



## ANALYSIS

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1993, No. 152

**An Act to amend the Primary Products Marketing Act 1953**

[29 September 1993]

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title**—This Act may be cited as the Primary Products Marketing Amendment Act 1993, and shall be read together with and deemed part of the Primary Products Marketing Act 1953 (hereinafter referred to as the principal Act).

**2. Regulations**—Section 3 (4) of the principal Act is hereby repealed.

**3. New sections substituted**—The principal Act is hereby amended by repealing section 5, and substituting the following sections:

**“5. Marketing Authorities to be bodies corporate**—Every Marketing Authority is a body corporate, with perpetual succession and a common seal.

**“5A. Powers of Marketing Authorities**—(1) Except as provided in this Act, every Marketing Authority has—

“(a) The rights, powers, and privileges of a natural person; and

“(b) The power to issue debentures; and

“(c) The power to grant floating charges on its undertaking or property, or any of it; and

“(d) The power to do any other thing it is authorised to do by—

“(i) This Act; or

“(ii) The regulations that established it; or

“(iii) Any other enactment; or

“(iv) Any rule of law.

“(2) A Marketing Authority does not have a power (whether or not it is a power of a natural person) if the regulations that established it provide that it does not have that power.

“(3) A Marketing Authority does not have a power (whether or not it is a power of a natural person) if the regulations that established it provide that its powers are limited to certain specified powers, or powers of a specified kind or description, that do not include that power.

“(4) A Marketing Authority shall not exercise any of its rights, powers, or privileges except for the purpose of—

“(a) Performing its functions; or

“(b) Entering into any financial transaction or financial obligation intended to—

“(i) Avoid or lessen any present or possible future risk to the Authority’s current or future income or assets; or

“(ii) Lessen any liability of the Authority; or

“(iii) Avoid or lessen any possible future liability of the Authority; or

“(iv) Maximise the Authority’s current or future income (whether net or gross).

“(5) Paragraphs (b) to (d) of subsection (1) of this section do not affect the generality of paragraph (a) of that subsection.”

**4. Consequential amendments**—(1) Section 3 (2) of the principal Act is hereby consequentially amended by repealing paragraph (a), and substituting the following paragraphs:

“(a) Establishing Marketing Authorities and defining their functions:

“(aa) Limiting the powers of Marketing Authorities:

“(ab) Giving Marketing Authorities additional powers:”.

(2) The following regulations are hereby consequentially revoked:

(a) Regulation 12c of the Kiwifruit Marketing Regulations 1977:

(b) Regulation 12 (3) of the Game Industry Board Regulations 1985:

(c) Regulation 4 of the Kiwifruit Marketing Regulations 1977, Amendment No. 5.

**5. Contracts of Marketing Authorities**—The principal Act is hereby amended by repealing section 6, and substituting the following section:

“6. (1) Subject to subsection (2) of this section,—

“(a) Any contract that, if made between private persons, must be by deed shall, if made by a Marketing Authority, be in writing under the Authority’s common seal; and

“(b) Any contract that, if made between private persons, must be signed by the parties to be charged therewith shall, if made by a Marketing Authority, be either—

“(i) Under the Authority’s common seal; or

“(ii) Signed by a person acting on behalf of and with the express or implied authority of the Authority; and

“(c) Any contract that, if made between private persons, may be made orally, may be similarly made by or on behalf of a Marketing Authority by any person acting on behalf of and with the express or implied authority of the Authority.

“(2) Notwithstanding subsection (1) of this section,—

“(a) No contract made by or on behalf of a Marketing Authority shall be invalid by reason only that it was not made in a manner provided by that subsection, if it was made pursuant to a resolution of the Authority or to give effect to a resolution of the Authority; and

“(b) A Marketing Authority may, by writing under its common seal, empower any person, either generally or in respect of any specified matter, to execute on its behalf in any place in or beyond New Zealand, instruments under or for the purposes of this Act; and an instrument executed by such an attorney on behalf of the Authority,—

“(i) Shall bind the Authority; and

“(ii) If executed as a deed, shall have effect as if it were under the Authority’s common seal.”

**6. Borrowing by Marketing Authorities**—The following enactments are hereby repealed:

- (a) Section 10 of the principal Act:
- (b) So much of the First Schedule to the Public Finance Act 1989 as relates to the principal Act.

**7. Investments**—Section 13 of the principal Act is hereby repealed.

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This Act is administered in the Ministry of Agriculture and Fisheries.

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