

Western Australia

**Acts Amendment and Repeal (Competition
Policy) Act 2003**

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Acts Amendment and Repeal (Competition Policy) Act 2003

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Western Australia

Acts Amendment and Repeal (Competition Policy) Act 2003

No. 70 of 2003

An Act to amend the statute law for the purposes of competition policy by repealing —

- **the *Bread Act 1982*; and**
 - **the *Wheat Marketing Act 1989*,**
- and by making amendments to various enactments, and for related purposes.**

[Assented to 15 December 2003]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Acts Amendment and Repeal (Competition Policy) Act 2003*.

2. Commencement

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

Part 2 — Repeals

3. *Bread Act 1982* repealed, and consequential amendment to *Consumer Affairs Act 1971*

- (1) The *Bread Act 1982* is repealed.
- (2) The Schedule to the *Consumer Affairs Act 1971** is amended by deleting “*Bread Act 1982*.”

[* *Reprinted as at 25 March 1999.*]

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 74.]

4. *Wheat Marketing Act 1989* repealed, and consequential amendment to *Bulk Handling Repeal Act 2000*

- (1) The *Wheat Marketing Act 1989* is repealed.
- (2) Section 17 of the *Bulk Handling Repeal Act 2000** is repealed.

[* *Act No. 33 of 2000.*]

For subsequent amendments see Act No. 30 of 2002.]

Part 3 — Bush Fires Act 1954

5. The Act amended

The amendments in this Part are to the *Bush Fires Act 1954**.

[* *Reprinted as at 20 January 1997.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 41.]

6. Section 7 amended

Section 7 is amended as follows:

- (a) before “In” by inserting the subsection designation “(1)”;
- (b) in the definition of “occupier of land” after “means” by inserting —
“ , subject to subsection (2), ”;
- (c) by inserting the following subsection —

“

- (2) Subject to section 33(9), a reference in this Act to an owner or occupier of land does not include a reference to a department of the Public Service that occupies land or a State agency or instrumentality that owns or occupies land.

”.

7. Section 33 amended

After section 33(8) the following subsection is inserted —

“

- (9) In this section —
“**owner or occupier of land**” includes a prescribed department of the Public Service that occupies land or a prescribed State agency or instrumentality that owns or occupies land.

”.

Part 4 — *Chicken Meat Industry Act 1977*

8. The Act amended

The amendments in this Part are to the *Chicken Meat Industry Act 1977**.

[* *Act No. 58 of 1977.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 41.]

9. Section 4 amended

- (1) Section 4(1) is amended by deleting the definitions of “establish” and “processing plant”.
- (2) Section 4(2) is amended by deleting “a processor to a grower” in the first place where it occurs and inserting instead —
“ processors to growers ”.

10. Section 15 amended

Section 15 is amended as follows:

- (a) before “The” by inserting the subsection designation “(1)”;
- (b) in paragraph (c) after “processor” by inserting —
“
that is in or to the effect of the prescribed form
of agreement
”;
- (c) at the end of paragraph (f) by deleting the semicolon and inserting a full stop instead;
- (d) by deleting paragraph (g);

s. 11

(e) by inserting the following subsection —

“

(2) Without limiting paragraph (c) of subsection (1), the matters that may be taken into consideration by the Committee in performing its function under that paragraph include —

- (a) the productivity of growers;
- (b) the average price for the time being determined under section 16; and
- (c) the market for chicken meat.

”.

11. Section 16 amended

(1) Section 16(1) is amended by deleting “standard price” and inserting instead —

“ average price that, subject to subsection (6), is ”.

(2) Section 16(4) is amended as follows:

(a) by deleting “standard price” and inserting instead —

“ average price that, subject to subsection (6), is ”;

(b) by deleting “using cost of production figures supplied by the Department”.

(3) Section 16(5) is amended by deleting “standard” and inserting instead —

“ average ”.

(4) Section 16(6)(b) is amended by deleting “all processors and growers” and inserting instead —

“

a processor and a grower to whom subsection (7) applies in relation to broiler chickens purchased or otherwise received pursuant to an agreement referred to in that subsection

- ”.
- (5) After section 16(6) the following subsection is inserted —
- “
- (7) This subsection applies to a processor and a grower between whom there is a written agreement for the processor to purchase or otherwise receive broiler chickens from the grower —
- (a) that is in or to the effect of the prescribed form of agreement; or
- (b) that was, at the time it was entered into, in or to the effect of the form of agreement prescribed at that time.
- ”.

12. Section 17 repealed

Section 17 is repealed.

13. Section 18 amended

- (1) Section 18(1) is amended by deleting “in or to the effect of the prescribed form of agreement” and inserting instead —
- “ to which subsection (1a) applies ”.
- (2) After section 18(1) the following subsections are inserted —
- “
- (1a) This subsection applies to —
- (a) an agreement in or to the effect of the prescribed form of agreement; or
- (b) any other written agreement that provides for a dispute arising under the agreement to be placed before the Committee for determination.
- (1b) Subsection (1a) does not apply to an agreement referred to in paragraph (b) of that subsection if —

s. 14

- (a) the agreement provides for a dispute arising under the agreement to be placed before the Committee for determination only if the Committee is satisfied that certain conditions specified in the agreement have been satisfied; and
- (b) the Committee is not satisfied that those conditions have been satisfied.

”.

14. Section 19 repealed

Section 19 is repealed.

15. Section 19A amended

- (1) After section 19A(5) the following subsection is inserted —

“

- (5a) If regulations prescribe the requirements with which growing premises have to comply, the Committee —
- (a) shall approve growing premises in respect of which an application is made if the Committee is satisfied that the premises comply with those requirements; and
 - (b) shall refuse to approve growing premises in respect of which an application is made if the Committee is satisfied that the premises do not comply with those requirements.

”.

- (2) Section 19A(8) is amended by deleting “subsection (9)” and inserting instead —

“ subsections (9) and (9a) ”.

- (3) After section 19A(9) the following subsection is inserted —

“

- (9a) Without limiting subsection (9), if —
- (a) regulations prescribe the requirements with which growing premises have to comply; and
 - (b) the Committee is satisfied that growing premises approved under this section do not comply with those requirements,

the Committee shall revoke the approval by notice in writing served on the person granted the approval.

”.

- (4) Section 19A(10) is amended after “subsection (9)” by inserting —

“ or (9a) ”.

- (5) Section 19A(13) is repealed.

16. Section 24 amended

- (1) Section 24(2) is amended as follows:

- (a) before paragraph (a) by inserting the following paragraph —

“

- (aa) providing for environmental, animal welfare and health matters relating to the growing of chickens;

”;

- (b) in paragraph (a) by deleting “section 17;” and inserting instead —

“ sections 16 and 18; ”;

- (c) in paragraph (b) by deleting “standard” and inserting instead —

“ average ”;

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- (d) in paragraph (d) by deleting “paragraph (d) of section 15;” and inserting instead —
“ section 15(1)(d); ”;
- (e) in paragraph (e) by deleting “information required for the purposes of the records referred to in paragraph (d) of section 15;” and inserting instead —

“

information —

- (i) required for the purposes of the records referred to in section 15(1)(d); or
- (ii) relating to compliance with the requirements of the regulations;

”;

- (f) after paragraph (f) by inserting the following paragraph —

“

- (fa) prescribing for the purposes of section 19A the requirements with which growing premises have to comply;

”.

- (2) Section 24(3)(a) is amended by deleting “standard” and inserting instead —

“ average ”.

17. Section 27 repealed

Section 27 is repealed.

18. Section 28 repealed

Section 28 is repealed.

Part 5 — *Conservation and Land Management Act 1984*

19. The Act amended

The amendments in this Part are to the *Conservation and Land Management Act 1984**.

[* *Reprinted as at 26 March 1999.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 62 and Acts Nos. 6 and 20 of 2002.]

20. Section 140 repealed

Section 140 is repealed.

21. Section 143 repealed

Section 143 is repealed.

Part 6 — *Eastern Goldfields Transport Board Act 1984*

22. The Act amended

The amendments in this Part are to the *Eastern Goldfields Transport Board Act 1984**.

[* Reprinted as at 7 January 2000.]

23. Section 5 amended

Section 5(2) is repealed and the following subsection is inserted instead —

“

- (2) The Board is not an agent of the Crown and does not have the status, immunities and privileges of the Crown.

”.

24. Section 35 repealed

Section 35 is repealed.

Part 7 — *Edith Cowan University Act 1984*

25. The Act amended

The amendments in this Part are to the *Edith Cowan University Act 1984**.

[* *Reprinted as at 1 October 1999.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 107.]

26. Section 38 replaced by sections 38, 38A and 38B

Section 38 is repealed and the following sections are inserted instead —

“

38. Powers of Council to invest

Subject to section 38A in relation to moneys held on trust by the University for the purposes of the University, the Council —

- (a) may invest any moneys standing to the credit of the Edith Cowan University Account that are not immediately required for the purposes of this Act in any securities that the Council thinks fit; and
- (b) may sell and realise any security or reinvest the proceeds of any sale.

38A. Trust property and trust moneys

The Council —

- (a) may act as trustee or manager of any property or moneys held on trust by the University for the purposes of the University; and
- (b) may apply any property or moneys so held, and not immediately required for the purposes of

the trust declared in relation to the property or moneys, in any way that is not inconsistent with the instrument creating the trust.

38B. Repayment of trust moneys

- (1) The amount of any moneys that are applied under section 38A(b) —
 - (a) is taken to be a loan to the University from the trust estate or trust fund from which the amount is taken; and
 - (b) subject to subsection (2), is repayable by the Council as approved by the Minister with interest at the rate approved by the Minister from time to time.
- (2) An amount that is repayable under subsection (1)(b) (including interest on the amount) is to be repaid by the Council within 25 years.

”.

Part 8 — *Gold Corporation Act 1987*

27. The Act amended

The amendments in this Part are to the *Gold Corporation Act 1987**.

[* *Reprinted as at 2 January 2001.*

For subsequent amendments see Act No. 43 of 2000.]

28. Section 4 amended

Section 4 is amended as follows:

- (a) in subsection (5) by deleting “all local government rates and charges and”;
- (b) after subsection (5) by inserting the following subsections —

“

- (6) No local government rate or charge is to be imposed or levied on any land vested in, or the care, control and management of which are placed with, Gold Corporation, if that land is used or reserved exclusively for the purpose of providing works, undertakings or facilities necessary to the performance of the functions of Gold Corporation.
- (7) Gold Corporation is to pay to the Treasurer for the benefit of the Consolidated Fund in respect of a financial year a sum equal to the amount of any local government rate or charge that, but for subsection (6), Gold Corporation would have been liable to pay in respect of that financial year.
- (8) Amounts payable under subsection (7) —
 - (a) are to be determined in accordance with the principles; and

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(b) are to be paid at the time or times,
that the Treasurer may direct.

”.

29. Section 20 repealed

Section 20 is repealed.

30. Section 21 amended

Section 21(3) is amended by deleting “under section 20.” and inserting instead —

“

by Gold Corporation under the *State Enterprises
(Commonwealth Tax Equivalents) Act 1996*.

”.

31. Section 23 inserted

After section 22 the following section is inserted in Part IV —

“

23. Charges for guarantee

- (1) The Treasurer may, after consultation with the Board, fix charges to be paid by, as the case requires, Gold Corporation, the Mint or GoldCorp to the Treasurer for the benefit of the Consolidated Fund in respect of a guarantee under section 22.
- (2) Amounts payable under subsection (1) are to be paid at the times, and in the instalments, that the Treasurer may direct.

”.

32. Section 35 amended

(1) Section 35(6) is amended as follows:

- (a) by deleting “but subject to subsection (7)”;

(b) by deleting “all local government rates and charges and”.

(2) Section 35(7) is repealed and the following subsections are inserted instead —

“

(7) No local government rate or charge is to be imposed or levied on any land vested in, or the care, control and management of which are placed with, the Mint, that is used or reserved exclusively for the purpose of providing works, undertakings or facilities necessary to the performance of the functions of the Mint.

(7a) The Mint is to pay to the Treasurer for the benefit of the Consolidated Fund in respect of a financial year a sum equal to the amount of any local government rate or charge that, but for subsection (7), the Mint would have been liable to pay in respect of that financial year.

(7b) Amounts payable under subsection (7a) —

(a) are to be determined in accordance with the principles; and

(b) are to be paid at the time or times,

that the Treasurer may direct.

”.

33. Section 44 amended

Section 44(c) is amended by deleting “section 20 instead of income tax” and inserting instead —

“

section 5 of the *State Enterprises
(Commonwealth Tax Equivalents) Act 1996*

”.

s. 34

34. Section 48 amended

- (1) Section 48(5) is amended by deleting “all local government rates and charges and”.
- (2) After section 48(5) the following subsections are inserted —
“
 - (6) No local government rate or charge is to be imposed or levied on any land vested in, or the care, control and management of which are placed with, GoldCorp, that is used or reserved exclusively for the purpose of providing works, undertakings or facilities necessary to the performance of the functions of GoldCorp.
 - (7) GoldCorp is to pay to the Treasurer for the benefit of the Consolidated Fund in respect of a financial year a sum equal to the amount of any local government rate or charge that, but for subsection (6), GoldCorp would have been liable to pay in respect of that financial year.
 - (8) Amounts payable under subsection (7) —
 - (a) are to be determined in accordance with the principles; and
 - (b) are to be paid at the time or times,
that the Treasurer may direct.”.

35. Section 53 amended

Section 53(c) is amended by deleting “section 20 instead of income tax” and inserting instead —

“
section 5 of the *State Enterprises*
(Commonwealth Tax Equivalents) Act 1996
”.

Part 9 — Hire-Purchase Act 1959

36. The Act amended

The amendments in this Part are to the *Hire-Purchase Act 1959**.

[* *Reprinted as at 12 May 2000.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 166.]

37. Section 1 amended

Section 1(4) is repealed.

38. Section 1A inserted

After section 1 the following section is inserted —

“

1A. Application of Act

- (1) Subject to section 1(5), this Act applies to and in relation to a hire-purchase agreement, and any agreement made in relation to a hire-purchase agreement, that have effect immediately before the day on which section 38 of the *Acts Amendment and Repeal (Competition Policy) Act 2003* comes into operation.
- (2) Subject to this section, this Act does not apply to or in relation to an exempt hire-purchase agreement.
- (3) Section 2 applies to and in relation to an exempt hire-purchase agreement as if, in subsection (2)(c) of that section, “in section 12A and” and “under section 12” were deleted.
- (4) For the purposes of, and subject to, section 25, section 13(1) and (2) apply to and in relation to an exempt hire-purchase agreement as if “section 12A or” in section 13(2) were deleted.

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- (5) Section 15(1) (except paragraph (a)), (2), (3) and (6) and section 17 apply to and in relation to an exempt hire-purchase agreement.
- (6) Section 24 applies to and in relation to an exempt hire-purchase agreement as if —
 - (a) subsection (6)(a); and
 - (b) in subsection (6)(b) “in any other case —”,
were deleted.
- (7) Section 25 applies to and in relation to an exempt hire-purchase agreement.
- (8) For the purposes of subsections (4) and (7), the Third Schedule has effect in relation to an exempt hire-purchase agreement.
- (9) In this section —
“exempt hire-purchase agreement” means a hire-purchase agreement, and any agreement made in relation to a hire-purchase agreement, entered into on or after the day referred to in subsection (1).

”.

Part 10 — *Licensed Surveyors Act 1909*

39. The Act amended

The amendments in this Part are to the *Licensed Surveyors Act 1909**.

[* *Reprinted as at 1 January 1999.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 208.]

40. Sections 4 and 7 amended, and transitional

(1) Section 4(1) is amended as follows:

- (a) in paragraph (a) by deleting “and the chairman thereof”;
- (b) by deleting paragraph (b) and inserting the following paragraphs instead —

“

- (b) one member appointed by the Governor, on the nomination of the chief executive officer, to represent interests in relation to land registration matters;
- (ba) one member appointed by the Governor, on the nomination of the Minister, to represent the interests of the users of licensed surveyors’ services;

”;

- (c) in paragraph (c) after “surveyors”, by inserting —
“ who hold practising certificates ”.

(2) Section 4(1a) is repealed and the following subsections are inserted instead —

“

- (1a) The Governor shall appoint, on the nomination of the Minister, one of the members of the Board to be the chairman of the Board.

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- (1b) One person appointed under subsection (1)(a), (b), (ba) or (d) shall be a licensed surveyor who holds a practising certificate. ”.
- (3) Section 4(4) is amended as follows:
- (a) by deleting “Institute” in both places where it occurs and inserting instead —
“ Minister ”;
 - (b) by deleting “Surveyor General” in the second and third places where it occurs and inserting instead —
“ chief executive officer ”;
 - (c) before “if by an educational”, by inserting —
“
if by the Institute, he shall be nominated by the Institute, and,
”.
- (4) Section 4(5) is amended as follows:
- (a) after “whenever” by deleting “the Surveyor General,”;
 - (b) in paragraph (a) by deleting “the Surveyor General,”;
 - (c) in paragraph (a) by deleting “subsection (1)(b), (c)” and inserting instead —
“ subsection (1)(c) ”;
 - (d) in paragraph (b) by deleting “the Surveyor General,”.
- (5) Section 4(5a) is amended by deleting “subsection (4a)(a),” and inserting instead —
“ subsection (4a), ”.
- (6) Section 7 is amended as follows:
- (a) in paragraph (a) by deleting “and is of good fame and character”;

(b) after paragraph (a) by inserting the following paragraphs —

“

- (aa) has not, during the period of 10 years before making the application, been convicted of, or served any part of a term of imprisonment for, an offence in Western Australia or elsewhere involving fraud or dishonesty;
- (ab) is not bound in relation to an offence referred to in paragraph (aa) by a bail undertaking;
- (ac) does not have a charge pending in relation to an offence referred to in paragraph (aa);

”

- (7) A person appointed under section 4 of the *Licensed Surveyors Act 1909* as a member of the Land Surveyors Licensing Board and holding office immediately before the commencement of this section continues to hold office under the first-mentioned section during the period from that commencement until the following 31 December (“**the transitional period**”) as if this section had not been enacted.
- (8) The Surveyor General continues to hold office as the chairman of the Land Surveyors Licensing Board during the transitional period as if this section had not been enacted.
- (9) A vacancy that occurs in the membership of the Land Surveyors Licensing Board during the transitional period is to be filled in accordance with section 4 of the *Licensed Surveyors Act 1909*, as enacted immediately before the commencement of this section.

41. Section 26A amended

Section 26A(3)(c) is deleted.

Part 11 — Perth Market Act 1926

42. The Act amended

The amendments in this Part are to the *Perth Market Act 1926**.

[* Reprinted as at 17 November 2000.]

43. Section 11A amended

- (1) Section 11A(1) is repealed and the following subsection is inserted instead —

“

- (1) The Authority may, by notices erected in such places in the public market and in such other manner as the Authority may determine, indicate —

- (a) the periods during which the public market is open for business and the produce that may be traded during those periods; and
- (b) the periods (other than the periods referred to in paragraph (a)) during which, and the purposes in relation to which, a specified class of person is, or specified classes of persons are, permitted to enter, or prohibited from entering, the public market.

”.

- (2) Section 11A(2) is repealed.
- (3) Section 11A(3) is amended by deleting “, without the permission of the Authority,”.
- (4) Section 11A(4) is repealed.

- (5) Section 11A(5) is amended by deleting the passage from and including paragraph (a) to the end of the subsection and inserting instead —

“

- (a) the public market was open for trading in the produce specified in the certificate; or
- (b) the public market was not open for business and the purpose in relation to which the person specified in the certificate was permitted to enter, or prohibited from entering, the public market,

is evidence of those facts.

”.

44. Section 11B repealed

Section 11B is repealed.

45. Section 13 amended

- (1) Section 13(1) is amended by deleting paragraphs (3a), (3b), (3c) and (3d).
- (2) Section 13(2a) is repealed.

Part 12 — *Sandalwood Act 1929*

46. The Act amended

The amendment in this Part is to the *Sandalwood Act 1929**.

[* *Reprinted as at 4 January 2002.*]

47. Section 3 amended

Section 3(2) is repealed.

Part 13 — *State Supply Commission Act 1991*

48. The Act amended

The amendment in this Part is to the *State Supply Commission Act 1991**.

[* *Reprinted as at 7 June 2002.*]

49. Section 26J repealed

Section 26J is repealed.

Part 14 — Valuation of Land Act 1978

50. The Act amended

The amendments in this Part are to the *Valuation of Land Act 1978**.

[* Reprinted as at 15 June 2001.]

51. Section 6 amended, and transitional

- (1) Section 6(3) is repealed and the following subsection is inserted instead —

“

- (3) A person appointed Valuer-General shall be a person who has, in the opinion of the Minister, the qualifications and experience appropriate to the exercise of the powers, and the performance of the duties and functions, conferred or imposed upon the Valuer-General by or under this Act.

”.

- (2) A person appointed Valuer-General under section 6(3) of the *Valuation of Land Act 1978* and holding office immediately before the commencement of this section continues to hold office on and after that commencement as if appointed under section 6(3) of that Act as inserted by subsection (1) of this section.

52. Section 14 amended

Section 14(2) is amended after “class of persons” by inserting —

“ or to the public at large ”.

53. Section 16A inserted

After section 16 the following section is inserted in Part II —

“

16A. Minister to have access to information

- (1) The Minister is entitled —
 - (a) to have information in the possession of the Valuer-General; and
 - (b) if the information is in or on a document, to have, and make and retain copies of, that document.
- (2) For the purposes of subsection (1), the Minister may —
 - (a) request the Valuer-General to provide information to the Minister;
 - (b) request the Valuer-General to give the Minister access to information;
 - (c) for the purposes of paragraph (b), make use of the staff of the Valuer-General to obtain the information and provide it to the Minister.
- (3) The Valuer-General is to comply with a request under subsection (2) and make the facilities and staff of the Valuer-General available to the Minister for the purposes of subsection (2)(c).
- (4) In this section —

“**document**” includes any tape, disc or other device or medium on which information is recorded or stored;

“**information**” means information specified, or of a description specified, by the Minister that relates to the powers, duties and functions of the Valuer-General;

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“staff of the Valuer-General” means the officers and staff appointed under section 6(1).

”.

54. Section 25 amended

Section 25(2) is repealed.

Part 15 — *Western Australian Meat Industry Authority Act 1976*

55. The Act amended

The amendments in this Part are to the *Western Australian Meat Industry Authority Act 1976**.

[* Reprinted as at 1 March 2002.]

56. Section 16 amended

(1) Section 16(1)(b) is amended by deleting “saleyards,”.

(2) Section 16(1)(d) is amended as follows:

(a) by deleting subparagraph (i) and “and” after it and inserting instead —

“

(i) Midland Saleyard, or any other undertaking, establishment or facility in the meat industry that the Minister declares, by notice published in the *Government Gazette*, to be a replacement for Midland Saleyard; and

”;

(b) in subparagraph (ii) after “directs” by inserting —
“ and subject to subsection (2) ”.

(3) After section 16(1) the following subsections are inserted —

“

(2) The Minister may give the Authority a direction under subsection (1)(d)(ii) only if the Minister is satisfied that the meat industry will suffer substantial loss or substantial disruption unless the Authority assumes responsibility for, or arranges for the management of, the undertaking, establishment or facility concerned.

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- (3) The Minister is to specify in a direction under subsection (1)(d)(ii) the period, not exceeding 2 years, during which the Authority is to assume responsibility for, or arrange for the management of, the undertaking, establishment or facility concerned.
- (4) The Minister may from time to time, by a direction given to the Authority, extend the period referred to in subsection (3) by a period not exceeding 12 months.

”.

57. Section 19 amended

Section 19(b)(iv) is deleted.

58. Section 21 repealed

Section 21 is repealed.

59. Section 23 amended

Section 23(c) is amended by deleting “or section 21”.

