

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

MILK AUTHORITY (AMENDMENT) BILL 1998

EXPLANATORY MEMORANDUM

**Circulated by authority of
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Milk Authority (Amendment) Bill 1998

Outline

This is an amending Bill. It amends the *Milk Authority Act 1971* (MAA) referred to in the amending Bill as the Principal Act.

This amending Bill introduces section 51 exceptions under the Commonwealth *Trade Practices Act 1974* (TPA) to various provisions within the MAA.

Following passage of the *Competition Policy Reform Act 1996*, the Part IV Conduct Rules of the TPA have applied to the Territory's Government business activities. Under the transitional arrangements for applying Part IV, conduct in legislation which was in force on 21 July 1996 which would otherwise be in breach of the TPA, is authorised until 21 July 1998.

The MAA currently engages in a number of forms of conduct which would otherwise be in breach of the TPA were it not for the transitional arrangements. From 21 July 1998, any such conduct must specifically refer to section 51 of the TPA.

The provisions within the amending Bill put in place section 51 exceptions for the specific areas of conduct which have been identified as being potentially in breach of the TPA.

Revenue/Cost implications

The amendments relate to anti-competitive conduct within the Act and as such are subject to the public benefit test requirements under Clause 5 of the national *Competition Principles Agreement*. While there is some risk that the competition payments might be affected, it is considered unlikely given the 31 December 1998 sunset on the amendments.

The Bill aims to prevent any civil actions which might arise out of conduct which is potentially in breach of Part IV of the TPA. The cost of such actions cannot be predicted.

Formal clauses

Section 4 amends section 16A of the Principal Act (which relates to fixing of prices) by adding to subsections (3) a reference to the *Trade Practices Act 1974*, and (4) which expires (3) on 31 December 1998.

Section 5 amends section of the Principal Act 16B (which relates to the powers of the Minister in relation to maximum prices) by adding to subsection (6) a reference to the *Trade Practices Act 1974*, and (7) which expires (6) on 31 December 1998.

Section 6 amends section 17 of the Principal Act by adding subsections (1B) which refers to the *Trade Practices Act 1974*, (1C) which refers to the contracts, arrangements and understandings specified in the Schedule, (1D) which applies the authorisation from the commencement of the deeds specified in the Schedule, (1E) which refers to the *Trade Practices Act 1974* and authorises Clause A of the vendors licences including licences granted prior to the commencement of the amendment Act, and (1F) which expires (1B), (1C) and (1D) on 31 December 1998

Section 7 amends Part III of the Principal Act (which relates to licences and permits) by adding subsection 41A (1) which refers to the *Trade Practices Act 1974*, and 41A (2) which expires (1) on 31 December 1998

Section 8 amends Part IV of the Principal Act (which relates to zoning arrangements) by adding subsection 48 (1) which refers to the *Trade Practices Act 1974*, and 48 (2) which expires (1) on 31 December 1998

Section 9 applies a Schedule comprising the contracts, arrangements and understandings authorised and Clause A of the vendors' licences