

South Australia

## **Right to Farm Bill 2015**

A BILL FOR

An Act to ensure that properly conducted farming activities are adequately dealt with under planning and development laws and are given protection from certain liability; and to make related amendments to the *Development Act 1993*, the *Environment Protection Act 1993*; the *Land and Business (Sale and Conveyancing) Act 1994* and the *Natural Resources Management Act 2004*.

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## The Parliament of South Australia enacts as follows:

### 1—Short title

This Act may be cited as the *Right to Farm Act 2015*.

### 2—Commencement

- 5 This Act will come into operation 2 months after the date of assent.

### 3—Interpretation

In this Act, unless the contrary intention appears—

***farming activity*** includes any form of primary production;

***protected farming activity*** means a farming activity that is being carried out on land and that conforms with—

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  - (a) if the regulations prescribe a code of practice for that farming activity—the prescribed code of practice; or
  - (b) in any other case—generally accepted standards and practices for that particular farming activity.

#### 4—Objects

The objects of this Act are—

- (a) to ensure that protected farming activities are not subject to civil or criminal liability under environmental legislation; and
- (b) to ensure that protected farming activities are not adversely impacted by changes in land use; and
- (c) to ensure that the planning system adequately addresses issues of food security and the importance of ensuring the continued viability of farming activities.

#### 5—Civil and criminal liability for protected farming activities

- (1) It will be a defence in any proceedings for a prescribed offence if it is proved that the alleged offence resulted from the defendant carrying out a protected farming activity.
- (2) No prescribed civil liability lies in respect of an act or omission that is a protected farming activity.
- (3) In this section—

*prescribed civil liability* means—

- (a) liability to a civil penalty, or other civil liability, under the *Environment Protection Act 1993*; or
- (b) liability to a civil penalty, or other civil liability, under the *Natural Resources Management Act 2004*; or
- (c) liability in nuisance; or
- (d) civil liability of a kind prescribed by regulation;

*prescribed offence* means—

- (a) an offence against the *Environment Protection Act 1993*; or
- (b) an offence against the *Natural Resources Management Act 2004*; or
- (c) an offence of a kind prescribed by regulation.

#### 6—Planning principles

- (1) The Minister must, within 6 months after the commencement of this section, develop planning principles that are consistent with, and seek to further, the objects of this Act.
- (2) The Minister must undertake public consultation in developing, or subsequently altering, the planning principles in such manner as the Minister thinks fit.
- (3) The planning principles developed under this section, and any subsequent alterations to those principles, will have effect from the day on which they are published in the Gazette.

#### 7—Regulations

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

- (2) The regulations may—
- (a) be of general application or vary in their application according to prescribed factors; and
  - (b) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or some other person.
- (3) The regulations may refer to or incorporate, wholly or partially and with or without modification, a code, standard or other document prepared or published by a prescribed body, either as in force at the time the regulations are made or as in force from time to time.
- (4) If a code, standard or other document is referred to or incorporated in the regulations—
- (a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and
  - (b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

## **Schedule 1—Related amendments and transitional provisions**

### **Part 1—Related amendments to *Development Act 1993***

#### **1—Amendment of section 22—The Planning Strategy**

Section 22(3a)—after paragraph (d) insert:

and

- (e) the planning principles under section 6 of the *Right to Farm Act 2015*,

### **Part 2—Related amendments to *Environment Protection Act 1993***

#### **2—Amendment of section 130—Reports in respect of alleged contraventions**

Section 130—after its present contents (now to be designated as subsection (1)) insert:

- (2) However, if the Authority or an administering agency is satisfied that an allegation relates to a protected farming activity, the Authority or agency should advise the person making the allegation of that opinion and decline to take any further action in relation to the allegation.
- (3) In this section—  
*protected farming activity* has the same meaning as in the *Right to Farm Act 2015*.

### **Part 3—Related amendments to *Land and Business (Sale and Conveyancing) Act 1994***

#### **3—Amendment of section 7—Particulars to be supplied to purchaser of land before settlement**

5           Section 7(5)—after the definition of *acquired a relevant interest in the land* insert:

*prescribed matters* means—

(a) any protected farming activities (within the meaning of the *Right to Farm Act 2015*) whether on the land or elsewhere, that may affect the use or enjoyment of the land; and

10           (b) any other matters prescribed by regulation.

### **Part 4—Related amendments to *Natural Resources Management Act 2004***

#### **4—Amendment of section 4—Interaction with other Acts**

          Section 4(2)—after paragraph (g) insert:

15           (h) the *Right to Farm Act 2015*.

### **Part 5—Transitional provisions**

#### **5—Transitional provisions**

20           The Minister responsible for the administration of the *Development Act 1993* must ensure that any relevant Development Plans under that Act are reviewed within 6 months after alterations are made to the Planning Strategy in pursuance of section 22(3a)(e) of that Act (as amended by this Schedule) for the purpose of determining whether any amendments should be made to the Development Plans on account of those alterations.