**BARLEY MARKETING ACT AMENDMENT BILL 1983**

**Legislative Council, 20 April 1983, pages 903-5**

Second reading

**The Hon. B.A. CHATTERTON (Minister of Agriculture)** obtained leave and introduced a Bill for an Act to amend the Barley Marketing Act, 1947-1980. Read a first time.

The Hon. B.A. CHATTERTON: I move: That this Bill be now read a second time.

The Barley Marketing Act, 1948-1980, is an Act to establish the Australian Barley Board (a joint South Australian-Victorian Marketing Authority) which in South Australia is charged with the responsibility of marketing the State’s barley crop and to a lesser extent the oat crop. The amendments which are proposed follow a series of representations by the Barley Marketing Board, industry and the Victorian Minister of Agriculture.

The Barley Marketing Act is expressly limited in its period of operation and currently is set to expire at the end of the 1982-83 cereal season. However, it has been agreed that the Act should be extended for a further five seasons, that is, until and including the 1987-88 season. It is proposed that provision be made for the appointment by the Governor of a Deputy Chairman to the board. The Deputy Chairman will act on behalf of the Chairman in his absence and shall be a South Australian grower member of the board.

To assist with continuity of board membership and avoid a complete turnover, particularly of elected members after any one election, it is proposed to stagger board appointments and elections. This proposal is to take effect immediately after 31 August 1984, when the current term for all members (elected and appointed) expires. The opportunity has arisen to repeal subsection (3) of section 8. This provision was required on the commencement of the principal Act but is now redundant.

In order to assist the board with its financial management strategies, the board will be given the authority to enter the deal with futures contracts for hedging purposes. The guidelines for such trading are to be specified jointly by the Ministers of Agriculture for Victoria and South Australia. The proposal is similar to a provision contained in the Commonwealth Wheat Marketing Act 1979.

It has been agreed between all parties that the Barley Board should be given sufficient authority to facilitate more thorough investigations into incidents of alleged illegal trading, particularly in barley.

Currently, a person shall not sell or deliver barley to any person other than the Barley Board, although there are five exceptions to this provision. For example, a farmer may transport his own barley for use on his own farm and genuine trade between States cannot be impeded. However, it is claimed that an amount of illegal interstate trading occurs under the guise of genuine trade between States.

In order to detect and stem illegal sales generally, it is proposed to include a new section in the Act obliging a person duly served with an appropriate notice to provide the Barley Board in writing with specific information relating to barley or oats. This provision is contained in the Victorian Barley Marketing Act and has proved to be of great assistance with illegal trading inquiries. Penalties for convictions under the Act are also proposed to be increased from the present maximum of $600 to a maximum of $2 000 in the case of a body corporate or $1 000 in the case of a natural person.

Section 18a (2) of the Act is to be repealed to remove from the Barley Board the obligation of considering the oat requirements of specified oat users who under the Act may purchase oats on the open market directly in competition with the board. The board holds that it is irreconcilable for it to be required, on the one hand, to market to the best advantage all oats delivered to it, while on the other hand being required to consider the interests of its oat purchasing competitors. The repeal of the subsection will overcome the conflict and enable the Barley Board to sell its oats to the best advantage of the grower. I seek leave to have the detailed explanation of clauses inserted in Hansard without my reading it. Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 repeals section 2 of the principal Act. This section related to the commencement of the Act and made the commencement conditional on the taking of a poll of barley growers. The section is no longer required. Clause 3 amends section 3 of the principal Act, dealing with interpretation. Definitions of futures contract, futures market and inspector are inserted. ‘Futures contract’ is a grains futures contract (whether or not the grain is grown overseas), a currency futures contract or a financial futures contract. ‘Futures market’ is a market or exchange at which futures contracts are frequently made or traded. ‘Inspector’ is an inspector appointed under new section 10.

Clause 4 amends section 4 of the principal Act, first, by inserting a new subsection (2a) which provides for the appointment by the Governor from members of the board appointed under subsection (2) (b) of a Deputy Chairman of the board. In the Chairman’s absence, the deputy has his powers, functions and duties and acts in his place. Secondly, a new subsection is inserted in place of subsection (4). New subsection (4) provides for staggered terms of office for board members.

A member of the board shall hold office for three years calculated from the first day of September in the year of his appointment or election, subject to the Act, the law of Victoria and the arrangement between the Governor and the Governor of Victoria. This general principle is qualified as follows:

(a) a member elected or appointed to a casual vacancy holds office only for the balance of the term of his predecessor;

(b) a member whose term expires prior to the election or appointment of a successor remains in office, subject to the Act, until a successor is appointed or elected;

(c) the term of office of the Chairman first appointed after the commencement of this measure shall, subject to paragraph (b), expire on 1 September 1985;

(d) of the representatives of South Australian barley growers first elected after the commencement of this measure, the term of office of one shall, subject to paragraph (b), expire on 1 September 1985, and the term of office of another shall, subject to paragraph (b), expire on 1 September 1986;

(e) the term of office of one of the representatives of Victorian barley growers first elected after the commencement of this measure shall, subject to paragraph (b), expire on 1 September 1986; and

(f) the term of office of the member first appointed under subsection (2) (e) after the commencement of this measure shall, subject to paragraph (b), expire on 1 September 1986.

Thirdly, a new subsection (4a) is inserted pursuant to which the order of retirement as between representatives of South Australian barley growers first elected after the commencement of this measure shall be determined by lot. The order of retirement as between representatives of Victorian barley growers first elected after the commencement of this measure shall be determined in accordance with the law of Victoria.

Clause 5 repeals section 8 (3) of the principal Act. This subsection is transitional and related to the commencement of the principal Act and is therefore no longer relevant. Clause 6 makes an amendment to section 9 of the principal Act by inserting new paragraph (ab), which empowers the board to enter into and deal with futures contracts for hedging purposes at a futures market in accordance with written guidelines jointly determined by the Minister and the Minister of Agriculture of Victoria.

Clause 7 inserts a new section 10a. New section 10a provides in subsection (1) that the board may, by notice in writing, require a person to furnish in writing to the board specified information relating to barley or oats. Subsection (2) prohibits a person without reasonable excuse from refusing or failing to comply with a requirement to furnish information or to furnish information that is false or misleading in a material particular. Clause 8 repeals section 18a (2) of the principal Act.

Clause 9 repeals section 20 of the principal Act and substitutes a new section relating to offences and penalties. Under subsection (1), any contravention of or failure to comply with a provision of the Act constitutes an offence. Subsection (2) provides that proceedings be disposed of summarily. Subsection (3) provides that a natural person convicted of an offence against the Act is liable to a penalty not exceeding $1 000, except where some other penalty is provided. Subsection (4) provides that a body corporate convicted of an offence against the Act is liable to a penalty not exceeding $2 000, except where such other penalty is provided. Subsection (5) requires that proceedings for offences be commenced within 12 months of the date of the alleged commission of the offence.

Clause 10 amends section 22 of the principal Act. In subsection (1) the figures 1987-1988 are substituted for the figures 1982-1983. This has the effect of extending the application of the Act to barley grown up to and including the 1987-1988 season. Subsection (2) is struck out and a provision inserted extending the application of the Act to oats grown up to and including the 1987-1988 season. Clause 11 repeals the schedule to the principal Act. This repeal is consequential upon the repeal of section 2 of the principal Act.

The Hon. H.P.K. DUNN secured the adjournment of the debate.