

Queensland



**GRAIN INDUSTRY
(RESTRUCTURING)
AMENDMENT ACT 1995**

Act No. 8 of 1995

Queensland



GRAIN INDUSTRY (RESTRUCTURING) AMENDMENT ACT 1995

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Queensland



Grain Industry (Restructuring) Amendment Act 1995

Act No. 8 of 1995

An Act to amend the *Grain Industry (Restructuring) Act 1991*

[Assented to 5 April 1995]

The Parliament of Queensland enacts—**Short title**

1. This Act may be cited as the *Grain Industry (Restructuring) Amendment Act 1995*.

Commencement

2. Sections 4, 6, 7, 9, 10 and 15 commence 6 months after the day of assent unless an earlier day is fixed by proclamation.

Act amended

3. This Act amends the *Grain Industry (Restructuring) Act 1991*.

Amendment of s 3 (Definitions)

4. Section 3, definition “**Grainco**”—

omit, insert—

‘ “**Grainco**” means Grainco Queensland Co-operative Association Limited established under the Corporations Law.’.

Amendment of Pt 2 (Grainco)

5. Part 2, Divisions 1 and 2—

omit.

Amendment of s 13 (Chairperson)

6.(1) Section 13(2)—

omit, insert—

‘(2) A person is eligible for appointment as the chairperson if the person is a grower.’.

(2) Section 13(4)(d)(iv), ‘or a member of Grainco’—
omit.

Insertion of new s 16A and Div 3A

7. After section 16—

insert—

‘Disclosure of interests

‘16A.(1) This section applies to a director of Grainco if—

- (a) the director has a direct or indirect financial interest in an issue being considered, or about to be considered, by the Board of Grainco (other than an interest the director has in common with growers generally, a substantial class of growers or some other substantial class); and
- (b) the interest could conflict with the proper performance of the director’s duties about the consideration of the issue.

‘(2) As soon as practicable after the relevant facts come to the director’s knowledge, the director must disclose the nature of the interest to a meeting of the Board of Grainco.

‘(3) The disclosure must be recorded in the board’s minutes and, unless the board otherwise decides, the director must not—

- (a) be present when the board considers the issue; or
- (b) take part in a decision of the board about the issue.

‘(4) The director must not be present when the board is considering its decision under subsection (3).

‘(5) Another director who also has a direct or indirect financial interest in the issue must not—

- (a) be present when the board is considering its decision under subsection (3); or
- (b) take part in making the decision.

Division 3A—Grainco’s constituent documents**‘Grainco’s memorandum and articles**

‘16B.(1) Grainco’s memorandum and articles must be consistent with this Act.

‘(2) If there is an inconsistency between this Act and Grainco’s memorandum and articles, this Act prevails and the memorandum and articles are void to the extent of the inconsistency.’.

Insertion of new ss 19A and 19B

8. After section 19—

insert—

‘Grainco’s responsibility to account for its administration

‘19A.(1) Grainco must report on, and account for, its administration under the *Financial Administration and Audit Act 1977*.

‘(2) The *Financial Administration and Audit Act 1977* applies to Grainco, subject to any changes prescribed under the regulations, as if it were a statutory body within the meaning of that Act.

‘Application of certain other Acts

‘19B.(1) Grainco is—

- (a) a unit of public administration under the *Criminal Justice Act 1989*; and
- (b) a public authority under the *Freedom of Information Act 1992*; and
- (c) a public authority under the *Libraries and Archives Act 1988*; and
- (d) an authority under the *Parliamentary Commissioner Act 1974*; and
- (e) a unit of the public sector under the *Public Sector Management Commission Act 1990*.

‘(2) Grainco is subject to the *Judicial Review Act 1991*.

‘(3) The mention of particular Acts in this section does not mean Grainco is not subject to other Acts.’.

Amendment of s 20 (Ministerial direction)

9. Section 20—

insert—

‘(3A) The Minister is not to be regarded as a director of Grainco because of the existence, or the exercise, of the power of direction given by this section.

‘(4A) Grainco is not entitled to compensation for any actual or prospective loss because of a Ministerial direction under this section.’.

Amendment of s 34 (Application)

10. Section 34—

insert—

‘(3) This Part is suspended if shares in Grainco are listed for trading on a stock exchange.’.

Replacement of ss 72 and 73

11. Sections 72 and 73—

omit, insert—

‘Appointment of inspectors

‘72.(1) Grainco may appoint persons as inspectors.

‘(2) Grainco may appoint a person (other than a police officer) as an inspector only if—

(a) the person has—

- (i) in the opinion of the chief executive of the department, the necessary expertise or experience to be an inspector; or
- (ii) satisfactorily finished training approved by the chief executive of the department; and

- (b) the chief executive of the department approves the person's appointment.

'Limitation on inspector's powers

'73. The powers of an inspector may be limited—

- (a) under a regulation; or
- (b) under an appointment condition; or
- (c) by written notice given by Grainco to the inspector.

'Inspector's appointment conditions

'73A.(1) An inspector holds office on the conditions stated in the instrument of appointment.

'(2) An inspector—

- (a) if the appointment provides for a term of appointment—stops holding office at the end of the term; and
- (b) may resign by signed notice of resignation given to Grainco; and
- (c) if the conditions of appointment provide—stops holding office as an inspector on stopping to hold another office stated in the appointment conditions.

'(3) Grainco must—

- (a) if it appoints an inspector—give the chief executive of the department a copy of the instrument of appointment; and
- (b) if an inspector stops holding office—give the chief executive of the department notice stating when, and in what circumstances, the inspector stopped holding office.

'Inspector's identity card

'73B.(1) Grainco must give each inspector an identity card.

'(2) The identity card must—

- (a) be in a form approved by the chief executive of the department;

and

- (b) contain a recent photograph of the inspector; and
- (c) be signed by the inspector; and
- (d) identify the person as an inspector for this Act.

‘(3) A person who stops being an inspector must return the person’s identity card to Grainco within 21 days after the person stops being an inspector, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

‘(4) This section does not prevent the giving of a single identity card to a person under this section and for other provisions, Acts or purposes.

‘Production or display of inspector’s identity card

‘73C.(1) An inspector (other than a police officer in uniform) may exercise a power under this Act in relation to someone else only if the inspector—

- (a) first produces his or her identity card for inspection by the person; or
- (b) has the identity card displayed so that it is clearly visible to the person.

‘(2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must produce the identity card for inspection by the person at the first reasonable opportunity.’.

Amendment of s 84 (Seizure of grain)

12. Section 84(1)—

omit, insert—

‘**84.(1)** Grain may be seized under this section if it should have been delivered to Grainco under the compulsory marketing scheme.’.

Replacement of s 87 (Prosecution of offences)

13. Section 87—

omit, insert—

‘Offences are summary offences

‘87. An offence against this Act is a summary offence.

‘Start of offence proceedings

‘87A.(1) A proceeding for an offence against this Act may be started—

- (a) within 1 year after the offence is committed; or
- (b) within 1 year after the offence comes to the complainant’s knowledge, but within 2 years after the offence is committed.

‘(2) A proceeding for an offence against this Act may be started only with the consent of the chief executive of the department or the Attorney-General.’.

Insertion of new s 93

14. After section 92—

insert—

‘Numbering and renumbering of Act

‘93. In the next reprint of the Act under the *Reprints Act 1992*, section 43 (Numbering and renumbering of provisions) of that Act must be used.’.

Act amended in Sch 2

15. Schedule 2 amends the *Wheat Marketing (Facilitation) Act 1989*.

SCHEDULE 1**MINOR AMENDMENTS OF GRAIN INDUSTRY
(RESTRUCTURING) ACT 1991**

section 3

1. Section 2(f)—*omit.***2. Section 3, definition “export grain”—***omit.***3. Part 8—***omit.*

SCHEDULE 2

AMENDMENTS OF WHEAT MARKETING (FACILITATION) ACT 1989

section 15

1. Section 3(d) and (f)—

omit.

2. Section 4, definitions “Grainco”, “Queensland Minister” and “wheat products”—

omit.

3. Section 4—

insert—

‘ **“Grainco”** means Grainco Queensland Co-operative Association Limited established under the Corporations Law.

“grain product” means a substance produced by the crushing, grinding, gristing, milling or other processing of grain.’.

4. Section 4, definition “marketing”, from ‘wheat’ to ‘be,’—

omit, insert—

‘grain or grain products’.

5. Section 4, definition “marketing”, paragraph (c), from ‘wheat’ to ‘be;’—

omit, insert—

‘grain or grain products.’.

SCHEDULE 2 (continued)

6. Section 5—

omit.

7. Section 7—

omit.

8. Section 8(2), “Queensland”—

omit.

9. Section 9(1)(d)—

omit, insert—

‘(d) the power to acquire shares in—

(i) Grainco; and

(ii) with the Commonwealth Minister’s approval—any other corporation.’.

10. Section 9(2) and (5)—

omit.

11. Section 10(3) and (4)—

omit.

12. Section 10(5), “Queensland Minister”—

omit, insert—

‘Minister’.

SCHEDULE 2 (continued)

13. Section 14, “Queensland”—

omit.

14. Part 3—

omit.

15. Sections 18 to 20—

omit, insert—

‘Regulations

‘18. The Governor in Council may make regulations under this Act.’.

16. Section 21, “Queensland Minister”—

omit, insert—

‘Minister’.

17. Section 21(2)(b), “wheat”—

omit, insert—

‘grain’.

18. After section 21—

insert—

‘Numbering and renumbering of Act

‘22. In the next reprint of the Act under the *Reprints Act 1992*, section 43 (Numbering and renumbering of provisions) of that Act must be used.’.

