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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Constitutional Corporations (Farm Gate
to Plate) Bill 2011**

No. , 2011

(Mr Katter)

**A Bill for an Act to require constitutional
corporations that are grocery retailers to display
producer prices, and for related purposes**

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1 **A Bill for an Act to require constitutional**
2 **corporations that are grocery retailers to display**
3 **producer prices, and for related purposes**

4 The Parliament of Australia enacts:

5 **Part 1—Preliminary**

7 **1 Short title**

8 This Act may be cited as the *Constitutional Corporations (Farm*
9 *Gate to Plate) Act 2011.*

Section 2

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Sections 3 to 14	The 28th day after this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Object

The object of this Act is to enable consumers to understand the pricing practices of grocery retailers.

4 Constitutional basis for Act

This Act relies on:

- (a) the Commonwealth's legislative powers under paragraphs 51(i), (v), (xv) and (xx) of the Constitution; and
- (b) any implied legislative powers of the Commonwealth.

Section 51 **5 Application to external Territories**

2 This Act extends to all the external Territories.

3 **6 Relationship with State and Territory laws**

- 4 (1) This Act is intended to apply to the exclusion of a law of a State or
 5 Territory that is prescribed by the regulations.
- 6 (2) However, this Act is not intended to exclude or limit the concurrent
 7 operation of any other law of a State or Territory, except so far as
 8 the contrary intention appears.

9 **7 Interpretation**

10 In this Act:

11 ***constitutional corporation*** means a corporation to which
 12 paragraph 51(xx) of the Constitution applies.13 ***farm gate*** means the point at which produce leaves the farm where
 14 it is produced.15 ***farm gate price*** means the price of produce available at the farm,
 16 excluding the costs of transport, processing, storage and marketing
 17 and profit margins of any entities involved, including the grocery
 18 retailer.19 ***floor space*** has the same meaning as in the *Trade Practices*
 20 (*Industry Codes — Unit Pricing*) *Regulations 2009*.21 ***food-based grocery item*** means an item that:

- 22 (a) is intended for human consumption by the manufacturer or
 producer of the item; and
- 23 (b) is sold for human consumption by a grocery retailer to a
 consumer; and
- 24 (c) is not meant for consumption at the retail premises at which it
 is sold to the consumer.

28 ***grocery retailer*** means a constitutional corporation that sells
 29 food-based grocery items to consumers in retail premises:

Section 7

- 1 (a) that have more than 1,000 square metres of floor space
2 dedicated to the display of grocery items; and
3 (b) that are used primarily for the sale of food-based grocery
4 items.

5 *produce* means fresh fruit and vegetable produce.

6 *producer price* is the average farm gate price received by farmers
7 for a specific type of produce produced within a specified
8 12-month period.

9 *retail premises* has the same meaning as in the *Trade Practices*
10 (*Industry Codes — Unit Pricing*) *Regulations 2009*.

11 *selling price* has the same meaning as in the *Trade Practices*
12 (*Industry Codes — Unit Pricing*) *Regulations 2009*.

Section 8

1 **Part 2—Producer prices for produce**

3 **8 Application**

4 This Part applies to any constitutional corporation that is a grocery
5 retailer.

6 **9 Requirements on constitutional corporation to display and to
7 publish producer prices for produce**

- 8 (1) A constitutional corporation to which this Part applies must display
9 the producer price for all produce sold by the corporation.
- 10 (2) The constitutional corporation must ensure that the producer price
11 for produce:
 - 12 (a) is displayed prominently and in close proximity to the selling
13 price displayed for the produce; and
 - 14 (b) is legible and unambiguous.
- 15 (3) A constitutional corporation to which this Part applies must also
16 publish on its website the producer price for all produce sold by the
17 corporation.

18 **10 Contravention of subsection 9(1), (2) or (3)**

19 A constitutional corporation must not contravene subsection 9(1),
20 (2) or (3).

21 **11 Subsections 9(1), (2) and (3) deemed to be infringement notice
22 provisions**

23 This section deems subsections 9(1), (2) and (3) to be infringement
24 notice provisions for the purposes of Division 5 of Part XI of the
25 *Competition and Consumer Act 2010* and, subject to sections 12
26 and 13, the provisions of that Division apply accordingly.

Section 12

12 Enforcement

If the Australian Competition and Consumer Commission has reasonable grounds to suspect that a constitutional corporation has contravened subsection 9(1), (2) or (3), it may:

- (a) issue an infringement notice to the corporation; or
- (b) apply to the Federal Court for such order or orders as the Commission thinks appropriate against the corporation.

13 Amount of penalty specified in infringement notice for contravention of subsection 9(1), (2) or (3)

The penalty to be specified in an infringement notice that is to be issued to a constitutional corporation, in relation to an alleged contravention of subsection 9(1), (2) or (3), is 600 penalty units.

Section 14

1 **Part 3—Miscellaneous**
2

3 **14 Regulations**

4 The Governor-General may make regulations prescribing matters:
5 (a) required or permitted by this Act to be prescribed; or
6 (b) necessary or convenient to be prescribed for carrying out or
7 giving effect to this Act.