



HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 9 December 1997

PRODUCER BOARD ACTS REFORM BILL

Proposed Amendments

Dr the Hon. LOCKWOOD SMITH, in Committee, to move the following amendments:

Clause 3 (1): To insert in the definition of the term “export licence”, after the word “meat”, the word “product”.

To omit the definition of the term “authorised person”, and substitute the following definition:

“Authorised person”—

(a) In **section 71, subsections (3) and (4) of section 76A**, and the warrants thirdly and fourthly set out in **Schedule 3**, means person who is for the time being an officer, employee, or agent of the Board authorised by the Board to exercise the powers conferred by **section 71**; and

(b) In **section 76, subsections (1) and (2) of section 76A**, and the warrants first and secondly set out in **Schedule 3**, means person who is for the time being an officer, employee, or agent of the Board authorised by the Board to exercise the powers conferred by **section 76**:

Clause 10 (2) (a): To omit the word “Six”, and substitute the word “Seven”.

Clause 29A: To omit *paragraph (c) of subclause (1)*, and substitute the following paragraph:

(c) Discriminates (or provides for discrimination) between persons on the basis of any irrelevant or unreasonable consideration or matter.

To omit *paragraphs (a) to (c) of subclause (2)*, and substitute the following paragraphs:

(a) Excludes any persons from the allocation of access to the market concerned on the ground that they have not given a liability undertaking; or

(b) Provides for the exclusion of any persons from the allocation of access to the market concerned on the

- ground that they have not given a liability undertaking; or
- (c) Imposes any condition or limitation on the allocation of access to the market concerned to any persons on the ground that they have not given a liability undertaking; or
 - (d) Provides for the imposition of any condition or limitation on the allocation of access to the market concerned to any persons on the ground that they have not given a liability undertaking; or
 - (e) Discriminates (or provides for discrimination) between persons who have given a liability undertaking and persons who have not.

To omit from *subclause (3) (c)* the words “persuading authorities in the market”, and substitute the words “giving authorities in the market good reason”.

To omit *paragraph (c) of subclause (4)*, and substitute the following paragraph:

- (c) Discriminating between persons.

Clause 34A: To omit *paragraph (c) of subclause (3)*, and substitute the following paragraph:

- (c) Discriminate between persons on the basis of any irrelevant or unreasonable consideration or matter.

To omit *subclause (4)*, and substitute the following subclause:

- (4) In exercising a power of decision, a decision maker must not—
 - (a) Exclude any person from the allocation of access to the market concerned on the ground that the person has not given a liability undertaking; or
 - (b) Impose any condition or limitation on the allocation of access to the market concerned to any person on the ground that the person has not given a liability undertaking; or
 - (c) Discriminate between persons who have given a liability undertaking and persons who have not.

To omit *paragraph (c) of subclause (6)*, and substitute the following paragraph:

- (c) Discriminating between persons.

To omit from *subclause (7) (c)* the words “persuading authorities in the market concerned”, and substitute the words “giving authorities in the market concerned good reason”.

Clause 37: To omit from *subclause (1) (a) (ii)* the words “Persuading authorities in any market”, and substitute the words “Giving authorities in any market good reason”.

To insert in *subclause (2) (b) (i)*, before the word “refuse”, the word “to”.

Clause 49A: To omit from *subclause (2)* the words “a description”, and substitute the words “the description”.

To omit from *subclause (3)* the words “within the period of 3 months before the expiry”, and substitute the words “3 months or more before the expiration”.

To omit *subclause (6)*.

Clause 54A: To omit *subclause (4)*, and substitute the following subclause:

- (4) If the Board becomes aware that any amount has been paid in breach of **subsection (2)**,—
- (a) The Board must take all reasonable steps to recover it from the person to whom it was paid or the person on whose behalf it was paid; or
- (b) If—
- (i) It is impossible, impracticable, or in all the circumstances inappropriate to recover the amount from the person to whom it was paid; and
- (ii) It is impossible, impracticable, or in all the circumstances inappropriate to recover the amount from the person on whose behalf it was paid,—
- the Board must take all reasonable steps to recover an equivalent amount from the person or persons responsible for paying the amount in breach of that subsection.

Clause 73: To omit *clause 73*.

Clause 76 (5): To omit from *subparagraphs (i) and (ii) of paragraph (b)* the words “or co-products”.

To omit from *paragraphs (c) and (d)* the words “or co-product”.

Clause 76AA: To insert, after *clause 76A*, the following clause:

76AA. Duties of persons executing warrants—A person executing a warrant issued under **section 76A** in respect of any place—

- (a) Must produce the warrant on initial entry and, if asked by an occupier, at any time afterwards; and
- (b) If an occupier is present on initial entry, must identify himself or herself to that occupier; and
- (c) If asked by an occupier to do so, must produce evidence of identity.

Clause 78 (4): To omit *paragraph (b)*, and substitute the following paragraphs:

- (b) Fails or refuses to comply with **section 66, section 67 (4), or section 70**; or
- (ba) Fails or refuses to pay, within the time required by **subsection (4B) of section 67**, an amount that person is required by **subsection (4A)** of that section to pay; or

Clause 79: To omit *subclause (3)*.

Clause 81: To omit *subclause (3)*, and substitute the following subclause:

- (3) Between the commencement of this Part and the close of 31 March 1999,—
- (a) This Act (except **clause 2 (3) of Schedule (2)**) applies to the person who immediately before that commencement was the member of the former Board appointed by the Minister on the recommendation of the New Zealand Dairy Board as if the person were a director elected under **section 10 (2) (a)**; but
- (b) Where the person (or any successor of the person) dies, resigns, or is removed from office,—
- (i) If the residue of the person’s term of office is 12 months or less, the Minister may; and

(ii) If the residue of the person's term of office is more than 12 months, the Minister must,—
fill the resulting vacancy by appointing a director on the recommendation of the New Zealand Dairy Board.

To omit *subclause (6)*, and substitute the following subclause:

- (6) Of the 2 directors first appointed after the commencement of this Part under **section 10 (2) (c)**,—
- (a) One must be appointed for a term expiring with the close of 31 March 2000; and
 - (b) One must be appointed for a term expiring with the close of 31 March 2001.

Clause 82A (1) (a): To omit the expression “**76 (3) (a), 76 (3) (c) (i)**”, and substitute the expression “**76 (4), 76 (5)**”.

Clause 90: To omit from *subclause (1A)* the words “Before 1 October”, and substitute the words “During the period commencing on the commencement of this Part and ending with the close of 30 September”.

To omit from *subclause (1B)* the words “30 September 2000”, and substitute the words “the expiration of the period referred to in **subsection (1A)** (as from time to time extended under **subsection (1c)**)”.

To insert, after *subclause (1B)*, the following subclauses:

- (1c) At any time 3 months or more before the expiration of the period referred to in **subsection (1A)** (as from time to time extended under this subsection), the Governor-General may by Order in Council extend it for a further period not exceeding 12 months.

Clause 98A: To omit *subclause (4)*, and substitute the following subclause:

- (4) If the Board becomes aware that any amount has been paid in breach of **subsection (2)**,—
- (a) The Board must take all reasonable steps to recover it from the person to whom it was paid or the person on whose behalf it was paid; or
 - (b) If—
 - (i) It is impossible, impracticable, or in all the circumstances inappropriate to recover the amount from the person to whom it was paid; and
 - (ii) It is impossible, impracticable, or in all the circumstances inappropriate to recover the amount from the person on whose behalf it was paid,—
 the Board must take all reasonable steps to recover an equivalent amount from the person or persons responsible for paying the amount in breach of that subsection.

Clause 117: To omit *clause 117*, and substitute the following clause:

117. Duties of persons executing warrants—A person executing a warrant issued under **section 116** in respect of any place—

- (a) Must produce the warrant on initial entry and, if asked by an occupier, at any time afterwards; and
- (b) If an occupier is present on initial entry, must identify himself or herself to that occupier; and
- (c) If asked by an occupier to do so, must produce evidence of identity.

Clause 121 (2): To omit *paragraph (b)*, and substitute the following paragraphs:

- (b) Fails or refuses to comply with **section 110, section 111 (4), or section 114**; or
- (ba) Fails or refuses to pay, within the time required by **subsection (4B) of section 111**, an amount that person is required by **subsection (4A)** of that section to pay; or

Clause 152 (4): To omit from *paragraphs (a) to (c)* the word “section”, and substitute in each case the word “Act”.

Clause 152A: To omit *subclause (4)*, and substitute the following subclause:

(4) If the Board becomes aware that any amount has been paid in breach of **subsection (2)**,—

(a) The Board must take all reasonable steps to recover it from the person to whom it was paid or the person on whose behalf it was paid; or

(b) If—

(i) It is impossible, impracticable, or in all the circumstances inappropriate to recover the amount from the person to whom it was paid; and

(ii) It is impossible, impracticable, or in all the circumstances inappropriate to recover the amount from the person on whose behalf it was paid,—
the Board must take all reasonable steps to recover an equivalent amount from the person or persons responsible for paying the amount in breach of that subsection.

Clause 169 (5): To insert, after the expression “168” in line 25 on page 184, the expression “, 170,”.

Clause 169A (2): To omit from *paragraph (b)* the words “licensee’s operations the Board thinks appropriate and the licensee”, and substitute the words “operations of the person concerned that the Board thinks appropriate and the person”.

To omit from *paragraph (c)* the word “licensee”, and substitute the word “person”.

Clause 171 (2): To insert in line 22 on page 187, after the word “amount”, the words “(if any)”.

Clause 176 (1A): To omit from *paragraph (a) (i) and paragraph (b)* the words “or wool”, and substitute in each case the words “, wool, or wool product”.

To insert in *paragraph (a) (ii)*, after the word “wool”, the words “or wool product”.

Clause 177: To omit from *subclauses (1) (b) (i), and (2) (a)* the words “or wool”, and substitute in each case the words “, wool, or wool product”.

To insert in *subclauses (1) (b) (ii) and (2) (b)*, after the word “wool”, the words “or wool product”.

Clause 178: To omit *clause 178*, and substitute the following clause:

178. Duties of persons executing warrants—A person executing a warrant issued under **section 177** in respect of any place—

- (a) Must produce the warrant on initial entry and, if asked by an occupier, at any time afterwards; and

- (b) If an occupier is present on initial entry, must identify himself or herself to that occupier; and
- (c) If asked by an occupier to do so, must produce evidence of identity.

Clause 181 (2): To omit the word “prescribed”, and substitute the word “specified”.

Clause 182 (2): To omit *paragraphs (b) to (e)*, and substitute the following paragraphs:

- (b) Fails or refuses to comply with **section 168, section 169 (6), section 169 (8), or section 174**; or
- (c) Wilfully prevents, obstructs, or hinders, a person exercising or attempting to exercise any of the powers conferred by **subsections (1) and (1A) of section 176**; or
- (d) Fails or refuses to make available to any person exercising any of the powers conferred by **subsections (1) and (1A) of section 176**—
 - (i) Any document relating to levy money, wool, or wool products; or
 - (ii) Any wool or wool product.

Clause 185: To omit from *subclauses (3) and (4)* the word “Part”, and substitute in each case the word “Act”.

Clause 186 (1): To omit the word “section”, and substitute the word “Act”.

Schedule 2: To omit *subclause (2) of clause 1*.

Schedule 3: To omit the final line of subparagraph (b) (ii) of the form on page 216, and substitute the following:

established; or
(iii) Both,—

Schedule 7: To omit *subclause (1) of clause 1*, and substitute the following subclause:

- (1) Except as provided in this Act,—
 - (a) An elected director holds office for a term of 3 years; and
 - (b) An appointed director holds office for a term, not exceeding 3 years, determined by the Minister after considering—
 - (i) The Board’s recommendation on the matter; and
 - (ii) The matters specified in **section 93 (4)**.

Schedule 11: To omit *subclause (2) of clause 1*.

Schedule 12: To omit *paragraph (b)*, and the 4 following lines, of the form on page 244, and substitute the following:

- (b) There is or is likely to be in [*here describe place*] (being a place that is not a place of business) any or all of the following things that is evidence of the commission of that offence:
 - (i) Any document relating to money paid or payable in respect of the levy imposed by **section 165 (1)** of that Act;
 - (ii) Any document relating to wool or wool products;
 - (iii) Any wool or wool product,—

by this warrant I authorise you, on one occasion within 30 days of the issue of this warrant, to enter that place and inspect any documents relating to money paid or payable in respect of the levy imposed by **section 165 (1)** of that Act, any documents relating to wool or wool products, any wool, and any wool product.

To omit the last 6 lines of the body of the text of the form on page 245, and substitute the following:

- place that is not a place of business) any or all of the following things:
 - (a) Any document relating to money paid or payable in respect of the levy imposed by **section 165 (1)** of that Act;
 - (b) Any document relating to wool or wool products:

(c) Any wool or wool product,—
by this warrant I authorise you, on one occasion within 30 days of the issue of this warrant, to enter that place and inspect any documents relating to money paid or payable in respect of the levy imposed by section 165 (1) of that Act, any documents relating to wool or wool products, any wool, and any wool product.

EXPLANATORY NOTE

The amendment to *clause 10* increases the number of directors of the Meat Board elected by livestock farmers from 6 to 7, thus giving them an absolute majority (7 out of 13).

The amendments proposed to be made to *clauses 54A, 98A, and 152A* are identical. They omit a subclause that might have had the effect of requiring an officer of the Board (or a subsidiary of the Board) who in good faith had accepted and relied on a payment made by the Board in breach of the requirements of the Bill relating to indemnities to refund to the Board the amount paid. For it, they substitute a subclause requiring the Board to take steps to recover such a payment from the person to whom it was paid or the person on whose behalf it was paid or (if it is impossible, impracticable, or in all the circumstances inappropriate to recover it from the person to whom it was paid or the person on whose behalf it was paid) to take steps to recover an equivalent amount from the person or people responsible for making the payment.

The amendments to *clause 81* result from the increase in the number of directors of the Meat Board elected by livestock farmers. The Bill at present provides that, until the election of directors by farmers in 1999, the current director appointed on the recommendation of the Dairy Board will continue in office in place of 1 of the 2 directors to be appointed by the Minister of Agriculture on the recommendation of the Meat Board. One amendment has the effect that, until the 1999 elections, the current director appointed on the recommendation of the Dairy Board will continue in office (along with the 6 current directors elected by farmers) in place of 1 of the 7 directors to be elected by farmers. This makes it possible for 2 directors to be appointed on the recommendation of the Meat Board immediately; and the other amendment provides that one will hold office until 31 March 2000 and the other until 31 March 2001.

The amendments proposed to be made to *clause 90* make it possible for the point at which the Pork Industry Board must cease commercial pig breeding operations to be postponed from time to time by Order in Council. In its present form, *clause 90* requires the Board to cease those operations no later than 30 September 2000.

The amendments proposed to be made to *clauses 176 (1A), 177, and 182 (2)*, and to the forms in *Schedule 12*, extend the application of those provisions (which at present apply to wool, and documents relating to wool) to wool products and documents relating to wool products.

The other proposed amendments set out in this Supplementary Order Paper are all intended to rectify minor verbal and drafting anomalies in the Bill as it was reported back from the Primary Production Select Committee. (Proposed *clause 76AA* appears to be new, but is in fact a modified *clause 73*, moved to a new position.)