

Head July 1983

Recd  
11/7/83

It is proposed that the legislation will rationalise the current Poultry Processing Act and the Broiler Chicken Industry Act, by placing all the legislation administered by the Department of Agriculture applying to the Poultry Industry into one Act.

It is the intention of this paper to give detailed consideration only to the new aspects of the legislation, as the provisions of the Broiler Chicken Industry Act and the current Poultry Processing Act will be taken directly into the new Act.

GENERAL OUTLINE OF PROPOSED LEGISLATION.

It is envisaged that the Act would have the following outline - such an outline is general to most Victorian legislation: -

- Part I - Preliminary - containing definitions and exemptions.
- Part II - Inspections - containing provisions for appointment of inspectors; powers and duties of inspectors; responsibilities of operators of premises; scope of application of the Act.
- Part III - Licensing of premises - containing provisions for the licensing of establishments and operators to which the Act applies; provision for the Department to grant initial licences, renew licences and transfer licences or to refuse same; provisions for suspension or cancellation of licences and appeals against same.
- Part IV - Broiler Negotiation Committee - as in Broiler Chicken Industry Act.
- Part V - Miscellaneous - provisions to make regulations under the Act.

MORE SPECIFIC OUTLINE OF POULTRY LEGISLATION.

Part I - Preliminary

Major definitions to be included are -

- (i) Owner of poultry processing plant.
- (ii) Poultry to include all birds slaughtered and used for the food of man, i.e., includes pheasants, quail, etc.
- (iii) Retail shop to include retail butchers shops and other premises where meat is sold exclusively or mainly by retail for human consumption.
- (iv) Sell to include -
  - (a) offer or expose for sale
  - (b) keep or have in possession for sale
  - (c) barter or exchange
  - (d) agree to sell
  - (e) send, forward or deliver for sale; and
  - (f) authorise, direct, cause, permit or suffer any act referred to in above.

Minister may by notice exempt operators, plants or processes from the provisions of the Act - as currently applies.

## Part II - Inspections

1. The Director-General of Agriculture to be able to collect fees for the provision of services including oversight of hygiene programs and inspections for licensing, etc.
2. Provision for the appointment of inspectors.
3. Powers of inspection to include -
  - (i) right of entry to licensed premises at reasonable times;
  - (ii) right of entry to other premises where it is believed on reasonable grounds that the premises is being used for carrying out "the process";
  - (iii) right to inspect the premises and all appurtenances and appliances therein and detain processed poultry and deal with it in accordance with the provisions of the Act;
  - (iv) right to take samples and perform any test, inspection or investigation for the purpose of ascertaining whether the provisions of the Act are being complied with;
  - (v) right to search and examine any records books or documents relating to the carrying on of the process and to make any copies of, extracts or notes from any such records or books or documents;
  - (vi) right to require any person on a licensed premises to give to an inspector reasonable assistance in enabling the inspector to carry out his duties and functions under the Act and give him such information with respect to the administration of the Act as he may reasonably require.
4. Responsibilities of operators/employees to include -
  - (i) not make false or misleading statements to inspectors carrying out duties;
  - (ii) giving all reasonable assistance to an inspector carrying out his duties;
  - (iii) carry out the process within the agreed guidelines;
  - (iv) keep prescribed records concerning the process and the working of the plant;
  - (v) supply, without charge, any samples to an inspector for the purpose of testing;
  - (vi) carry out any reasonable direction given by an inspector.

5. Scope of application of the Act.

(i) a person shall not sell for human consumption any poultry which has not been derived from poultry slaughtered and dressed at a poultry processing plant licensed for the purpose and handled as prescribed by the Act;

(ii) weight gain exceeding 8 per centum to be an offence.

Part III - Licensing of Plants.

Licences to be issued by the Director-General of Agriculture for

(i) Premises;

(ii) Operators of Premises.

Licences to be able to be renewed annually and transferred. Director-General to have the power to -

(i) Issue, renew and transfer licences;

(ii) Refuse to issue or renew licences on grounds of -

(a) applicant has offence/s against the Act;

(b) premises does not comply with prescribed minimum standards;

(c) premises or site does not comply with local government requirements;

(iii) Suspend or cancel licences on same criteria;

(iv) Appeal against the Director-General's decision to be heard summarily in a Magistrates Court;

(v) Authorise alterations to plants;

(vi) Require owners to maintain premises at prescribed minimum standards through issuing licences conditional upon complying with the prescribed standards.

Part IV - Broiler Negotiation Committee

As in Broiler Chicken Industry Act

Part V - Miscellaneous.

Provisions to make regulations under the Act.

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PROPOSED PRINCIPLES FOR EGG INDUSTRY STABILIZATION

1. Hen quotas will be retained and all existing quotas (as at the date of the commencement of the proposed Act) will be confirmed.

2. Existing exemptions will be retained, i.e., exemption for:-

- (a) Persons who keep not more than 20 hens;
- (b) Educational Institutions,
- (c) The Crown and Statutory bodies.

"We believe that on items (b) and (c) that a limit should be held under license or permit plus levies, applicable to all poultry farmers. That Community projects be covered under same conditions as (b) and (c)."

3. The existing Licensing Committee will be retained with the same membership, i.e., the members of the Victorian Egg Marketing Board are the same as the members of the Licensing Committee. The provisions of the existing Act (Sections 5, 6 and 7) relating to the constitution, conduct of meetings and dissolution of the Licensing Committee will be retained.

4. The Poultry Farmer Licensing Review Committee will be disbanded.

"We feel that this Committee should be retained - it is essential, and they be responsible to the Minister and the Governor in Council. Legal Costs, Court delays and exploitation of legal delays would be far too costly and out of the reach of family farmers."

5. The provisions of the existing Act (Sections 8, 9 and 10) regarding the authorisation of inspectors, powers of entry and the power of an inspector to demand the name and address of a person found committing an offence will be retained.

6. The references in the existing Act (Section 12, etc.) to Group I and Group II poultry farmers will be repealed. These Groups refer to the initial allocation of quota in 1973. They will no longer be necessary (see paragraph 1).

7. The existing prohibition on keeping hens without a licence (Section 13) will be retained, but the penalties will be extensively amended (see paragraphs 12 and 31).

8. The existing provision for the issue and annual renewal of licences to keep hens will be retained.

"We recommend that licences be renewed every 5 year period."

9. Comment is sought on how an industry contribution may be made towards funding part of the cost of research, extension and diagnostic services currently provided to the industry from Government financial resources.

"Our Association believes that this should not be included in Egg Industry Stabilization Principles."

10. Every licence will contain a description of the place to which it relates and will be subject to conditions that the licence is not to:-

"We believe the word place should read "places".

(a) Keep hens in excess of his quota; or

(b) (i) keep broiler breeder hens; or

(ii) keep any other hens -

except in accordance with a permit to keep hens for special purposes (see paragraph 25).

11. The principle in the existing Act (Section 14) apportioning the number of hens that a member of a partnership keeps in proportion to his share of the profits of the partnership will be retained. The Licensing Committee will issue separate licences to individual members of partnerships, trusts and companies according to the interest held by each member.

"We agree with the principle of the Clause but we are concerned at the increase of licence cost to the smaller partnership.

We recommend that in the case of illness or death or retirement in a family who operate the farm; that provision should be made for a period of time to be allowed for an adjustment or reallocation of quota within the family or partnership."

12. The provisions of the existing Act (Section 17) which authorise the Licensing Committee to cancel a licence will be amended so that the only grounds for cancellation by the Licensing Committee will be:-

(a) Where the prescribed fee is not paid;

(b) Where the licensee requests cancellation.

The existing power of the Licensing Committee to cancel a licence on certain grounds will be transferred to the courts. The existing powers relate to circumstances where:-

"We believe the words "transferred to the courts" should read "transferred to the Review Committee".

(a) There has been a breach of a condition attached to a licence:-

"should read "serious breach".

(b) Where the licensee ceases to be a bona fide poultry farmer actively engaged in the day to day operation of poultry farming at the place to which the licence relates;

(c) Where the licensee has been convicted of an offence against the Act;

"should read "serious offence".

(d) Where the licence was issued as a result of false or misleading information.

13. The Licensing Committee is currently empowered to reduce the quota of a licensee. This power will be repealed and will be transferred to the courts (see paragraph 31).

"The words "transferred to the courts" should read "transferred to the Review Committee".

14. The provisions of the existing Act (Section 21) for the determination of the State Hen Quota will be retained. The State Hen Quota is the number determined by the Governor in Council from time to time by Order published in the Government Gazette.

"We believe that the words "on recommendation of the Licensing Committee" should be added to this Clause."

15. Provision will be included to allow the Licensing Committee to set a figure within the State Hen Quota, known as an "Issued Quota", and to reduce or increase the Issued Quota as long as it remains within the State Hen Quota determined by the Governor in Council.

16. The provisions of the existing Act (Sections 22, 23, 23A, 23B, 23C and 23E) relating to increase and decrease in individual hen quotas will be repealed and will be replaced by new provisions as follows:-

(a) Where there is a decrease in the Issued Quota, quota held in excess of 2,000 will be reduced pro rata sufficiently to produce the required reduction in Issued Quota.

(b) Where there is an increase in the Issued Quota -

(i) the quota will be made available by the Licensing Committee for sale by tender in accordance with the principles set out in paragraph 24 and the Appendix.

(ii) an increase in Issued Quota will not be put up for tender in those cases where there was a decrease in the hen quota in the previous licensing period (except to the extent that the increase exceeds the previous decrease).

"We believe the words "in the previous licensing period" should read "period being March to August 1982".

(iii) where there is an increase in the Issued Quota for the year immediately following a decrease, the amount of the increase will be returned pro rata to those licensees who forfeited quota for the previous licensing period, subject to the following:-

. where there has been a change of ownership since the last decrease, the relevant portion of quota will be disposed of by tender. See paragraph 24 and the Appendix.

"We believe that the paragraph discriminates against the buyer of the quota and should be deleted."

. any excess over the amount forfeited in the previous season will be disposed of by tender. See paragraph 24.

17. The Licensing Committee will be required to use seasonal cuts (as distinct from decreases in Issued Quota) as a means of controlling surplus seasonal production. Seasonal cuts will apply to quota held in excess of 2,000. The Governor in Council will be empowered to vary this level. Where there is more than one licence for the same farm, the exemption of licences issued in respect of the unit, in accordance with the following table:-

<u>Number of licences operating in the unit</u>	<u>Exemption for each licence at that unit</u>
1	2,000
2	1,420
3	1,140
4	1,000
5	900

Where a licensee keeps hens at more than one location, the licensee will be entitled to an exemption in the case of one location only.

18. The Licensing Committee will be authorised to introduce seasonal cuts other than "across the board", provided the proposed reduction in the number of hen-days is borne equally in any one licensing period by all producers.
19. The Licensing Committee is not to approve of any new licence or to approve any transfer where the approval would result in a licensee holding more than 10,000 birds.

"refer to suggestion in paragraph 11."

20. Subject to paragraph 21, the Licensing Committee will not be permitted to issue licences in such a way that the total number of hens kept at any one place will exceed 40,000, except where that number existed prior to this proposed legislation.

"We believe that the words "one place" should read "any one trust or partnership".

21. In the case of a place where licences have been issued to keep more than 40,000 hens, the limitations under paragraph 20 may be waived, as follows. Where it can be demonstrated to the satisfaction of the Minister that every reasonable attempt has been made to sell the enterprise in accordance with the general provisions of the proposed Act (i.e., paragraphs 19 and 23) and at a price which is consistent with an independent valuation, the Minister may, in his discretion, authorise the Licensing Committee to issue licences for the same place in respect of quota greater than 40,000 subject to the following conditions:-

- (a) There will be a minimum of 4 new licensees operating the business, all of whom must meet the "bona fide farmer" qualifications.
- (b) The quota in excess of 40,000 which may be transferred will be a pro rata amount for each licensee declining at the rate of 20% p.a. from the date of commencement of the new Act.

The remaining portion of the quota is to be disposed of by tender in accordance with paragraph 24.

22. The provisions of the existing Act (Sections 24 to 34) relating to the Poultry Farmer Licensing Review Committee will not be required and will be repealed.

"We think this Committee should be retained in the form of an Appeals Committee and its terms of reference should be expanded."

23. Section 35 of the existing Act relates to the transfer of licences and will need to be retained. The new Act will retain the provisions inserted by the Egg Industry Stabilization (Amendment) Act 1982, restricting transfers so that a person cannot obtain a quota in excess of 10,000, and must be a bona fide poultry farmer. "Bona fide poultry farmer" will be defined as a person who is present on the premises to carry out or personally supervise the day-to-day operations required on a poultry farm conducted in accordance with sound farm management practices.

24. A quota pooling scheme will be introduced for the disposal, by the Licensing Committee, of surplus quota by tender. See Appendix.

25. The provisions in the existing Act (Section 38) relating to permits to keep hens for special purposes will be retained. The present provision relates to permits to keep broiler breeder hens or hens that are not used for the production of eggs for human consumption. This will be extended to include hens of identifiable pure breeds kept for exhibition purposes, with a limit of 100 birds.

"We believe these people have a limit number of 100 <sup>in total</sup> should pay hen levy and have a registered address."

26. The provisions of the existing Act (Section 39) relating to appeals to the Poultry Farmer Licensing Review Committee will be repealed. The Review Committee will be disbanded and in those cases where appeals are required they will be made to a stipendiary magistrate.

"We are against this because court cases could be prolonged over a long period of time - unnecessary expensive litigation."

27. It is proposed that the Act will include a provision setting out the following grounds for appeal (to a Magistrate's Court):-

"We believe the words "to a Magistrate's Court" should be changed to "to the Appeals Committee". Even the Appeals Committee could be challenged in the Magistrate's Court."

(a) Refusal by the Licensing Committee to grant a transfer; and

(b) Refusal to grant a permit to keep hens for special purposes (or cancellation of such a permit, or the issue of a permit for a lesser number of hens than the number requested).

28. Section 35 (4) of the existing Act prohibits the transfer of quota from any country district to the metropolitan area, the metropolitan area being defined in a Schedule to the Act. This provision will be retained, but comment is sought on the definition of the metropolitan area.

"We believe that the Metropolitan area should be defined as that area within a 75 Km radius of Melbourne. The Electoral Rolls to be used to establish boundaries.

29. Section 51 of the existing Act contains a provision that allows the Governor in Council to suspend the operation of all or any of the provisions of the Act for such period as is specified in the proclamation. This provision will not be included in the new Act.
30. The Prices Commissioner will set wholesale prices for eggs. It is envisaged that the prices will be reviewed by the Prices Commissioner on the application of the Victorian Egg Marketing Board, the Minister for Consumer Affairs or any other interested party.

"We would like the Victorian Egg Marketing Board to set the prices for eggs using a cost of production program similar to that used in W.A., to ensure that the price is not too excessive."

31. The penalty provisions will be extensively revised as follows:-
- (a) The general penalty for any contravention or failure to comply with a provision of the Act where no penalty is expressly provided is to be increased to 50 penalty units. Fifty penalty units is currently \$5,000.
- (b) Where a person has been found guilty of keeping hens without a licence or keeping hens in excess of his quota, the courts will be authorised to impose additional penalties as follows:-
- (i) in cases where quota is held, the court may direct the Licensing Committee to reduce the offender's quota by an amount equivalent to the number of birds kept in excess of the quota and in addition may impose a fine of one penalty unit for every 100 hens or part thereof that are kept in excess of the permitted quota for every day on which the offence continues.
- "We feel that the words "one penalty unit for every 100 birds" should read "a minimum of one penalty unit for every 100 Birds".
- And that the words "for every day on which the offence continues" should read "for every day on which the alleged offence continues until the case is resolved".
- (ii) where the offender does not hold quota or does not hold sufficient quota, the court may impose a fine of 5 penalty units per 100 hens or part thereof, plus one penalty unit for every 100 hens or part thereof in excess of the permitted quota for each day on which the offence continues.
- (c) Any person found guilty of keeping hens without a licence or hen in excess of the permitted quota will be prohibited from purchasing quota for a period of twelve months from the date of conviction.
- (d) In addition to the above penalties, the courts will be authorised to direct the Licensing Committee to cancel a licence in circumstances where:-

- (1) the licensee ceases to be a bona fide poultry farmer actively engaged in the day to day operation of poultry farming at the place to which the licence relates;

"We believe that allowances should be made in the cases of death and illness."

- (ii) where the licence was issued as a result of false or misleading information.

"We believe that where the word "court" appears throughout this section it should be replaced by either "the Licensing Committee or the Review Committee."

Our Association feels that in addition to the proposed Act the following Clauses should be included:-

1. The current requirements as applying to hatcheries re sales of pullets over 20 birds apply to all pullet rearers, regardless of the age; we consider this is a big evasion and disruptive to the count of laying flocks in the State.
2. Existing farms should be allowed to relocate if necessary.
3. Farms and Licence or share should be able, in the case of the death of one or more parents, to be maintained and operated in trust for under age children.
4. In regard to sale of the poultry farm as a going concern, there should be automatic transfer of quota to buyer, subject to Provisions of Act.

QUOTA POOLING SCHEME

Producers wishing to sell hen quota will notify the Poultry Farmer Licensing Committee of the amount of quota they wish to sell. The quota will then be sold by tender at regular (possibly quarterly) intervals. In those cases where hen quota is sold with the poultry farm, those sales will not be included in the pooling scheme. The maximum amount of quota that can be tendered for will be 1,000 birds. It is envisaged that the sale of pooled quota will operate as follows:-

- (a) The Licensing Committee will make known the proposed date of the next sale;
  - (b) Bids will close 7 days before the date of the sale. Bids are to state the number of hens desired and the price offered;
  - (c) The amount of quota available for any particular sale will not be announced;
  - (d) Vendors may set a reserve price. Vendors will be charged an administrative fee in respect of all quota sold;
  - (e) Hen quota will be allocated to the highest bidder (with a maximum of 1,000 birds per person) and so on, until all quota has been allocated. All bidders will pay the price tendered but vendors will get a return which is the average of all successful bids;
  - (f) All tenders are to be sent to the Secretary, Department of Agriculture, where they will be opened after the closing date and then passed to the Licensing Committee;
  - (g) After each sale, information will be made available to the industry regarding the total amount of quota sold and the average price;
  - (h) Where the total amount of quota tendered for is less than the total amount of quota available for disposal at any one sale, the surplus will be offered by the Licensing Committee to successful bidders in further parcels of not more than 1,000 birds, commencing with the highest bidder;
- "We suggest any surplus quota from any one sale should be re-advertised and offered in the next sale. Buyers of 1,000 hens by tender be excluded for 12 months."
- (i) Under no circumstances will information relating to the names of tenderers or individual bids be released;
  - (j) During the tendering process, the Licensing Committee will ensure that buyers are eligible in accordance with the terms of the Act, and the Committee will deal with transfer applications after the sale in the usual way;
  - (k) Quota that has been purchased and in respect of which the transfer has been approved, will be made available to buyers on a settlement date to be specified by the Licensing Committee.