

ACTS AMENDMENT (MEAT INDUSTRY):

No. 107 of 1985.

AN ACT to amend the Marketing of Lamb Act 1971,
the Abattoirs Act 1909 and the Parliamentary
Commissioner Act 1971.

[Assented to 7 January 1986.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY.

1. This Act may be cited as the *Acts Amendment (Meat Industry) Act 1985*. Short title.

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation. Commence-
ment.

PART II—MARKETING OF LAMB ACT 1971.

Principal Act.
Act No. 61
of 1971 as
amended by
Acts Nos. 55
of 1977, 78
of 1981, and
73 of 1983.

3. In this Part the Marketing of Lamb Act 1971 is referred to as the principal Act.

Long title
amended.

4. The long title to the principal Act is amended—

(a) by deleting “Lamb Marketing Board” and substituting the following—

“ Meat Marketing Corporation ”; and

(b) by inserting after “lamb” the following—

“ and other meat and livestock and products derived therefrom ”.

Section 1
amended.

5. Section 1 of the principal Act is amended by deleting “Lamb” and substituting the following—

“ Meat ”.

Section 3
repealed.

6. Section 3 of the principal Act is repealed.

Section 4
amended.

7. Section 4 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting the following definitions in their appropriate alphabetical positions—

“ “Corporation” means the Western Australian Meat Marketing Corporation established by section 5;

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

1985.]

Acts Amendment (Meat Industry) [No. 107.]

“livestock” means livestock of the bovine, caprine, equine, ovine (other than lamb) or porcine species;

“meat” means the flesh of any livestock when killed which is intended to be used for human consumption, whether fresh or subjected to chilling, freezing, preserving, salting, or any other process of manufacture or preservation;

“meat product” includes offal intended for human consumption obtained from any livestock or any carcass, hide or skin or any part thereof so obtained; ”;

and

- (ii) by deleting the definitions of “producer” and “the Board”;
- (b) in subsection (2), by inserting after “is not a” the following—

“ lamb ”; and
- (c) by inserting after subsection (2) the following subsection—

“ (3) Nothing in subsection (1) shall preclude the Corporation from disposing of any lamb, or other meat or any edible offal for a purpose other than for human consumption. ”.

8. Part II of the principal Act is amended in the heading by deleting “LAMB MARKETING BOARD” and substituting the following—

Heading to Part II amended.

“ MEAT MARKETING CORPORATION ”.

Section 5
amended.

9. Section 5 of the principal Act is amended in subsection (1)—

(a) by deleting “a Board” and substituting the following—

“ a Corporation ”; and

(b) by deleting “Lamb Marketing Board” and substituting the following—

“ Meat Marketing Corporation ”.

Section 7
amended.

10. Section 7 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following—

“ (1) The Corporation shall consist of 9 members, of whom—

(a) one member shall, on the nomination of the Minister, be appointed by the Governor as chairman;

(b) 2 members shall be lamb producers elected by prescribed lamb producers and appointed by the Governor;

(c) 5 members shall be appointed by the Governor on the nomination of the Minister made in accordance with subsection (1b); and

(d) one member shall, *ex officio*, be the person who is for the time being holding or acting in the office of manager.

(1a) For the purposes of subsection (1) (a), the Minister shall nominate as chairman a person who, in his opinion, has commercial experience.

(1b) For the purposes of subsection (1) (c) the Minister shall nominate as a member—

- (a) a person to represent producers of livestock other than lamb;
 - (b) to represent consumers, a person who, in the opinion of the Minister, has appropriate economic expertise;
 - (c) a person who, in the opinion of the Minister, is an expert in commerce;
 - (d) a person who, in the opinion of the Minister, is an expert in marketing; and
 - (e) a person to represent the Government.
- (b) by repealing subsections (3), (4), (5), (6) and (7) and substituting the following subsections—

“ (3) Each election for the purposes of subsection (1) (a) shall be held and conducted in such manner and at such time as is prescribed.

(4) The Corporation shall pay out of moneys derived from its operations relating to lamb and lamb products the expenses incurred in connection with the election of an elective member.

(5) Except as otherwise provided by this Act a member other than the manager shall hold office for such term, being not more than 3 years, as is specified in the instrument of his appointment. ”;

(c) in subsection (9)—

(i) in paragraph (a), by inserting after “ceases to be a” the following—

“ lamb ”; and

(ii) by deleting paragraphs (b) and (c) and substituting the following—

(b) without the approval of the Minister, he is absent from 3 consecutive meetings of the Corporation of which he had notice. ”;

(d) by repealing subsection (13); and

(e) in subsection (15) by deleting “or deputy” in each place where it appears.

Section 9
amended.

11. Section 9 of the principal Act is amended in subsection (2) by deleting “in each month” and substituting the following—

“ in at least 10 months in each calendar year ”.

12. Section 10 of the principal Act is amended— Section 10 amended.

(a) in subsection (1), by deleting “three” and substituting the following—

“ 4 ”;

(b) in subsection (2), by deleting “or his deputy”;

(c) in subsection (3) by deleting “or his deputy is” and substituting the following—

“ and the member nominated under section 7 (1a) (e) to represent the Government are ”; and

(d) by repealing subsections (4) and (5) and substituting the following—

“ (4) At a meeting of the Corporation, the chairman or other member presiding does not have a deliberative vote but, in the case of an equality of votes, has a casting vote. ”.

13. Section 11 of the principal Act is amended by repealing subsection (2) and substituting the following— Section 11 amended.

“ (2) A function performed by a delegate under subsection (1) shall be deemed to have been performed by the Corporation. ”.

14. Section 13 of the principal Act is repealed and the following section is substituted— Section 13 repealed and substituted.

“ 13. A member is not personally liable for any act done in good faith by the Corporation or by him acting as a member. ”. Protection of members.

Section 14 amended.

15. Section 14 of the principal Act is amended—

(a) in subsection (1), by deleting “the Minister approves as” and substituting the following—

“ it considers ”;

(b) in subsection (3)—

(i) by deleting “Minister” and substituting the following—

“ Corporation ”; and

(ii) by deleting “Arbitration Act, 1912” and substituting the following—

“ Relations Act 1979 ”; and

(c) in subsection (4) by deleting “, 1904 or of the Government Employees (Promotions Appeal Board) Act, 1945” and substituting the following—

“ 1978 ”.

Sections 14A and 14B inserted.

16. After section 14 of the principal Act the following sections are inserted—

Functions of Corporation.

“ 14A. (1) The functions of the Corporation are—

(a) in respect of lamb, to operate the scheme provided for in Part III for the acquisition and marketing thereof; and

(b) in respect of all other forms of livestock, meat and meat products, to trade in and market the same, both in the State and elsewhere, in such manner as it thinks fit.

(2) The Corporation shall perform its functions under each of paragraphs (a) and (b) of subsection (1) in such manner as to ensure that, taking one year with another, its revenue under that paragraph is at least sufficient to meet its expenditure under that paragraph properly chargeable to revenue.

(3) Any surplus moneys, as determined by the Corporation, derived from its operations under subsection (1) (b) may be expended for such purposes, not inconsistent with this Act, relating to the marketing of livestock, meat or meat products as the Corporation may determine.

14B. (1) The Corporation shall, so far as is practicable, cause all financial transactions relating to lamb and lamb products, and assets derived therefrom including those referred to in subsection (3), to be kept separate from those relating to other livestock, meat and meat products and, shall keep its accounts and records accordingly.

Financial transactions and records relating to lamb to be kept separate.

(2) The Corporation shall, in such manner as it considers appropriate, apportion between—

- (a) its operations relating to lamb and lamb products; and
- (b) its operations relating to other livestock, meat and meat products,

any expenditure or liability incurred or moneys or other benefit received which does not relate exclusively to one of such operations.

(3) If the commencement of the financial year of the Corporation does not coincide with the day on which section 16 of the Acts Amendment (Meat Industry) Act 1985 comes into operation, the Corporation shall, for the

purposes of this section, cause a statement of the assets of the Corporation to be prepared as at that day, together with such other financial statements as it considers appropriate.

(4) If any asset which is derived solely from the operations referred to in a paragraph of subsection (2) is employed wholly or partly for the benefit of the operations referred to in the other paragraph of that subsection, the Corporation shall make an appropriate charge therefor for the credit of the operations from which the asset is derived.

(5) In subsection (2) "expenditure" includes the costs of administration, provision for reserves, depreciation and the repayment of loans. "

Section 15
amended.

17. Section 15 of the principal Act is amended in subsection (1) by deleting paragraphs (e) and (f) and substituting the following paragraphs—

- " (e) carry out, or arrange for the carrying out of, the slaughtering, receiving, holding, treating, handling, classifying, storing, chilling, processing, packing, or selling of any lamb or lamb product, or other livestock, meat or meat product;
- (f) establish and maintain premises, machinery, plant and equipment; "

Section 16
amended.

18. Section 16 of the principal Act is amended—

(a) by repealing subsection (3) and substituting the following—

" (3) The Corporation may limit and regulate the number of lambs to be delivered to it in a particular period, either generally throughout the State or in any area or areas, whenever it is of the opinion that it is desirable to do so. ";

- (b) by repealing subsection (4) and substituting the following subsection—

“ (4) During any period when any limitation or regulation under subsection (3) applies throughout the State or in a particular area, the Corporation is not obliged to accept delivery of any lambs throughout the State or within that area, as the case may be, except from a person who—

- (a) having applied in the manner directed by the Corporation for the approval of the Corporation for the delivery of lambs to the Corporation during that period, has been granted approval for the delivery to the Corporation of a number of lambs during that period; and

- (b) delivers lambs not exceeding the number specified in the approval of the Corporation at a time and place specified by the Corporation. ”; and

- (c) in subsection (9) by inserting after “delivered by” the following—

“ lamb ”.

19. Section 20 of the principal Act is amended in paragraph (a) by deleting “owner” and substituting the following—

Section 20
amended.

“ lamb producer ”.

20. Section 21A of the principal Act is amended—

Section 21A
amended.

- (a) in subsection (1)—

- (i) in paragraph (a), by deleting “or”;

(ii) in paragraph (b) by deleting the comma and substituting the following—

“ ; or ”;

(iii) by inserting after paragraph (b) the following paragraph—

“ (ba) considers that it would be expedient having regard to market conditions to sell any lambs live, ”; and

(iv) in paragraph (d) by deleting “with the approval, in writing, of the Minister, ”; and

(b) by repealing subsections (2) and (3).

Section 22
amended.

21. Section 22 of the principal Act is amended—

(a) by repealing subsections (3) and (4) and substituting the following subsection—

“ (3) The Corporation shall deduct from the proceeds of sale of lamb and lamb products or, as the case may be, from payments made by the Corporation—

(a) all expenditure in connection with the marketing of lamb and lamb products, including the holding, slaughtering, treatment, handling, storing, chilling, processing, packing, carriage, and insurance of lamb and lamb products—

(i) solely incurred, or estimated to be solely incurred, in carrying out its operations relating to lamb and lamb products; or

- (ii) apportioned or charged to those operations under section 14B;
 - (b) all other expenditure (including expenditure referred to in section 14B (5))—
 - (i) solely incurred, or estimated to be solely incurred, in carrying out its operations relating to lamb and lamb products; or
 - (ii) apportioned or charged to those operations under section 14B; and
 - (c) any sums payable by way of penalty for non-delivery imposed pursuant to subsection (7). ”; and
- (b) by repealing subsection (9) and substituting the following subsection—

“ (9) Where the Corporation so determines, any surplus moneys in the hands of the Corporation derived from the operations of the Corporation relating to lamb and lamb products during the immediately preceding financial year may be rateably distributed amongst lamb producers who have delivered lambs to the Corporation, but in so determining the Corporation shall have regard to the need to meet prior deficits and to maintain proper reserves in respect of its operations relating to lamb and lamb products. ”.

Section 27 amended.

23. Section 27 of the principal Act is amended in subsection (1) by inserting, after "shall" the following—

" , in accordance with section 14B, "

Section 28 repealed and substituted.

24. Section 28 of the principal Act is repealed and the following section is substituted—

Expenditure of Corporation.

" 28. Subject to this Act, all expenditure of the Corporation shall be a charge on the funds derived from the performance of its functions. "

Section 32 added.

25. The principal Act is amended by adding at the end the following section—

Review of Act.

" 32. (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from the commencement of section 25 of the Acts Amendment (Meat Industry) Act 1985, and in the course of that review the Minister shall consider and have regard to—

- (a) the effectiveness of the operations of the Corporation;
- (b) the need for the continuation of the functions of the Corporation; and
- (c) such other matters as appear to him to be relevant to the operation and effectiveness of this Act.

(2) The Minister shall prepare a report based on his review made under subsection (1) and shall, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament. "

26. The principal Act is amended by deleting “Board” wherever it appears in the provisions referred to in the Schedule to this section and substituting the following—

References
to Board
amended.

“ Corporation ”.

SCHEDULE.

The definitions of “chairman”, “lamb product”, “manager” and “member” in section 4 (1).

Section 4 (2).

Section 5 (2) and (3).

Section 6.

Section 7 (14) and (15).

Section 8.

Section 9.

Section 10 (1), (2), (3) and (6).

Section 11 (1).

Section 14 (1), (2), (4) and (5).

Section 15.

Section 16 (1), (2), (3a), (3b), (5), (6), (7), (8) and (9).

Section 17.

Section 18.

Section 19 (1).

Section 21.

Section 21A (1).

Section 22.

Section 26 (1) and (2).

Section 27.

Section 29.

Section 30.

Section 31.

PART III—ABATTOIRS ACT 1909.

Principal Act.
Reprinted as
approved
6 September
1976 and
amended by
Acts Nos. 57
and 80 of
1978 and
68 of 1981.

27. In this Part the Abattoirs Act 1909 is referred to as the principal Act.

Long title
amended.

28. The long title to the principal Act is amended—

(a) by inserting after “Abattoirs,” the following—

“ and ”; and

(b) by deleting “undertakings and trading concerns dealing in livestock, meat and meat products,”.

Section 12
amended.

29. Section 12 of the principal Act is amended—

(a) by repealing subsection (2) and substituting the following subsection—

“ (2) The Commission shall consist of 5 members, of whom—

(a) 4 members shall be appointed by the Governor on the nomination of the Minister made in accordance with subsection (2a); and

(b) one member shall, *ex officio*, be the person who is for the time being holding or acting in the office of General Manager and Chief Executive Officer.

(2a) For the purposes of subsection (2) (a) the Minister shall nominate—

(a) a person to represent producers of livestock;

(b) a person who, in the opinion of the Minister, is an expert in commerce;

- (c) a person who, in the opinion of the Minister, is an expert in industrial relations; and
 - (d) a person to represent the Government. ”;
- (b) by repealing subsection (3) and substituting the following subsection—
- “ (3) The Governor shall appoint one of the appointed members of the Commission to be Chairman of the Commission, and the member so appointed holds office as Chairman, unless he sooner resigns as Chairman, until the cessation of the term of his office as member that is current when he became Chairman, but he may be re-appointed as Chairman. ”;
- (c) in subsection (5), by deleting “a member” and substituting the following—
- “ an appointed member ”;
- (d) in subsection (6) by inserting before “member” the following—
- “ an appointed ”;
- (e) in subsection (7) by inserting after paragraph (a) the following paragraph—
- “ (aa) The Governor may appoint another officer of the Commission to be the deputy of the General Manager and Chief Executive Officer in his capacity as a member. ”;
- (f) in subsection (10), by inserting before “members” the following—
- “ appointed ”;
- (g) in subsection (11), in paragraph (a), by deleting “Five of the” and substituting the following—
- “ Three of the appointed ”; and

(h) in subsection (12), by deleting paragraph (b) and substituting the following paragraph—

“ (b) The General Manager and Chief Executive Officer or his deputy is not entitled to vote on any question arising at a meeting of the Commission, and an appointed member is entitled to one vote only. ”.

Section 13
amended.

30. Section 13 of the principal Act is amended by inserting after subsection (3) the following subsection—

“ (4) This section does not apply to any contract or agreement relating to the employment of the General Manager and Chief Executive Officer. ”.

Section 15
amended.

31. Section 15 of the principal Act is amended—

(a) in subsection (2) (b), by deleting paragraph (vii); and

(b) by inserting after subsection (4) the following subsections—

“ (5) Notwithstanding anything in this section, the Commission shall not engage in trade in meat, meat products or livestock, other than products described in subsection (6).

(6) The Commission may engage in trade in tallow, meatmeal, bloodmeal or any other meat product, not intended for human consumption, that is normally sold as part of the operations of an abattoir. ”.

32. The principal Act is amended by adding at the end the following section—

Section 37
added.

“ 37. (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from the commencement of section 32 of the Acts Amendment (Meat Industry) Act 1985, and in the course of that review the Minister shall consider and have regard to—

Review
of Act.

- (a) the effectiveness of the operations of the Commission;
- (b) the need for the continuation of the functions of the Commission; and
- (c) such other matters as appear to him to be relevant to the operation and effectiveness of this Act.

(2) The Minister shall prepare a report based on his review made under subsection (1) and shall, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament. ”.

**PART IV—PARLIAMENTARY COMMISSIONER
ACT 1971.**

33. The Schedule to the Parliamentary Commissioner Act 1971 is amended by inserting after the item relating to the Western Australian Institute of Technology the following—

Schedule
amended.
Reprinted as
approved
19 July 1983
and
amended by
Act No. 124
of 1984.

“ Western Australian Meat Marketing Corporation established under the Marketing of Meat Act 1971. ”.

PART V—TRANSITIONAL.

Division 1.—Preliminary.

Definitions.

34. 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.

Interpretation Act 1984 not affected.

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

Division 2.—Transfer of certain functions.

Purpose of this Division.

36. 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.

Construction of certain references to Commission.

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

Minister may make further transitional provisions.

- (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. 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.

Legal proceedings.

Division 3.—Provisions relating to Part II.

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

Definition.

41. 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.

Construction of references to Western Australian Lamb Marketing Board.

Membership.

42. (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.

Membership.

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