8 of 1999 s.15.]*

#### **20. Exemptions**

Nothing in section 19 applies to the slaughtering of a lamb where —

- (a) the lamb is slaughtered principally for consumption by the lamb producer, his family or employees;  
(b) neither the carcass nor any portion thereof is sold for the purpose of human consumption; or  
(c) the slaughtering is declared by the regulations to be exempted from the provisions of that section.

*[Section 20 amended by No. 107 of 1985 s.19; No. 32 of 1993 s.37; No. 8 of 1999 s.10.]*

*[21, 21A and 22. Repealed by No. 8 of 1999 s.11.]*

*[22A. Repealed by No. 32 of 1993 s.39.]*

*[PART IV Repealed by No. 107 of 1985 s.22.]*

## **Part V<sup>2</sup>— Miscellaneous**

*[26, 27 and 28. Repealed by No. 8 of 1999 s.11.]*

### **29. Penalties for bodies corporate**

Where a body corporate is convicted of an offence under this Act, the penalty that the court may impose is a fine not exceeding 5 times the maximum amount that, but for this section, the court could impose as a pecuniary penalty for that offence.

*[Section 29 inserted by No. 32 of 1993 s.42.]*

### **30. How legal proceedings taken**

- (1) Any proceedings may be taken in the name of the Company by any officer of the Company authorized in that behalf by the Company.

*[(2) repealed]*

*[Section 30 amended by No. 107 of 1985 s.26; No. 32 of 1993 s.43; No. 8 of 1999 ss.12 and 15.]*

### **31. Regulations**

- (1) The Governor may make regulations prescribing all such matters as by this Act are required or permitted to be prescribed, or as may be necessary or convenient to be prescribed for giving effect to or achieving the objects of this Act and facilitating the exercise by the Company of its powers, functions and duties under this Act.
- (2) Without limiting the generality of the power conferred by subsection (1), regulations may be made —

*[(a), (b), (c) and (d) deleted]*

- (e) imposing penalties not exceeding \$1 000 for a first offence, and not exceeding \$2 000 for any subsequent offence, against any regulation.

*[Section 31 amended by No. 73 of 1983 s.9; No. 107 of 1985 s.26; No. 110 of 1987 s.13; No. 8 of 1999 ss.13 and 15.]*

**32. Duration of Act**

- (1) This Act continues in operation until the end of the termination day, and no longer.
- (2) In subsection (1) —  
**“termination day”** means —
  - (a) 31 December 1999; or
  - (b) an earlier day fixed by the Governor by order published in the *Gazette*.

*[Section 32 inserted by No. 8 of 1999 s.14.]*

**Notes**

- <sup>1.</sup> This is a compilation of the *Marketing of Meat Act 1971* and includes all amendments effected by the other Acts referred to in the following Table.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Marketing of Lamb Act 1971</i>	61 of 1971	15 Dec 1971	2 Dec 1972 (see <i>Gazette</i> 24 Nov 1972 p.4460)
<i>Marketing of Lamb Act Amendment Act 1977</i>	55 of 1977	23 Nov 1977	20 Jan 1978 (see <i>Gazette</i> 20 Jan 1978 p.173)
<i>Marketing of Lamb Amendment Act 1981</i>	78 of 1981	9 Nov 1981	9 Nov 1981
<i>Marketing of Lamb Amendment Act 1983</i>	73 of 1983	22 Dec 1983	6 Feb 1984 (see <i>Gazette</i> 3 Feb 1984 p.297)
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> (as amended by No. 4 of 1986), Schedule 1	98 of 1985	4 Dec 1985	1 Jul 1986 (see section 2)
<i>Acts Amendment (Meat Industry) Act 1985, Part II</i> <sup>2</sup>	107 of 1985	7 Jan 1986	1 Jul 1986 (see <i>Gazette</i> 27 Jun 1986 p.2159)
<i>Acts Amendment (Meat Industry) Act 1987, Part III</i>	110 of 1987	19 Dec 1987	22 Jan 1988 (see <i>Gazette</i> 22 Jan 1988 p.109)
<i>Agricultural Legislation (Penalties) Amendment Act 1989</i>	20 of 1989	1 Dec 1989	15 Dec 1989 (see <i>Gazette</i> 15 Dec 1989 p.4513)
<i>Financial Administration Legislation Amendment Act 1993, Part 4</i>	6 of 1993	27 Aug 1993	Deemed operative 1 Jul 1993
<i>Meat Industry Legislation (Amendment and Repeal) Act 1993, Part 4</i> <sup>3</sup>	32 of 1993	16 Dec 1993	The Act other than Divisions 4 and 6: operative 4 Mar 1994 (see section 2 and <i>Gazette</i> 4 Mar 1994 p.821)
<i>Acts Amendment (Public Sector Management) Act 1994, Part 2</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see <i>Gazette</i> 30 Sep 1994 p.4948)
<i>Statutory Corporations (Liability of Directors) Act 1996, section 3</i>	41 of 1996	10 Oct 1996	1 Dec 1996 see section 2 and <i>Gazette</i> 12 Nov 1996 p.6301)
<i>Financial Legislation</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see section 2 (1))

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Amendment Act 1996</i> , section 64			
<i>Marketing of Meat Amendment Act 1999</i> Pt. 1 and 2 <sup>4</sup>	8 of 1999	13 Apr 1999	Part 1 operative 13 Apr 1999 (see section 2(1)); Part 2 operative 13 Aug 1999 (see section 2(2) and <i>Gazette</i> 13 Aug 1999 p.3823)

<sup>2</sup> Part V of Act No. 107 of 1985 reads as follows —

“

## **PART V — TRANSITIONAL**

### *Division 1 — Preliminary*

#### **34. Definitions**

In this Part —

“**appointed day**” means the first day on which both sections 16 and 31 of this Act have come into operation;

“**Commission**” means the Western Australian Meat Commission established by section 12 of the *Abattoirs Act 1909*;

“**Corporation**” means the Western Australian Meat Marketing Corporation established by section 5 of the *Marketing of Meat Act 1971*;

“**meat marketing operations of the Commission**” means the operations of the Commission relating to trading in meat, meat products and livestock, other than meat products referred to in section 15 (6) of the *Abattoirs Act 1909*.

#### **35. Interpretation Act 1984 not affected**

Nothing in this Part shall be construed so as to limit the operation of the *Interpretation Act 1984*.

### *Division 2 — Transfer of certain functions*

#### **36. Purpose of this Division**

The purpose of this Division is to enable effect to be given to a scheme whereby, in accordance with amendments made by sections 16 and 31 of this Act, the meat marketing operations of the Commission are, on the appointed day, to be transferred to the Corporation.

**37. Construction of certain references to Commission**

Subject to this Division, in any written law and in any agreement, whether in writing or not, and in every deed or other instrument, unless the context is such that it would be incorrect or inappropriate, a reference to the Commission in relation to the meat marketing operations of the Commission shall as from the appointed day be read as a reference to the Corporation.

**38. Minister may make further transitional provisions**

The Minister may, by order, make such provision as he considers expedient —

- (a) for the devolution of property of any kind, rights, obligations and liabilities relating exclusively to the meat marketing operations of the Commission;
- (b) for the continuation or completion by the Corporation of anything lawfully commenced by the Commission relating to those operations; or
- (c) otherwise of a saving, transitional or supplementary nature,

where he is of the opinion that it is necessary or expedient to do so in order to give effect to the purpose of this Division.

**39. Legal proceedings**

Notwithstanding sections 36, 37 and 38, if at the appointed day legal proceedings relating to or arising out of the marketing operations of the Commission are pending the Commission shall continue as a party to those proceedings as if this Act had not been passed.

***Division 3 — Provisions relating to Part II***

**40. Definition**

In this Division “the principal Act” means the *Marketing of Lamb Act 1971*.

**41. Construction of references to Western Australian Lamb Marketing Board**

In any written law and in any agreement, whether in writing or not, and in every deed or other instrument, unless the context is such that it would be incorrect or inappropriate, a reference to the Western Australian Lamb Marketing Board, as from the commencement of section 9, shall be read as a reference to the Corporation.

**42. Membership**

- (1) The term of office of —
  - (a) the member holding office under section 7 (1) (b); and
  - (b) the chairman holding office under section 7 (1) (c),of the principal Act immediately before the commencement of section 10 of this Act shall expire on such commencement.
- (2) Where the term of office of a member holding office under section 7 (1) (a) of the principal Act immediately before the commencement of section 10 of this Act —
  - (a) expires before 30 June 1987, the Governor may extend his term of office until that date; or
  - (b) expires after 30 June 1987 but before 30 June 1988, the Governor may extend his term of office until the latter date,

but otherwise section 7 of the principal Act shall continue to apply to the member in all respects.

***Division 4 — Provision relating to Part III***

**43. Membership**

The persons holding office as members of the Commission immediately before the commencement of section 29 cease to be members on such commencement.

”.

<sup>3</sup> Sections 29 (4) and (5) of Act No. 32 of 1993 read as follows —

“

- (4) Where the appointment of a person as a member of the Corporation under the provisions of section 7 of the principal Act as enacted before the coming into operation of this section is still in effect immediately before the coming into operation of this section —
  - (a) if that appointment was made following an election of the member by prescribed lamb producers, the member shall continue to hold office for the term specified in the instrument of appointment, as though the appointment had been made by the Minister; but
  - (b) otherwise, the appointment is terminated on and by virtue of this section coming into operation.
- (5) Subsection (4) does not affect the eligibility of the person to be appointed as a member of the Corporation under section 7 of the principal Act as amended by this section..

<sup>4</sup> Section 3 of the *Marketing of Meat Amendment Act 1999* (Act No. 8 of 1999) reads as follows —

“

**3. Arrangements for commencement of Parts 2 and 3**

- (1) The Minister may give to the Governor the certificate required by section 2(2) when the Minister is satisfied that —
- (a) there are in existence —
    - (i) a company registered as a co-operative company under Part VI of the *Companies (Co-operative) Act 1943* by the name “Western Australian Meat Marketing Co-operative Ltd” (“**the Company**”); and
    - (ii) a trust deed (“**the trust deed**”) under the provisions of which trustees may hold shares in the Company in trust for the benefit of, and distribute those shares among, lamb producers;
  - (b) the provisions —
    - (i) of the memorandum and articles of association of the Company; and
    - (ii) of the trust deed,are appropriate to achieve the purposes of Part 1A;
  - (c) the shareholding in the Company is appropriate for the purposes of Part 1A;
  - (d) suitable trustees have been appointed for the purposes of the trust deed;
  - (e) the Company has in writing notified the Minister that it agrees to the provisions of Part 1A, so far as they affect the Company; and
  - (f) the employment of each person appointed under section 14 of the principal Act has been arranged with the Company or the person is covered by provisions applicable under Part 6 of the *Public Sector Management Act 1994*.
- (2) In subsection (1) —
- “**Minister**” means the Minister who is responsible for the administration of the principal Act;
  - “**Part 1A**” means Part 1A to be inserted in the principal Act by section 7;
  - “**principal Act**” means the *Marketing of Meat Act 1971*.

”