

1983-84

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

CANNED FRUITS MARKETING AMENDMENT BILL 1984

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for
Primary Industry, the Hon. John Kerin, MP)

OUTLINE

The Canned Fruits Marketing Amendment Bill 1984 has the following main purposes

- (1) to extend the marketing provisions of the Principal Act for a further three years commencing from 1 January 1985 (Sub-clause 3(f))
- (2) to make some changes to improve the operational performance of the Corporation, by
 - . providing for the appointment to the Corporation of two additional persons with special qualifications (Sub-clause 9(1))
 - . requiring the preparation of a Corporate Plan and Annual Operational Plans (Clause 8)
- (3) to provide the Australian Canned Fruits Corporation with greater commercial flexibility to conduct its functions, by
 - . widening its borrowing powers (Clause 15)
 - . authorising it to operate on futures markets for hedging purposes, subject to any guidelines approved by the Minister (Clause 16)
 - . providing it with more flexibility to cover its insurance needs (Sub-clause 4(b) and Clause 5)
- (4) to make a variety of minor machinery amendments.

The legislation has no financial implications for the Commonwealth. The Corporation's marketing and related costs are met from the proceeds of sales of canned fruit. Its administrative and promotional costs are met by a levy on canned fruit production.

NOTES ON CLAUSES

Clause

1. Short title.

Commencement

2. All provisions of the Bill will come into effect on 1 January 1985. This will ensure that there is no gap between the expiry of the present marketing powers of the Australian Canned Fruits Corporation on 31 December 1984 and the commencement of its powers under the new legislation.

Interpretation

3. The main change is in Sub-clause 3(f) which by substituting '7 seasons' for '4 seasons' extends the marketing provisions of the Principal Act by 3 years.

Another change is that, by Sub-clause 3(g) and Sub-clause 3(h) the definition of net proceeds realised from the sale of canned fruits has been adjusted in a number of respects to take account of new insurance arrangements (Clause 5).

The other sub-clauses insert and substitute some other new terms and definitions to reflect changes to the operation and structure of the Australian Canned Fruits Corporation and to provide that the new non-sex-specific titles of Chairperson and Deputy Chairperson of the Corporation and Chairperson of the Advisory Committee which are provided for in the Bill may also be referred to as Chairman, Chairwoman, Deputy Chairman or Deputy Chairwoman as the case requires.

Powers of Corporation

- 4(a) Requires the Corporation to endeavour to follow the provisions of a corporate plan and annual operational plan. The provisions relating to these plans are set out in Clause 8.
- 4(b) Repeals Sub-section 10(3) of the Act which requires the Corporation to insure fully against loss or damage to canned fruits acquired by the Corporation under the Act. New provisions in relation to insurance are included in clause 5.

Insurance

5. Provides a new Section 11A on insurance which enables the Corporation to insure either fully or partially against risks of loss or damage of canned fruit.

If the Corporation is not fully insured, under any guidelines approved by the Minister (Sub-section 11A(8)) it is to maintain an insurance account (Sub-section 11A(4)) into which are to be paid amounts sufficient to make adequate provision for the risks not covered (Sub-section 11A(5)). Monies paid into the insurance account are to come by way of a deduction from proceeds of sales of canned fruit (Sub-section 11A(6)). The money in the insurance account is to be used only for meeting losses not covered fully by insurance or for meeting expenses in maintaining the insurance account (Sub-section 11A(7)), but, by Clause 17, surplus monies may be invested.

The cost to the Corporation of insurance permitted under Sub-section 11A(2) shall be met by way of a deduction from proceeds of sales of canned fruits (Sub-section 11A(3)).

Repeal of Section 16

6. This clause, consequential on Clause 5, repeals an existing provision relating to insurance.

Excess Proceeds

7. This clause makes it clear that, unless the Corporation directs otherwise, canners/marketing agents may retain sales premiums in excess of minimum prices the Corporation considers appropriate for the canned fruit. Retention of premiums gives canners/marketers an added incentive to upgrade their products and to develop further markets.

Development of Corporate and Annual Operational Plans

8. Inserts a Part IVA Division 1, entitled 'Corporate Plan', and Division 2, entitled 'Annual Operational Plans'.

Inserts new section 21A which requires the Corporation to prepare a three year corporate plan setting out its objectives and the strategies to be pursued in reaching those objectives. In so doing, the Corporation is also required to provide a statement of its assessment of the market and economic outlook for the Australian canned fruits industry. The purpose of the corporate plan is to enhance the effectiveness of the operation of the Corporation and to provide greater accountability to both industry and Government.

Inserts new section 21B which provides for the Minister to approve the corporate plan, and makes provision for the Minister to be able to request revisions of the Plan.

Inserts new section 21C and 21D which provide for variations to be made to the corporate plan either on the initiative of the Corporation or at the Minister's request. Any such variation of the corporate plan shall be submitted to the Minister for approval.

Inserts new section 21E providing for amended plans to operate from the date the variation is approved by the Minister, as if the original plan had been approved as so varied.

Inserts new section 21F which requires the Corporation to prepare an annual operational plan setting out details of the strategies it will pursue in the relevant year to give effect to the corporate plan.

Inserts new section 21G requiring the Minister to approve the annual operational plan and providing for the plan to be consistent with the corporate plan.

Membership of the Corporation

9. Provides for the title of Chairman to be changed to that of Chairperson, for the Corporation to have two qualified members additional to the current single member qualified by experience in commerce, finance or economics, and for one of the then three qualified members to be appointed Deputy Chairperson. The purpose of these changes is to introduce non-sex-specific titles and to improve the operation of the Corporation by strengthening the opportunities for independent business judgement in its decisions.

Provision has been made for the Chairman and members on the Corporation immediately before the commencement of this Act on 1 January 1985 to continue to hold office for the remainder of their current three-year appointment period.

Acting Chairperson

10. Repeals section 24 of the Principal Act which requires an acting Chairman to be appointed by the Minister on each separate occasion that an acting Chairman is required, and substitutes a new section which provides a revised procedure which lessens the need for an Acting Chairperson to be appointed.

Meetings of Corporation

11. Provides for a new procedure for determining who presides at a meeting of the Corporation in the absence of the Chairperson. This amendment is consequential to amendments at clauses 9 and 10.

Interpretation

12. The amendment is consequential to the amendment in Sub-clause 13(b).

Membership of Advisory Committee

13. Revises the membership of the Australian Canned Fruits Industry Advisory Committee, the statutory committee established to consult and furnish advice to the Corporation. The Deputy Chairperson of the Corporation will become the Chairperson of the Advisory Committee and the nominee of the Australian Canning Fruitgrowers' Association, who currently has observer status on the Committee, will now become a full member.

Repeal of section 42

14. This clause, consequential on Clause 13, repeals provisions enabling the nominee of the Australian Canning Fruitgrowers' Association to attend meetings of the Australian Canned Fruits Industry Advisory Committee as an observer.

Borrowing

- 15(a) Provides that all Corporation financial raisings are to be subject to approval by the Minister instead of the Treasurer. Under present administrative arrangements the relevant Minister is the Minister for Primary Industry. This change is in line with consultative arrangements agreed between the Treasurer and the Minister.
- 15(b) Expands the borrowing powers of the Corporation to make it clear that it may raise finance by the use of more contemporary financial instruments such as the discounting of commercial bills and the issue of promissory notes, in addition to borrowing from more traditional sources.

Futures contracts

16. Inserts new section 45A which provides that the Corporation may operate on futures markets for hedging purposes subject to any guidelines approved by the Minister. The Corporation's futures operations could assist in reducing the costs of minimising risks, including currency risks, associated with canned fruit sales and with borrowings for financing its operations. Currently, similar operations are undertaken by bankers as part of the service they provide the Corporation or its marketers in arranging for loans and the conversion of currency.

Sub-sections 45A(1) and 45A(2) relate respectively to hedging operations carried out in Australia and overseas.

Sub-sections 45(3) and 45(4) provide that the Corporation's futures operations are to be in accordance with any guidelines approved by the Minister.

Sub-section 45(5) defines 'hedging purposes'.

Sub-section 45(6) defines 'futures contracts' and 'futures market'.

Application of Money of Corporation

17. This provides for the omission of the reference to the Audit Act section and, instead, specifying in the Act itself the forms of the investment authorised. The funds that may be invested are extended beyond those 'not immediately required' to include those in the insurance account (see the notes given above in relation to Clause 5). The forms of investment authorised are extended to include State securities.

Corporation may require information

18. Amends Section 50 of the Act specifying separate penalties under Sub-sections 50(2) and 50(4).

Penalties

19. Updates penalty provisions in the Principal Act.

Consequential and formal amendments

20. Provides for a number of consequential and formal amendments, most of which relate to avoiding using sex-specific terms.

