

### CITRUS INDUSTRY BILL

Received from the House of Assembly and read a first time.

**The Hon. CARMEL ZOLLO (Minister for Emergency Services):** I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The 2001 National Competition Policy review of the *Citrus Industry Act 1991* revealed that this Act has a number of anti competitive elements and requires reform.

To assist in reform of legislation, the Government established the *Citrus Industry Implementation Committee* in November 2003. The Citrus Industry Implementation Committee comprised representatives of all growing, packing, processing, wholesaling and retailing sectors of the SA Citrus Industry. This Committee has guided the process to produce draft citrus industry legislation, and supporting documentation about the proposed changes for consideration and comment by industry and the general public.

Originally it was intended to amend the *Citrus Industry Act 1991* by removing anti competitive marketing elements, and ultimately repealing the Act in July 2005.

In March 2004, a draft Bill to make these amendments and sunset the Citrus Industry Act was presented to industry for comment via a public consultation process. Overall, industry indicated that it wanted to retain some basic legislation and not repeal the Citrus Industry Act.

In response to this feedback, a further review of the citrus industry's legislative requirements was undertaken. Through numerous industry consultation processes and meetings, a complete rewrite of the Act has occurred.

The process of reviewing industry legislative requirements was undertaken in parallel to a business planning approach for the new SA Citrus Industry Development Board. This business planning was undertaken to ensure that the proposed new legislation could be effectively translated to appropriate service and delivery mechanisms.

The main emphasis of the changes to the citrus legislation is to move it from a marketing control focus to an industry development focus.

The proposed new Bill:

- Establishes a new Board, the *South Australian Citrus Industry Development Board*, to administer the new Act, with membership streamlined to 7 members to reduce costs. This "whole of industry" structure will foster a better understanding by each sector of the business conditions affecting the SA citrus supply chain.
- Specifies functions of the Board including:
  - Administration of the Citrus Industry Fund
  - Promoting the citrus industry and its products.
  - Planning, funding and facilitating research.
  - Collecting and analysing citrus industry data.
  - Disseminating technical, scientific, economic and market information.
  - Providing advice and services to the industry
  - Providing advice to the Minister relating to citrus food safety, plant health and other matters.

- Provides for the establishment of the Citrus Industry Fund to manage funds collected under the Bill, and how these can be used for industry development purposes. The processes for planning, managing and reporting on this fund are based on those used under the Primary Industries Funding Schemes Act.

- Requires growers, packers, processors and wholesalers to notify the Board that they are participating in the industry. This enables the Board to maintain a register of growers, packers, processors and wholesalers to facilitate information distribution and product traceability processes.

- Enables the Board to gather information associated with citrus plantings, volumes of trade, food safety, and pest and disease issues, and to use this industry information generated in strategic planning and communication processes.

- Requires a major review of the Act, with reporting to Parliament, within 6 years (2010).

- Repeals the Citrus Industry Act 1991.

- Includes transitional arrangements including:

- Transfer of Citrus Board of SA funds to the new Citrus Industry Fund

- Arrangements for the final audit and annual report of the Citrus Board of SA under the *Citrus Industry Act 1991* to be undertaken in conjunction with the first audit and annual report under the new measure.

- Initial appointment of a new Board.

It is intended that regulations made under the measure will contain:

- Ongoing arrangements for appointment of Citrus Board members.

- The process for fixing and notifying industry of contributions to be made to the Citrus Industry Fund.

- Flexible processes for fixed or variable funds collection mechanisms to be used. The vast majority of funds collection will be based on variable tonnage throughput of businesses that are very similar to that currently used by the Citrus Board of SA. This new fund collection process is based on voluntary fund collection mechanisms used in the Primary Industries Funding Schemes Act.

The Bill and Regulations will enable the SA Citrus Industry Development Board to deliver the following:

- Management and input to whole of industry issues and industry development opportunities for the SA citrus industry.

- A range of cost-effective industry services to SA citrus industry participants and other stakeholders based on proven demand, including information products, product promotion and training services.

- A new biosecurity function empowering the Board to provide advice to the responsible Minister on the application and administration of the *Fruit and Plant Protection Act 1992* to the citrus industry.

- In cooperation with national and interstate citrus bodies, collection, analysis and distribution of information relating to the citrus industry and its future development.

- Influence in industry research, development, promotion and other development programs that are managed at a national level.

The Bill contains provisions for facilitating the establishment of a Citrus Industry Food Safety Scheme under the *Primary Produce (Food Safety Schemes) Act 2004* and administration of the scheme by the Board. A scheme will be put in place that requires industry to have basic food safety provisions. The Board will provide further advice on future amendments to this scheme.

Through these changes, the following marketing elements of the current *Citrus Industry Act 1991* are removed in the proposed new legislation:

- The compulsory control of flow of citrus product in the SA marketing chain from grower to packer to wholesaler to retailer.

- Grade standards and linkages to the Export Control Orders, enabling market forces to determine quality, size and other product specifications, as occurs with all other horticulture commodities.

- Registration or licensing conditions for packers and wholesalers that constrain access to the industry.

- Fund collection services where payment for citrus sold by wholesalers is currently collected by the Citrus Board of SA and forwarded to packers.

As a result of these changes, growers and packers will have greater marketing flexibility and may choose to sell direct to retail outlets rather than be forced to market through a wholesaler. In turn wholesalers will lose the protection of the trade in citrus on the Adelaide market being forced to go through their businesses. These changes will provide citrus with the same marketing arrangements that apply to all other produce.

Packers will also need to arrange collection of their funds from Adelaide market wholesalers (as occurs with all other produce) rather than have the Citrus Board do this and provide a credit management service.

Overall these changes to the citrus legislation update it, and move it away from a marketing control focus so that it complies with National Competition Policy. The new Bill provides a fresh emphasis on citrus industry development to enhance growth of this important horticulture industry.

I commend the Bill to Members.

#### EXPLANATION OF CLAUSES

##### Part 1—Preliminary

###### 1—Short title

###### 2—Commencement

These clauses are formal.

###### 3—Interpretation

This clause provides definitions necessary for the purposes of the measure. The definition of citrus industry participant sets the scope for notifications and contributions under the measure. It covers citrus growers, citrus packers, citrus processors and citrus wholesalers.

##### Part 2—Citrus Industry Board of South Australia

###### 4—Establishment of Board

The South Australian Citrus Industry Development Board is established. It is the same body corporate as the Citrus Board of South Australia established under the *Citrus Industry Act 1991*.

###### 5—Functions of Board

The Board is given a number of functions relating to the citrus industry, including administration of an industry fund, gathering and dissemination of information relevant to the industry and promotion of the citrus industry.

The Board is to provide advice to Ministers about the establishment of a citrus industry food safety scheme under the *Primary Produce (Food Safety Schemes) Act* and about the bio-security measures of the *Fruit and Plant Protection Act*.

###### 6—General directions by Minister

The Board is subject to direction of the Minister given in the public interest. The Minister is required to consult the Board before giving a direction and a copy of a direction must be laid before each House of Parliament.

###### 7—Membership of Board

There are to be 7 members appointed by the Governor. The presiding member is to be nominated by the Minister and 6 others are to be appointed in accordance with the regulations. It is proposed to continue the current selection committee process.

###### 8—Terms and conditions of membership

This clause governs the terms and conditions of membership of the Board.

###### 9—Remuneration

The Governor is to determine entitlements of members to remuneration, allowances and expenses.

###### 10—Conflict of interest under Public Sector Management Act

For the purposes of the conflict of interest provisions in the *Public Sector Management Act*, a member of the Board will not be taken to have a direct or indirect interest in a matter by reason only of the fact that the member has an interest in the matter that is shared in common with the citrus industry or a substantial section of the citrus industry.

###### 11—Procedures of Board

This clause governs the procedures to be followed by the Board.

###### 12—Committees

The Board may establish committees.

###### 13—Delegation

The Board may delegate a function or power to a member or a committee.

###### 14—Validity of acts of Board

The usual provision for saving acts or proceedings despite a vacancy in membership is included.

**Part 3—Citrus Industry Fund**

**15—Establishment of Fund**

Citrus industry participants are to contribute to a Citrus Industry Fund as provided for in the regulations.

It is proposed that the contribution system involve an annual flat amount and a variable amount for each different class of citrus industry participant and to continue the procedure of packers and processors making contributions on behalf of growers on a monthly basis.

**16—Application of Fund**

The Fund is to be applied by the Board for the purposes of its functions.

**17—Management plan for Fund**

There are to be 5 year rolling management plans for the Fund presented on an annual basis at a public meeting.

**18—Audit of Fund**

The Fund is to be audited on an annual basis by the Auditor-General.

**19—Annual report for Fund**

An annual report on the Fund is to be submitted to the Minister and laid before each House of Parliament.

**Part 4—Information about citrus industry**

**20—Notification of participation in citrus industry**

A citrus industry participant must notify the Board of entrance into the industry. The information provided to the Board must be kept up to date. See clause 3 for the definition of citrus industry participant.

**21—Powers of Board to gather information**

The Board may require citrus industry participants to provide periodic returns. The Board may also inspect records relevant to the information in a periodic return.

**Part 5—Miscellaneous**

**22—False or misleading information**

It is an offence to make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in information provided under the measure.

**23—Service**

This clause provides arrangements for the service or giving of notices.

**24—Liability of members of bodies corporate**

The usual provision for liability of members of bodies corporate is included.

**25—General defence**

A general defence is provided that the alleged offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

**26—Regulations**

General regulation making power is provided.

**27—Review of Act**

The Act is to be reviewed within 6 years and a report laid before each House of Parliament.

**Schedule 1—Repeal, transitional and temporary provisions**

**Part 1—Repeal of Citrus Industry Act 1991**

**1—Repeal**

The *Citrus Industry Act 1991* is repealed.

**Part 2—Transitional provisions—general**

**2—Funds**

The funds of the current Board are to be paid into the Citrus Industry Fund.

**3—Audit and annual report**

The first audit and annual report is to cover the period of transition from the current arrangements to the new arrangements.

**4—Regulations**

Regulation making power for savings or transitional matters is provided.

**Part 3—Transitional provisions—Board**

**5—Selection of members of first Board**

The first members of the Board are to be appointed through the selection committee process set out in this Part.

3 are to be citrus growers with extensive knowledge of and experience in the production of citrus fruit and 3 are to be other persons with extensive knowledge of and experience in

the marketing of citrus fruit or citrus fruit products or any other foodstuffs.

**6—Establishment and membership of selection committee**

The committee is to consist of 5 members appointed by the Minister. These members are to be selected from a panel of 10 persons nominated by organisations or other bodies that are, in the opinion of the Minister, representative of citrus industry participants and substantially involved in the citrus industry.

**7—Term and conditions of membership of selection committee**

The first selection committee is disbanded once the relevant selections have been made.

**8—Remuneration**

The Minister is to determine allowances and expenses for members of the selection committee and these are to be paid out of the funds of the current Board or to be reimbursed out of the Citrus Industry Fund.

**9—Procedures of selection committee**

The procedures are similar to those that apply to a selection committee for the current Board.

**10—Conflict of interest over appointments**

Members are to disclose close associations with a person under consideration for nomination to the Board and members with close associations may not take part in relevant deliberations.

**11—Validity of acts of selection committee**

The usual provision for saving acts or proceedings despite a vacancy in membership is included.

**12—When appointments to first Board take effect**

The selection committee is to nominate members for appointment as set out in this Part. The appointments are to be made under the *Acts Interpretation Act* in anticipation of the commencement of section 7. The new Board is to take effect on the commencement of section 7.

**13—Expiry of Part**

This Part is to expire when section 7 commences.

**Part 4—Temporary provisions**

**14—Conflict of interest**

**15—Immunity of persons engaged in administration of Act**

**16—Expiry of Part**

This Part includes usual conflict of interest provisions and is designed to apply until relevant provisions of the *Public Sector Management Act* come into operation.

**The Hon. CAROLINE SCHAEFER:** I begin my second reading speech by making the observation that I am doing so as a result of constant requests from the government that we shove this bill through today in spite of the fact that we have just received the message. I am aware that the citrus industry wants this bill passed. It wants the regulations introduced so that it can have the new act underway for the next citrus season. I am therefore prepared to accommodate the government's wishes. However, I found it quite offensive that the minister, during question time, accused us of delaying the business of this council for the week when, in fact, we have six pieces of legislation on the *Notice Paper*, we are prepared to deal with private members' business today, and I am prepared to make my second reading speech for this bill. I think that needs to go into *Hansard*.

**The Hon. Ian Gilfillan:** It is a very noble gesture, which is appreciated by the Democrats.

**The Hon. CAROLINE SCHAEFER:** The Hon. Ian Gilfillan has just been gracious enough to thank me for this; hopefully, the minister will be equally as gracious. The background to this bill is that in 2001 the National Competition Policy Review of the Citrus Industry Act revealed that the act had a number of anti-competitive elements and required reform. The original intention was to repeal the act and move to total deregulation of the industry; however, after consultation this was found to be unacceptable to the majority of stakeholders. Consequently, the government established

the Citrus Industry Implementation Committee in November 2003. This committee comprised representatives of all growing, packing, processing, wholesaling and retailing sectors of the South Australian citrus industry.

The main impact of the changes to this legislation is to move the act from a marketing control focus to an industry development focus, and to bring it into line with national competition policy. There are two new elements to the legislation: food safety arrangements and bio-security. The new bill provides the board with the power to inform and advise the minister on bio-security issues impacting on the citrus industry. On the food safety issue, the Minister for Health has requested that there be some mandatory food safety arrangements in place for packers. Packers already fall under food safety arrangements; however, there are small individual growers who operate their own packing businesses. These growers are considered to be primary industries, not food handlers, and therefore they are not covered in the food safety legislation in the same way as larger packers. Approximately 8 per cent of grower-packers fall through this gap.

Consequently, there will be a set of regulations under the primary produce (food safety) legislation to ensure that small packers have some sort of food safety arrangements in place—we have moved similar legislation, for instance, for the meat industry. Operators will be able to choose from where they get their accreditation: HACCP or a commercially available and approved system. The government wants to ensure that when the old act is repealed there is a legislative requirement to maintain safety. In practice this will not change the current operations of the industry because, in fact, all packers currently fall under some system of food safety regulation.

The fund's collection mechanism will also change. The Citrus Board currently collect funds on behalf of the Citrus Growers of South Australia Association; however, this arrangement, which has been a courtesy arrangement, will be difficult, if not impossible, to maintain under the new legislation, and so the new legislation will bring levy collection into line with other primary industries levies—such as the grape industry, etc.—under the Primary Industries Levies Fund. This is an opt out scheme—in other words, it is a voluntary collection but growers must signify on an annual basis, as I understand it, if they do not intend to pay the levy.

The Citrus Act is to be brought into line with national competition policy provisions, so all of the current act's marketing elements are to be removed. These are the compulsory requirements for sale of citrus to flow along the chain from grower to packer to processor to wholesaler to retailer. From now on the grower, if he has a properly registered packing operation, will be able to sell direct to the retailer. For export, AQIS Export Standards will still have to be met. Packers and wholesalers currently have to post bonds for licensing conditions. These arrangements are to be removed. It will still be necessary to notify of participation in the industry, and a fine will be in place for failure to notify. I understand the Hon. Ian Gilfillan is considering an amendment with regard to that particular regulation.

The board will be reduced from seven members to six. Three will be growers, and three will come from the marketing/packaging arm, and there will be an independent chair appointed by the minister. I am yet to be convinced of this, but I am assured that this is meant to result in a reduction of fees to growers. The support staff will be reduced from five to two. The selection process for the board remains un-

changed, that is, there is a selection committee. The selection panel is made up of industry representatives nominated from and representing all sectors of the industry, including the CGSA, Women in Horticulture, SAFF, the Packers Association, the Processors Association, the Chamber of Fruit and Vegetable Wholesalers, etc. Currently, 75 per cent of funding comes from growers and 25 per cent from the rest of the chain. Under the new arrangements, this will be a fifty-fifty process. The appointment process is in the bill initially for the transition period but will be in regulations after the transitional three-year term. That is, it is to take three years for the transition to take place between the current board's situation and the new board.

The transitional element of this bill gives the power to move current assets from the old to the new board and for the handover of business elements. There are currently assets of cash reserves of between quarter and a half a million dollars, two vehicles and office equipment. As I said at the beginning of this second reading speech, I have been quite heavily lobbied by elements of the citrus industry to get this bill through as quickly as possible, and I therefore do not seek to delay it in any way. However, since my original briefing, I have been contacted by the Citrus Growers of South Australia, who are concerned that, unlike my briefing that there has been a change, as I understand it, to the food safety requirements by grower-packers, it is considered by that body that the new arrangements will be unsatisfactory for smaller growers. I refer to a letter to the minister, which I received from that group on 3 June, as follows:

As you were made aware, it came as a major surprise to CGSA that the CIIC—

which is the implementation committee—

had completely reversed its previous decision on Friday, 27 May teleconference. Unfortunately, the two CGSA grower representatives were unable to be involved to put forward their views. The turnaround from supporting the handful of grower-packers to all growers coming under the Primary Produce Food Safety Scheme is not accepted by the grower sector. CGSA's position remains that we do not wish to become part of the PIRSA program, but continue with the current arrangements and assess the situation in 12 months regarding any growers who may have opted out of approved food safety systems.

In the time between my second reading speech and the committee stage, which I assume will be tomorrow, I seek some reply from the minister as to what has been done with regard to that eleventh hour objection by the citrus growers' association. I stress that, in spite of the growers' concerns when they came to see me and, indeed, when they gave me a copy of that letter, they still want this bill to proceed, so I do not wish to delay it, but I seek some explanation as to why that change was made and whether the association has had its fears allayed since that correspondence at the beginning of June, which was about a month ago.

Similarly, in the last 24 hours, I have had a number of faxes, and I know the minister has also, from another group of people which does not support any form of citrus board. I am slightly surprised by that, given that I do not think this group supports total deregulation, either, so I am somewhat puzzled as to what it does support—except that I know it has sought a poll of all citrus growers and, I assume, has had that request either ignored or refused.

Given that I have had, therefore, two groups that have concerns about the implementation of this bill and given that I have given my assurance that we will process it without delay and I note that there are departmental officers and ministerial advisers here, I seek answers to those concerns

overnight so that we can proceed to the committee stage and put the bill through tomorrow.

*The Hon. Kate Reynolds interjecting:*

**The Hon. CAROLINE SCHAEFER:** Yes, I am an extraordinarily cooperative person. However, I note with some concern in another place that minister Maywald, who is the local member for the majority of the citrus growers in the state, has failed to make any speech on or contribution to the passage of this bill. I wonder whether she is, therefore, bound by cabinet solidarity not to express any concerns or whether she is so apathetic that she is not concerned enough to make any contribution. Again, I would be very interested to know whether minister Maywald is, in fact, in favour of the bill or whether she is not, and whether she is in favour of the bill as it stands. It seems quite peculiar to me that, as a local member and Minister for Regional Development—and certainly citrus is one of the most important industries within her electorate—that she has made no comment, and again I would be interested in some input from minister Maywald overnight.

The bill is to be reviewed in six years. I am concerned that, if the people who want a poll are proven to be right, six years is a long time to wait to reverse something if it is a bad decision. I am therefore considering moving an amendment tomorrow to shorten the time. I understand that there is a transition period of three years, which seems to be an extraordinarily long time to move something from one piece of legislation to another, but I am considering reducing the time for that review of the act and the processes therein to a more practical time, unless I can be convinced otherwise overnight. I support the second reading.

**The Hon. IAN GILFILLAN** secured the adjournment of the debate.