

1982

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Australian Meat and Live-Stock Corporation
Amendment Bill 1982

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Primary Industry,
the Hon. Peter Nixon, M.P.)

Outline

Amendments proposed to be made to the Australian Meat and Live-stock Corporation Act 1977 are designed to strengthen the regulatory powers of the Corporation over the export of meat and livestock from Australia. Existing legislation is deficient in several aspects and does not allow the Corporation adequate powers to guard against malpractices and negligence on the part of processors and exporters.

The Bill clarifies the powers of the Corporation to establish and administer meat quota arrangements to control exports to markets where quantitative restrictions are imposed.

It also clarifies the powers of the Corporation to issue Orders which set conditions under which contracts for the shipment of exports of meat or livestock shall be made.

Provision is made in the Bill for the AMLC to act as a sole trader or to limit the number of licensees that may trade to a particular market. This power may be used only in respect of markets which have a sole purchasing authority which controls all, or substantially all, imports and is in a position to set prices paid for imports and when such control is judged necessary by the Corporation to ensure a fair return to producers. The use of this power is subject to Ministerial approval

Penalties are provided for in the Bill for breaches of its provisions. These penalties have been set at a realistic level and where applicable are in conformity with those contained in the Export Control Bill 1982.

NO. OF
CLAUSE

EXPLANATION

1.(1) Citation.

(2) Cites Australian Meat and Live-stock Corporation Act 1977 as the Principal Act.

2. Date of commencement of the Act is to be fixed by Proclamation.

3. Amends Section 4 of the Principal Act to provide that in addition to promoting and controlling the export of meat and livestock from Australia the objects are also to include a provision to protect and further the interests of the Australian meat and livestock industry

4. Amends Section 5 of the Principal Act by:

- inserting definitions of "authorized officer", "covering", "document", "examine", "export licence", "live-stock export licence", "meat export licence", "offence against this Act", "premises" and "the industry"
- omitting from the Principal Act the definition of "licensee".

5.(A) Binds the States and the Northern Territory to the provisions of the Act.

5.(B) Provides for the Act to apply both within and outside Australia.

6. Amends the Principal Act by inserting, before Section 6 of the Principal Act, "Division 1 - General".

7. Amends the Principal Act by replacing "the meat industry" with "the industry" and adjusts the existing reference to making recommendations to the Minister for regulations because of changes to numbering of sections.

8. Amends Section 9 of the Principal Act to give the Corporation the power to enter into meat or livestock futures contracts subject to the approval of the Minister. This provision may only be used when the Corporation is exercising its trading power

- 9.(1) Repeals Sections 10 to 14 of the Principal Act covering provisions for licensing, meat quotas and shipping.
- 9.(2) Maintains the Corporation's power to make orders in respect of control schemes in operation prior to the commencement of this Act.
10. Amends the Principal Act by inserting a second Division in Part II of the Act, entitled "Division 2 - Control by Corporation of export of meat and livestock", after Section 16 of the Principal Act to make provision for licensing, meat quotas and shipping as follows:
 - by inserting a new Section 16A which defines "relevant offence", provides for regulations to exclude meat not fit for human consumption from the provisions of this Act, specifies which persons shall be taken as participating in the management or control of a meat or livestock export business and the meaning of "meat export business"
 - by inserting a new Section 16B which gives the Corporation power to grant a meat or livestock export licence
 - by inserting a new Section 16C which specifies how an application for an export licence shall be presented
 - by inserting a new Section 16D which specifies the criteria that the Corporation shall take into consideration when deciding whether or not to grant a licence
 - by inserting a new Section 16E which specifies procedures in the event that a licence application is refused
 - by inserting a new Section 16F which specifies certain events of which a licensee must inform the Corporation including bankruptcy, appointment of a liquidator or receiver, winding up etc.
 - by inserting a new Section 16G which continues the "slaughter on owners' account" provisions of the Principal Act

- by inserting a new Section 16H which gives the Corporation power to make orders applicable to all licence holders or to issue directions to particular licence holders. Licensees are subject to any orders or directions issued by the Corporation which may cover such matters as: quality; standards and grades; terms and conditions of sale (including price); and the handling, and storage of meat and livestock; and the sale and distribution of meat and livestock after export. This Section also continues the existing powers of the Minister in regard to the issuing of directions to the Corporation
- by inserting a new Section 16J which clarifies the existing provision for the Corporation to prepare and make orders for the purpose of allocating meat export quotas amongst licence holders and gives licence holders the right to make representations to the Corporation on the proposed orders. Ministerial approval is required only in respect of proposals to which objections are raised
- by inserting a new Section 16K to clarify the Corporation's power with regard to contracts for the carriage of meat or livestock by sea. Existing legislation carries the implication that all individual contracts for the carriage of meat outside Australia must be approved by the Minister. This new section makes it clear that Ministerial approval is required for orders issued by the Corporation. Such orders will specify the conditions a licensee must conform to in regard to shipping contracts. The section also provides that a breach of the conditions is subject to penalty. This is not currently the case,
- by inserting a new Section 16L which empowers the Corporation subject to the approval of the Minister to be the sole exporter or limit the number of licensees which may trade to a particular market. This power is available when the import market is controlled by a single purchasing authority which purchases all, or substantially all, imports and where such authority can set prices or where there is a need to ensure a fair return to Australian livestock producers

- by inserting a new Section 16M concerning the application of the Acts Interpretation Act 1901 and the Statutory Rules Publication Act 1903 to this Act
- by inserting a new Section 16N which specifies how Directions are to be served and provides for appeals to the Administrative Appeals Tribunal (AAT) against such Directions
- by inserting a new Section 16P which specifies that the minimum period for which a licence is issued is one year
- by inserting a new Section 16Q which specifies procedures for the renewal of an export licence and the effect of suspension or cancellation on the renewal of the licence
- by inserting a new Section 16R which gives the Corporation the power to serve notice on a licensee when it has reasonable grounds for believing that the licence holder has ceased to meet the criteria for grant of a licence or contravened a condition of the licence. This provision enables the Corporation with or without suspension of the licence to give the licensee 14 days to "show cause" why he should not be dealt with under Section 16S. Right of appeal to the AAT is provided
- by inserting a new Section 16S which gives the Corporation the power to reprimand a licensee, suspend or cancel a licence if licensee fails to abide by a condition of the licence. This power may not be used to impose a penalty, only to enable the licensee to correct the deficiency or face cancellation
- by inserting a new Section 16T which requires the Corporation to cancel a licence if the licensee so requests
- by inserting a new Section 16U which provides that a person refused a licence, or whose licence is suspended or cancelled has to be informed that he is entitled to appeal to the AAT.

11. Amends the Principal Act by repealing the provisions of Section 47 of the Principal Act and substituting the following
 - a new Section 47 which specifies the functions and powers of an authorized officer including the power to enter and search premises subject to owner's approval or a warrant being issued. Warrants will not be required for entry to premises preparing meat for export which are registered under the provision of the Export Control Act 1982
 - a new Section 47A which gives an authorized officer the power to seize and retain meat or livestock
 - a new Section 47B which provides for penalties for persons who hinder or obstruct an authorized officer in the performance of his duty
 - a new Section 47C which specifies that any person who is asked by an authorized officer in the performance of his duty, for assistance, shall comply. Penalties are provided for those who fail to do so
 - a new Section 47D which gives the Corporation the power to appoint persons as authorized officers
 - a new Section 47E which specifies that authorized officers will be provided with identity cards and provides for a penalty for persons who fail to hand in identity cards when they cease to be authorized officers
 - a new Section 47F which gives authorized officers or persons assisting an authorized officer immunity from any legal proceeding arising out of the performance of their duties
 - a new Section 47G which gives the Corporation the power to request relevant information or documents, and provides penalties for those who fail to comply with these requests
 - a new Section 47H which gives a licence holder the power to appoint, in writing, a person as his nominee and for the nominee to furnish documents and information as requested by the Corporation

- a new Section 47J which gives the Corporation power to appoint analysts for the purposes of the Act and specifies that any certificate provided by an analyst will be admissible as prima facie evidence in any proceedings for an offence against the Act subject to the person charged having been given a copy of the certificate and prior notice that it is to be used as evidence
 - a new Section 47K which specifies the procedures for the service of notices.
12. Consequential amendment arising from repeal of Section 11 (3) and its replacement by Sections 16 H (6). Any directions issued by the Minister to the Corporation prior to the commencement of this Act continue to apply.
13. Amends the Principal Act by repealing Section 50 of the Principal Act and substituting the following:
- a new Section 50 which makes it an indictable offence if a person exports meat or livestock without an export licence or if a licensee fails to comply with a condition or restriction of his licence
 - a new Section 50A which provides for penalties for false information
 - a new Section 50B provides for penalties to be imposed on a non-licensee falsely claiming to be the holder of an export licence or able to make a contract for carriage of meat by sea
 - a new Section 50C provides for the forfeiture of meat and livestock to the Commonwealth in the event that a person is convicted of an offence
 - a new Section 50D which provides that offences under the Sections stated are summary offences.
14. Amends Section 52 of the Principal Act by omitting paragraph (a) which currently provides for regulations to be made for an authorized officer to enter premises and take samples for analysis. This is now covered by Section 47. Provision is made for the penalty for offences against the Regulations under Section 52 of the Principal Act to be increased from \$500 to \$1000.

