

— PART 1 —

AGRICULTURE

AG301*

Marketing of Eggs Act 1945

Marketing of Eggs Legislation Expiry Regulations 2005

Made under section 43 by the Governor in Executive Council, with the approval of the Treasurer.

1. Citation

These regulations are the *Marketing of Eggs Legislation Expiry Regulations 2005*.

2. Terms used in these regulations

In these regulations —

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

“**new company**” means West Coast Eggs Limited (ACN 112 068 103);

“**section**” means a section of the Act;

“**trust**” means the trust referred to in regulation 9(b).

3. Board continues temporarily for transitional purposes

- (1) The body corporate that, before the expiry, is the Board continues after the expiry but only for the purposes of these regulations.
- (2) The Board as continued under subregulation (1) has the same name and legal identity as before the expiry but is constituted by —
 - (a) the person who was, immediately before the expiry, the general manager of the Board if that person becomes an employee of the new company; or
 - (b) if paragraph (a) does not apply, the Director General, as defined in the *Agriculture Act 1988* section 3, or the person employed in the Director General’s department who is nominated for the purposes of this paragraph by the Director General.

- (3) The entitlements of a person constituting the Board under subregulation (2)(a) are to be determined as if the performance of the person's functions under these regulations were a part of the person's functions as an employee of the new company.
- (4) The entitlements of a person constituting the Board under subregulation (2)(b) are to be determined as if the performance of the person's functions under these regulations were a part of the person's functions as an officer of the department.
- (5) The Board as continued under subregulation (1) has the powers necessary or convenient for the purposes of doing anything under these regulations including making and submitting the reports mentioned in section 43(3)(i).

4. Reports

- (1) The Board as continued under regulation 3(1) retains the reporting functions that the *Financial Administration and Audit Act 1985* gives it as the accountable authority under that Act in respect of a period before the expiry.
- (2) The continuation of the Board, for the purposes of these regulations, after the expiry does not prevent the *Financial Administration and Audit Act 1985* from applying on the basis that the Board is abolished upon the expiry.
- (3) Despite the expiry, section 34 continues to apply until every obligation that the *Financial Administration and Audit Act 1985* imposes to lay a report or document relating to the Board before a House of Parliament has been fulfilled.

5. Transfer of certain property, rights, and liabilities

- (1) Upon the expiry, any property that belonged to the Board immediately before the expiry and that remains upon the expiry becomes the property of the new company.
- (2) Upon the expiry, any rights and liabilities that the Board had immediately before the expiry and that remain upon the expiry become rights and liabilities of the new company.
- (3) If, under subregulation (2), a liability of the Board to pay a producer compensation for eggs delivered before the expiry becomes a liability of the new company but the amount of the liability was not fixed before the expiry, the new company is to fix the amount of the liability in a way that results in it being as close as practicable to the amount that the producer could have expected the Board to fix if the expiry had not occurred.

6. Proceedings and remedies

- (1) Any civil proceedings that could, after the expiry, have been taken by or against the Board if it had not been dissolved may be taken by or against the new company.

- (2) Any civil proceeding or remedy by or against the Board that is pending immediately before the expiry may, after the expiry, be continued by or against the new company.

7. Effect of certain documents continued

Without limiting the generality of regulation 5(2), the effect of any agreement, instrument, or policy of insurance to which the Board was a party before the expiry continues upon the expiry as if a reference in the document to the Board included a reference to the new company.

8. Effect of acts and omissions

For the purpose of ascertaining any right or liability of the new company the existence or the extent of which is affected by the doing of, or omission to do, any thing, any act or omission of the Board before the expiry is to be regarded as an act or omission of the new company.

9. Board to receive and transfer certain shares

The functions under these regulations of the Board as continued under regulation 3(1) include —

- (a) to receive shares in the new company that are issued to it in consideration of the property, rights, and liabilities that become the property, rights, and liabilities of the new company under regulation 5; and
- (b) to transfer shares it receives as described in paragraph (a) to trustees, for no consideration, for distribution to egg producers in accordance with the terms of a trust approved by the Minister.

10. State tax exemptions

- (1) Anything that —
 - (a) occurs because of the expiry and is of a kind specified in subregulation (2); or
 - (b) is done under these regulations, or for a purpose connected with or arising out of the expiry, and is of a kind specified in subregulation (3),

is exempt from State tax.

- (2) The kinds of things to which an exemption under subregulation (1)(a) applies are the cancellation, variation or termination of any licence or rights granted by the Board.
- (3) The kinds of things to which an exemption under subregulation (1)(b) applies are —
 - (a) the transfer of any property, assets or rights from the Board to the new company including, without limitation, land and fixed improvements, plant and equipment, stock, goodwill, consumables, intellectual property,

- trade debts, cash, motor vehicles, shares, benefits of business contracts, business records and software licences;
- (b) the assumption by the new company of any liabilities or obligations of the Board;
 - (c) the transfer of shares in the new company —
 - (i) from the Board to the trustees; or
 - (ii) from the trustees to beneficiaries of the trust or their nominees;
 - (d) the transfer of any cash that the State provides as industry adjustment assistance —
 - (i) from the State to the trustees; or
 - (ii) from the trustees to the beneficiaries of the trust or their nominees;
 - (e) the declaration of the trust or any re-settlement of the trust property; and
 - (f) an instrument evidencing a policy of insurance effected by the new company in substitution for a policy of insurance held by the Board.

11. Expiry of these regulations

- (1) These regulations expire at the end of the day that the Minister fixes under subregulation (2).
- (2) When the Minister is satisfied that these regulations are no longer needed, the Minister, by an order published in the *Gazette*, is to fix the day at the end of which these regulations expire.

Approved

ERIC RIPPER, Treasurer.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.
