

Agricultural Produce Commission Amendment Bill 2021

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Western Australia

LEGISLATIVE COUNCIL

**Agricultural Produce Commission Amendment
Bill 2021**

A Bill for

An Act to amend the Agricultural Produce Commission Act 1988.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Agricultural Produce Commission Amendment*
3 *Act 2021*.

4 **2. Commencement**

5 This Act comes into operation as follows —

6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;

8 (b) the rest of the Act — on the day after that day.

9 **3. Act amended**

10 This Act amends the *Agricultural Produce Commission*
11 *Act 1988*.

12 **4. Section 3 amended**

13 (1) In section 3(1) insert in alphabetical order:

14

15 *authorised officer* means a person designated under
16 section 19B as an authorised officer;

17 *pastoral lease* has the meaning given in the *Land*
18 *Administration Act 1997* section 3(1);

19

20 (2) In section 3(1) in the definition of *agricultural industry* delete
21 “may be prescribed but excluding broadacre cropping and
22 grazing industries;” and insert:

23

24 is prescribed for the purposes of this definition, other than an
25 industry that concerns livestock enterprises conducted on land
26 under a pastoral lease;

27

1 **5. Section 5 amended**

2 In section 5(1) after “of” insert:

3

4 3 or

5

6 **6. Section 6 amended**

7 (1) In section 6(1):

8 (a) in paragraph (a) delete “in relation to” and insert:

9

10 with responsibility for

11

12 (b) after paragraph (a) insert:

13

14 (aa) allocate responsibility for agricultural produce
15 to existing producers’ committees; and

16 (ab) remove responsibility for agricultural produce
17 from producers’ committees; and

18

19 (c) delete paragraphs (d) and (e) and insert:

20

21 (d) conduct polls under this Act; and

22 (da) wind up the affairs of producers’ committees
23 and appoint liquidators for that purpose; and

24 (e) dissolve producers’ committees; and

25

26 (d) after paragraph (f) insert:

27

28 (fa) provide, as are necessary from time to time,
29 persons to assist producers’ committees in
30 carrying out their functions under this Act; and

31

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- 1 (2) In section 6(2):
2 (a) delete “established —” and insert:
3
4 established with responsibility, or be allocated
5 responsibility for —
6
7 (b) in paragraphs (a) and (b) delete “in relation to”;
8 (c) in paragraph (c) delete “to achieve” and insert:
9
10 achieving
11

12 **7. Section 9 amended**

13 In section 9 delete “officers, servants and other”.

14 Note: The heading to amended section 9 is to read:

15 **Commission may employ or engage persons**

16 **8. Part 3 Division 1 heading inserted**

17 At the beginning of Part 3 insert:

18
19 **Division 1 — Establishing producers’ committees**
20

21 **9. Section 10 amended**

22 (1) Delete section 10(1) and insert:

- 23
24 (1) A producer or producers of agricultural produce, or a
25 body representing the interests of such producers, may
26 request the Commission to conduct a poll for the
27 purpose of establishing a producers’ committee with
28 responsibility for the agricultural produce for the whole
29 State or a part of the State.

- 1 (1A) A request made under subsection (1) must —
- 2 (a) be made in writing; and
- 3 (b) specify the agricultural produce for which the
- 4 producers’ committee is proposed to have
- 5 responsibility; and
- 6 (c) specify the objects sought to be effected by
- 7 establishing the producers’ committee; and
- 8 (d) if the producers’ committee is proposed to be
- 9 established only in relation to a particular part
- 10 of the State, specify the part of the State in
- 11 relation to which it is proposed to be
- 12 established.
- 13 (1B) The Commission must publish notice of a proposal to
- 14 establish the producers’ committee.
- 15
- 16 (2) In section 10(2):
- 17 (a) delete “subsection (1) — ” and insert:
- 18 subsection (1B) —
- 19
- 20
- 21 (b) delete “shall” (each occurrence) and insert:
- 22 must
- 23
- 24
- 25 (c) after paragraph (a) insert:
- 26
- 27 (aa) must specify the name or names of the producer
- 28 or producers, or body, that made the request;
- 29 and
- 30

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- 1 (d) in paragraph (c) delete “the subject of the proposal; and”
2 and insert:
3
4 for which the producers’ committee is proposed to have
5 responsibility; and
6
- 7 (3) In section 10(2a) delete “section and section 11, the
8 Commission shall” and insert:
9
10 Division, the Commission must
11
- 12 (4) In section 10(3):
13 (a) delete “shall” (1st occurrence) and insert:
14 must
15 must
16 (b) delete “shall” (last occurrence) and insert:
17 must, subject to subsection (5),
18
19
20
- 21 (5) In section 10(4):
22 (a) delete “facilitating its consideration of the submissions
23 under subsection (3)” and insert:
24 subsection (3),
25 subsection (3),
26 (b) delete “producers who in the opinion of the Commission
27 have” and insert:
28 producer who in its opinion has
29
30
31

- 1 (6) Delete section 10(5) to (7) and (9) and insert:
2
- 3 (5) The Commission must not conduct a poll for the
4 establishment of a producers' committee unless the
5 producer or producers, or body, that requested the poll
6 deposits with the Commission such sum as is
7 determined by the Commission as the reasonable costs
8 of the poll and the estimated initial costs of the
9 establishment of the producers' committee.
- 10 (6) If the Commission resolves to establish the producers'
11 committee, any money paid to the Commission under
12 subsection (5) must be repaid by the producers'
13 committee out of the funds of the producers'
14 committee to the producer or producers, or body, that
15 made the deposit under that subsection.
- 16 (7) The Commission must not establish a producers'
17 committee with responsibility for agricultural produce
18 unless —
- 19 (a) the Commission has —
- 20 (i) complied with subsections (1B) and (2);
21 and
- 22 (ii) conducted a poll among the producers
23 of the agricultural produce in the whole
24 of the State, or a part of the State, as is
25 relevant to the proposal to establish the
26 producers' committee;
- 27 and
- 28 (b) the poll is in favour of the proposal.

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- 1 (8) Even if the Commission has complied with
2 subsections (1B) to (5) and (7) and a poll of producers
3 vote in favour of the proposal, the Commission may
4 refuse to establish, or defer the establishment of, the
5 producers' committee if the Commission considers
6 that, having regard to the circumstances of the case, it
7 is not desirable or practicable to do so.
8

9 **10. Section 11 amended**

- 10 (1) Delete section 11(1)(a)(i) and insert:

11

- 12 (i) the agricultural produce for which the
13 producers' committee has
14 responsibility; and
15

- 16 (2) In section 11(1a)(b) delete “the poll” and insert:

17

18 a poll
19

20 **11. Part 3 Divisions 2 and 3 inserted**

21 After section 11 insert:

22

23 **Division 2 — Allocating responsibility for produce to an**
24 **existing producers' committee**

25 **11A. Preliminary requirements for allocating**
26 **responsibility for agricultural produce to existing**
27 **producers' committee**

- 28 (1) Subject to subsection (2), a producer or producers of
29 agricultural produce, or a body representing the
30 interests of such producers, may request the

- 1 Commission to conduct a poll for the purpose of
2 allocating responsibility for the agricultural produce to
3 an existing producers' committee.
- 4 (2) A request cannot be made under subsection (1) unless
5 the producers' committee has given its written approval
6 to the request being made.
- 7 (3) A request made under subsection (1) must —
8 (a) be made in writing; and
9 (b) specify the producers' committee and the
10 additional agricultural produce for which it is
11 proposed to have responsibility; and
12 (c) specify the objects sought to be effected by
13 allocating responsibility for the additional
14 agricultural produce to the producers'
15 committee; and
16 (d) attach the producers' committee's written
17 approval to the request being made.
- 18 (4) The Commission must publish notice of a proposal to
19 allocate responsibility for agricultural produce to an
20 existing producers' committee.
- 21 (5) A notice referred to in subsection (4) must —
22 (a) be published in the manner directed by the
23 Minister; and
24 (b) specify the name or names of the producer or
25 producers, or body, that made the request; and
26 (c) specify the producers' committee and the
27 additional agricultural produce for which it is
28 proposed to have responsibility; and
29 (d) explain in simple terms the objects sought to be
30 effected by the proposal; and
31 (e) invite submissions from producers who may be
32 affected by the proposal.

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1 (6) In performing its functions under this Division, the
2 Commission must have regard to any submissions
3 made to it under subsection (5)(e).

4 **11B. Polls to allocate responsibility for produce to**
5 **existing producers' committee**

6 (1) If a request is made under section 11A(1) to conduct a
7 poll for the purpose of allocating responsibility for
8 agricultural produce to an existing producers'
9 committee, the Commission must, subject to
10 subsections (2) and (4), conduct the poll.

11 (2) The Commission must not conduct the poll if, in its
12 opinion, allocating responsibility for the agricultural
13 produce to the producers' committee would be
14 materially to the financial detriment of a producer or
15 producers of the agricultural produce.

16 (3) For the purposes of subsection (2), the Commission
17 may invite any producer who in the opinion of the
18 Commission has an interest in the matter to attend
19 meetings of the Commission.

20 (4) The Commission must not conduct the poll unless the
21 producer or producers, or body, that requested the poll
22 deposits with the Commission such sum as is
23 determined by the Commission as the reasonable costs
24 of the poll.

25 (5) If the Commission resolves to allocate responsibility
26 for agricultural produce to the producers' committee,
27 any money paid to the Commission under
28 subsection (4) must be repaid by the producers'
29 committee out of the funds of the producers'
30 committee to the producer or producers, or body, that
31 made the deposit under that subsection.

1 **11C. Allocating responsibility for agricultural produce to**
2 **existing producers' committee**

- 3 (1) The Commission must not allocate responsibility for
4 agricultural produce to an existing producers'
5 committee unless —
6 (a) the Commission has —
7 (i) complied with section 11A(4) and (5);
8 and
9 (ii) conducted a poll under section 11B
10 among the producers of the agricultural
11 produce;
12 and
13 (b) the poll is in favour of the proposal.
- 14 (2) Even if the Commission has complied with
15 sections 11A(4) and (5) and 11B(1) to (4), the
16 Commission may refuse to allocate responsibility for
17 the agricultural produce to the producers' committee if
18 the Commission considers that, having regard to the
19 circumstances of the case, it is not desirable or
20 practicable to do so.
- 21 (3) If the Commission resolves to allocate responsibility
22 for agricultural produce to the producers' committee,
23 then on a day specified by the Commission in a notice
24 under section 11D(1) the producers' committee
25 commences to have responsibility for the agricultural
26 produce.

27 **11D. Notice of allocation of responsibility for agricultural**
28 **produce to existing producers' committee and**
29 **appointing additional members**

- 30 (1) If the Commission resolves to allocate responsibility
31 for agricultural produce to an existing producers'

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- 1 committee, the Commission must by notice published
2 in the *Gazette* —
- 3 (a) specify the producers' committee and the
4 agricultural produce for which it is allocated
5 responsibility; and
- 6 (b) specify the day on which the producers'
7 committee commences to have responsibility
8 for the agricultural produce; and
- 9 (c) invite nominations from among the producers
10 of the agricultural produce for appointment to
11 the producers' committee.
- 12 (2) After receiving nominations the Commission —
- 13 (a) must decide how many members, in addition to
14 the current number of members, there is to be
15 on the producers' committee; and
- 16 (b) if it is of the opinion that a poll of the producers
17 of the agricultural produce should be held to
18 elect the members, must conduct a poll.
- 19 (3) A person is not eligible to stand at a poll under this
20 section to elect members of a producers' committee
21 unless the person is qualified to be appointed to the
22 producers' committee in relation to the agricultural
23 produce in question.
- 24 (4) Subject to subsection (5), a person elected at a poll
25 under this section to be a member of a producers'
26 committee must be appointed by the Commission to be
27 a member of the producers' committee.
- 28 (5) The Commission must not appoint a person under this
29 section to be a member of a producers' committee
30 unless the Commission is of the opinion that the person
31 is qualified to be so appointed in relation to the
32 agricultural produce in question.

1 **Division 3 — Appointment of non-producers to**
2 **producers' committees**

3 **11E. Appointment of non-producers to producers'**
4 **committees**

- 5 (1) A producers' committee may nominate for
6 appointment to that producers' committee a person
7 who would not be eligible to stand at a poll under
8 section 11 or 11D to elect members of the producers'
9 committee.
- 10 (2) The Commission may appoint a person nominated
11 under subsection (1) by a producers' committee to be a
12 member of the producers' committee if —
- 13 (a) the Commission is of the opinion that it would
14 be desirable and practicable to do so; and
- 15 (b) the Commission is of the opinion that the
16 person has experience relevant to the
17 producers' committee's functions; and
- 18 (c) after the person is appointed, the majority of
19 members of the producers' committee would be
20 producers of the agricultural produce for which
21 the producers' committee has responsibility.
- 22 (3) A person appointed to a producers' committee under
23 subsection (2) may take part in the consideration and
24 discussion of any matter before a meeting of the
25 producers' committee, but cannot vote on any matter.
26

27 **12. Part 3 Division 4 heading inserted**

28 Before section 12 insert:
29

30 **Division 4 — Functions of producers' committees**
31

1 **13. Section 12 amended**

2 (1) In section 12(1):

3 (a) delete “in relation to which it is established —” and
4 insert:

5
6 for which the producers’ committee has
7 responsibility —

8
9 (b) in paragraph (d) delete “relating to the production of”
10 and insert:

11
12 that, in the opinion of the producers’ committee, may be
13 of advantage to producers of the

14
15 (c) in paragraph (k) before “promotion” insert:

16
17 production,

18
19 (d) in paragraph (la) before “action” insert:

20
21 a pest or disease of that produce or

22
23 (e) in paragraph (m) delete “organization or in conjunction
24 with the Commission or any other person or
25 organization.” and insert:

26
27 organisation or in conjunction with the Commission or
28 any other person or organisation.

29
30 (2) Delete section 12(2).

- 1 (3) In section 12(3):
2 (a) delete “shall” and insert:
3
4 must
5
6 (b) delete “for which the producers’ committee was
7 established” and insert:
8
9 the producers’ committee is authorised to provide
10
- 11 (4) After section 12(4) insert:
12
- 13 (5) A producers’ committee may, for the purposes of
14 providing services in relation to agricultural produce —
15 (a) communicate, consult or liaise with producers
16 of agricultural produce; and
17 (b) hold meetings with producers of agricultural
18 produce.
19

20 **14. Section 12A amended**

- 21 In section 12A(1):
22 (a) delete “officers, employees and other persons employed
23 or engaged under section 12(2) by a producers’
24 committee established to administer a fruit fly foliage
25 baiting” and insert:
26
27 person employed or engaged by the Commission to
28 assist a producers’ committee with responsibility for
29 administering a fruit fly control
30

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- 1 (b) delete “committee.” and insert:
2
3 committee or carry out any other control measures
4 determined by the producers’ committee.
5

6 Note: The heading to amended section 12A is to read:
7 **Power to enter orchards to administer fruit fly control scheme**

8 **15. Section 13 amended**

- 9 (1) Before section 13(1) insert:
10

11 (1A) In this section —
12 ***prescribed person*** means a person prescribed for the
13 purposes of this definition.
14

- 15 (2) In section 13(1) delete “producer require the producer to furnish
16 in writing in the form of” and insert:
17

18 producer, or a prescribed person, require the producer or
19 prescribed person to furnish in writing in
20

- 21 (3) Delete section 13(2) and insert:
22

23 (2) A person must not without reasonable excuse fail to
24 comply with a requirement in a notice under this
25 section.

26 Penalty for this subsection: a fine of \$1 000.
27

28 Note: The heading to amended section 13 is to read:
29 **Power to require statistical information**

1 **16. Section 14 amended**

2 (1) After section 14(2) insert:

3

4 (2A) Without limiting subsection (1) or (2), the cost or
5 estimated cost of providing a service includes any cost
6 of or associated with communicating, consulting,
7 liaising or meeting with producers of agricultural
8 produce for the purposes of providing the service.

9

10 (2) After section 14(3) insert:

11

12 (4) A charge imposed under this section that is paid to, or
13 collected by, a person is held by that person on trust for
14 the producers' committee providing the service for
15 which it is imposed until it is paid to the Commission
16 in accordance with the regulations.

17 (5) The regulations may provide for the circumstances in
18 which a charge imposed under this section may be
19 waived, refunded or reduced, in whole or in part.

20

21 **17. Part 3 Division 5 inserted**

22 After section 14 insert:

23

24 **Division 5 — Removing responsibility for agricultural**
25 **produce from or dissolving producers' committees**

26 **14A. Removing responsibility for agricultural produce**
27 **from producers' committee after poll**

28 (1) The Commission may conduct a poll of the producers
29 of agricultural produce for which a producers'
30 committee has responsibility for the removal of

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1 responsibility for the agricultural produce from the
2 producers' committee.

3 (2) If the poll is in favour of removing responsibility for
4 the agricultural produce from the producers'
5 committee, then on a day specified by the Commission
6 by notice published in the *Gazette*, the producers'
7 committee ceases to have responsibility for the
8 agricultural produce.

9 **14B. Removing responsibility for agricultural produce**
10 **from producers' committee without poll**

11 (1) The Commission may remove responsibility for
12 agricultural produce from a producers' committee if the
13 Commission is satisfied that the producers'
14 committee —

15 (a) is operating in a manner that is materially to the
16 financial detriment of a producer or producers
17 of the agricultural produce; or

18 (b) is no longer providing any service the
19 producers' committee is authorised to provide.

20 (2) If the Commission resolves to remove responsibility
21 for agricultural produce from a producers' committee,
22 then on a day specified by the Commission by notice
23 published in the *Gazette* the producers' committee
24 ceases to have responsibility for the agricultural
25 produce.
26

27 **18. Section 15 amended**

28 (1) Delete section 15(1) to (3) and insert:
29

30 (1) The Commission may conduct a poll of producers of
31 the agricultural produce for which a producers'

- 1 committee has responsibility for the dissolution of the
2 producers' committee.
- 3 (2) If the poll is in favour of the dissolution of the
4 producers' committee, then on a day specified by the
5 Commission by notice published in the *Gazette* the
6 affairs of the producers' committee must commence to
7 be wound up by —
- 8 (a) the Commission; or
9 (b) a liquidator appointed by the Commission.
- 10 (3) The day specified under subsection (2) must not be
11 later than 6 months after the taking of the poll.
- 12 (3A) On the day specified by the Commission under
13 subsection (2), the producers' committee must cease to
14 act.
- 15 (3B) On and from the day specified by the Commission
16 under subsection (2), the Commission or the liquidator,
17 as is relevant, may for the purposes of winding up the
18 affairs of the producers' committee —
- 19 (a) perform the functions of the producers'
20 committee; and
21 (b) do such other acts and things as the
22 Commission, or liquidator, thinks fit.
23

24 (2) Delete section 15(8).

25 Note: The heading to amended section 15 is to read:

26 **Dissolution of producers' committee after poll**

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1 **19. Section 15A inserted**

2 After section 15 insert:

3

4 **15A. Dissolution of producers' committee without poll**

5 (1) The Commission may dissolve a producers' committee
6 if the Commission is satisfied that the producers'
7 committee —

8 (a) is operating in a manner that is materially to the
9 financial detriment of a producer or producers
10 of agricultural produce for which it has
11 responsibility; or

12 (b) is no longer providing any service the
13 producers' committee is authorised to provide.

14 (2) If the Commission resolves to dissolve a producers'
15 committee, then on a day specified by the Commission
16 by notice published in the *Gazette*, the affairs of the
17 producers' committee must commence to be wound up
18 by —

19 (a) the Commission; or

20 (b) a liquidator appointed by the Commission.

21 (3) Section 15(3A) to (7) applies, with any necessary
22 modifications, to the dissolution of a producers'
23 committee under this section.

24

25 **20. Part 3 Division 6 heading inserted**

26 Before section 16 insert:

27

28 **Division 6 — Conducting polls**

29

1 **21. Section 16 amended**

2 Delete section 16(1) and insert:

3

4 (1) For the purposes of conducting a poll under this
5 Act the Commission must —

6 (a) in the case of a producers' committee that has,
7 or is proposed to have, responsibility for
8 agricultural produce for the whole of the
9 State — compile a list of producers of the
10 agricultural produce in the whole of the State;
11 and

12 (b) in the case of a producers' committee that has,
13 or is proposed to have, responsibility for
14 agricultural produce only in relation to a
15 particular part of the State — compile a list of
16 producers of the agricultural produce in that
17 part of the State.
18

19 **22. Sections 16A and 16B inserted**

20 After section 16 insert:

21

22 **16A. Weighted voting**

23 (1) The Commission may in compiling a list of producers
24 of agricultural produce, determine in writing the
25 number of votes each producer is to have in a poll of
26 the producers of the agricultural produce.

27 (2) In determining the number of votes each producer is to
28 have in the poll, the Commission is to ensure that each
29 producer —

30 (a) has at least 1 vote; and

- 1 (b) has such number of votes as is proportionate to
2 the percentage of the relevant agricultural
3 produce produced in the State, or the relevant
4 part of the State, that was produced by the
5 producer in the 3 year period preceding the year
6 in which the determination is made.
- 7 (3) The Commission must not make a determination under
8 subsection (1) unless it is satisfied that —
- 9 (a) there is sufficient industry data available to the
10 Commission for it to make the determination;
11 and
- 12 (b) it is in the best interests of the agricultural
13 industry to do so.
- 14 (4) As soon as practicable after making a determination
15 under subsection (1), the Commission must give a copy
16 of the determination to each producer of the
17 agricultural produce concerned.
- 18 (5) In a poll for which a determination has been made
19 under subsection (1), the number of votes a producer
20 has is to be in accordance with the determination.

21 **16B. Commission's costs of conducting polls**

- 22 (1) Subject to subsection (2), the Commission is entitled to
23 recover from the funds of a producers' committee the
24 Commission's costs of conducting a poll in relation to
25 the producers' committee.
- 26 (2) The amount the Commission may recover under
27 subsection (1) —
- 28 (a) for a poll under section 10 or 11 — is the
29 amount by which the costs of the poll exceed
30 the sum deposited with the Commission under
31 section 10(5) for the purposes of establishing
32 the producers' committee; and

1 (b) for a poll under section 11B — is the amount
2 by which the costs of the poll exceed the sum
3 deposited with the Commission under
4 section 11B(4) for the purposes of the poll.
5

6 **23. Section 17 amended**

7 Delete section 17(2).

8 **24. Part 3 Division 7 heading inserted**

9 After section 17 insert:
10

11 **Division 7 — Other matters**
12

13 **25. Section 19 amended**

14 In section 19(1) delete “a producers’ committee has not been
15 established under this Act in relation to that group of producers”
16 and insert:
17

18 there is no producers’ committee with responsibility
19

1 **26. Part 3A inserted**

2 After section 19A insert:

3

4 **Part 3A — Compliance**

5 **Division 1 — Authorised officers**

6 **19B. Authorised officers**

7 The Commission may, by instrument in writing,
8 designate any person employed or engaged by the
9 Commission as an authorised officer for the purposes
10 of this Part.

11 **Division 2 — Powers of authorised officers**

12 **19C. Terms used**

13 In this Division —

14 *charge* means a charge imposed under this Act;

15 *compliance purposes* means the following purposes —

- 16 (a) monitoring compliance with a requirement
17 under this Act to pay or collect a charge;
- 18 (b) monitoring compliance with a requirement
19 under this Act to give information, or produce a
20 record, relating to the production, processing,
21 sale or purchase of agricultural produce or the
22 payment or collection of a charge;
- 23 (c) monitoring compliance with a requirement in a
24 notice under section 13;
- 25 (d) investigating a suspected contravention of a
26 requirement referred to in paragraph (a), (b) or
27 (c) or an offence under this Act;

28 *record* includes a receipt, return or other document;

- 1 **relevant person** means a person who is or was —
- 2 (a) a producer of agricultural produce for which a
- 3 producers' committee has responsibility; or
- 4 (b) a person required under this Act to pay or
- 5 collect a charge; or
- 6 (c) a person required under this Act to give
- 7 information, or produce a record, relating to the
- 8 production, processing, sale or purchase of
- 9 agricultural produce or the payment or
- 10 collection of a charge; or
- 11 (d) a person required to comply with a requirement
- 12 in a notice under section 13;

- 13 **relevant record** means a record that —
- 14 (a) is required to be kept or given under this Act;
- 15 or
- 16 (b) relates to the production, processing, sale or
- 17 purchase of agricultural produce in relation to
- 18 which a charge is payable; or
- 19 (c) relates to the payment or collection of a charge;
- 20 or
- 21 (d) contains any information that is, or may be,
- 22 relevant for compliance purposes.

23 **19D. Obtaining information and relevant records**

- 24 (1) An authorised officer may, for compliance purposes,
- 25 do 1 or more of the following —
- 26 (a) direct a relevant person —
- 27 (i) to give any information as is required;
- 28 or
- 29 (ii) to answer a question put to the person;
- 30 (b) direct a relevant person to produce to the
- 31 authorised officer a relevant record in the
- 32 person's custody or under the person's control.

- 1 (2) An authorised officer may examine and make a copy of
2 a record produced in response to a direction under
3 subsection (1)(b), and retain the record for as long as is
4 reasonably necessary.
- 5 (3) A direction under subsection (1)(a) —
6 (a) may be given orally or in writing; and
7 (b) must specify the time at, or within which, the
8 information or answer must be given to the
9 authorised officer; and
10 (c) may require that the information or answer —
11 (i) be given orally or in writing; or
12 (ii) if it is directed to be given in writing, be
13 given by means specified in the
14 direction; or
15 (iii) be verified by statutory declaration.
- 16 (4) A direction under subsection (1)(b) —
17 (a) must be in writing given to the person required
18 to produce the record; and
19 (b) must specify the time at, or within which, the
20 record is to be produced; and
21 (c) may require that the record be produced to the
22 authorised officer —
23 (i) at a place specified in the direction; and
24 (ii) by the means specified in the direction.

25 **19E. Failure to comply with directions**

26 A person must not without reasonable excuse fail to
27 comply with a direction given to the person under
28 section 19D(1).

29 Penalty: a fine of \$1 000.

1 **19F. Self-incrimination not an excuse**

2 (1) An individual is not excused from complying with a
3 direction under section 19D(1) to provide information
4 or answer questions, or to produce a record, on the
5 ground that the information, answer or record might
6 incriminate the individual or make the individual liable
7 to a penalty.

8 (2) However, any information or answer provided, or
9 record produced, by an individual in compliance with a
10 direction under section 19D(1) is not admissible in
11 evidence in any proceedings against the individual
12 other than proceedings for perjury or an offence against
13 section 19G(2).
14

15 **27. Section 19G inserted**

16 At the beginning of Part 4 insert:
17

18 **19G. False or misleading information**

19 (1) In this section —
20 *record* has the meaning given in section 19C.

21 (2) A person must not give false or misleading information
22 to —

23 (a) an authorised officer pursuant to a direction
24 under section 19D(1); or

25 (b) the Commission pursuant to a notice under
26 section 13; or

- 1 (c) any person pursuant to a requirement under this
2 Act to give information, or produce a record, to
3 that person relating to the production,
4 processing, sale or purchase of agricultural
5 produce or the payment or collection of a
6 charge imposed under this Act.
- 7 Penalty for this subsection: a fine of \$1 000.
- 8 (3) For the purposes of subsection (2), a person gives false
9 or misleading information if the person does 1 or more
10 of the following —
- 11 (a) states anything that the person knows is false or
12 misleading in a material particular;
- 13 (b) omits from a statement anything without which
14 the statement is, to the person’s knowledge,
15 misleading in a material particular;
- 16 (c) gives or produces any record that —
- 17 (i) the person knows is false or misleading
18 in a material particular; or
- 19 (ii) omits anything without which the record
20 is, to the person’s knowledge,
21 misleading in a material particular.
- 22

23 **28. Section 20A inserted**

24 After section 20 insert:

25

26 **20A. Giving notices and other documents electronically**

- 27 (1) A notice or other document required or permitted under
28 this Act to be given to a person may be given to the
29 person by emailing it to an email address —
- 30 (a) provided by the person; or

- 1 (b) appearing on recent correspondence addressed
2 by or on behalf of the person to the
3 Commission or a producers' committee; or
4 (c) otherwise notified to the Commission or a
5 producers' committee, or published by the
6 person.

- 7 (2) This section is in addition to the *Interpretation*
8 *Act 1984* section 76.
9

10 **29. Section 24 amended**

- 11 (1) At the beginning of section 24 insert:
12

- 13 (1) In this section —

14 *officer or employee* —

- 15 (a) in relation to the Commission —

16 (i) means a person employed or engaged by
17 the Commission; and

18 (ii) includes an authorised officer;

19 and

- 20 (b) in relation to a producers' committee — means
21 a person employed or engaged by a producers'
22 committee.
23

- 24 (2) In section 24:

- 25 (a) delete “A person” and insert:
26

- 27 (2) A person
28

s. 30

1 (b) delete “him” and insert:

2

3 the person

4

5 Note: The heading to amended section 24 is to read:

6

Protection from liability

7 **30. Section 25 amended**

8 In section 25(2)(e) delete “organizations; and” and insert:

9

10 organisations; and

11

12 **31. Sections 26 and 27 deleted**

13 Delete sections 26 and 27.

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