

Queensland



# **SUGAR INDUSTRY AMENDMENT ACT 1996**

**Act No. 19 of 1996**

# Queensland



## SUGAR INDUSTRY AMENDMENT ACT 1996

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**AMENDMENT OF PRIMARY PRODUCERS' ORGANISATION  
AND MARKETING ACT 1926**



Queensland



## **Sugar Industry Amendment Act 1996**

**Act No. 19 of 1996**

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**An Act to amend the *Sugar Industry Act 1991*, and for other purposes**

***[Assented to 30 July 1996]***

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

1. This Act may be cited as the *Sugar Industry Amendment Act 1996*.

**Acts amended**

2.(1) This Act (other than the schedule) amends the *Sugar Industry Act 1991*.

(2) The schedule amends the *Primary Producers' Organisation and Marketing Act 1926*.

**Amendment of s 3 (Interpretation)**

3.(1) Section 3, heading—

*omit, insert—*

**'Definitions'.**

(2) Section 3(1), definition "sugar mill" or "mill"—

*omit.*

(3) Section 3(1)—

*insert—*

“adjacent” mills include nearby mills.

“negotiating team” means a negotiating team established under part 3A.

“sugar mill” or “mill” see section 3C.’.

(4) Section 3(1), definitions “assignment holder” and “mill owner” or “owner of a mill”, paragraph (b), after ‘local board’—

*insert—*

‘or negotiating team’.

(5) Section 3(2), as a heading—

*insert—*

**‘References to action in relation to functions, powers and duties’.**

(6) Section 3(2), as amended—

*renumber* as section 3A.

(7) Section 3(3), as a heading—

*insert—*

**‘Meaning of “possession”’.**

(8) Section 3(3), as amended—

*renumber* as section 3B.

**Insertion of new s 3C**

4. After section 3B, as renumbered—

*insert—*

**‘Meaning of “sugar mill” or “mill”**

**‘3C.(1)** A **“sugar mill”** or **“mill”** is works that are—

- (a) equipped for the manufacture of sugar from sugarcane and prescribed under a regulation; or
- (b) proposed to be constructed and equipped for the manufacture of sugar from sugarcane and authorised as a new mill under section 105A.

**‘(2)** In this section—

**“sugar”** means all raw sugar, crystal sugar, sugar syrups, inverted syrups, liquid sugar and any other form of sugar other than—

- (a) final molasses; and
- (b) a form of sugar manufactured from another form of sugar previously disposed of by the corporation.’.

**Amendment of s 6 (Reports to Minister)**

**5.(1)** Section 6(1)—

*insert—*

‘(ba)a negotiating team; or’.

**(2)** Section 6(1)(ba) to (d), as amended—

*renumber* as section 6(1)(c) to (e).

**Amendment of s 19 (Functions of corporation)**

**6.** Section 19(k), after ‘local boards’—

*insert—*

‘and negotiating teams’.

**Amendment of s 20 (General powers of corporation)**

**7.** Section 20—

*insert—*

‘**(3)** The corporation’s power under subsection (2)(b) for bulk sugar terminals in Queensland is exclusive to the corporation.’.

**Amendment of s 29 (Guidelines that are subordinate legislation)**

**8.** Section 29(a)—

*omit, insert—*

‘(a) guidelines about awards under section 124(1)(c) or (d);’.

**Amendment of s 38 (Establishment of local boards)**

**9.** Section 38(3)—

*omit.*

**Amendment of s 45 (Functions of local board)**

**10.(1)** Section 45(a)—

*omit.*

**(2)** Section 45(b) to (d), as amended—

*renumber* as section 45(a) to (c).

**Insertion of new pt 3A**

**11.** After section 52—

*insert—*

**‘PART 3A—NEGOTIATING TEAMS*****‘Division 1—Constitution and membership*****‘Establishment**

**‘52A.** The Governor in Council may establish a negotiating team for a mill or for 2 or more adjacent mills.

**‘Membership**

**‘52B.(1)** A negotiating team for a mill, or 2 or more adjacent mills, is to consist of 4 members appointed by the Governor in Council.

**‘(2)** Two of the members are to be nominated by the mill owner, or jointly by the mill owners, and 2 are to be nominated by the mill suppliers’ committee, or jointly by the mill suppliers’ committees.

**‘(3)** A member may be appointed for a period up to 1 year.

**‘(4)** The Minister may give the owner or committee the directions necessary to ensure the nominations are provided.

**‘(5)** However, the directions may not require that a person specified by the Minister be nominated.

‘(6) If a nomination for any office is not provided in accordance with the directions, the Governor in Council may appoint someone to the office without receiving a nomination.

### **‘Removal of members**

‘52C. The Governor in Council may at any time remove a member of a negotiating team from office as member.

### **‘Acting appointments**

‘52D. A person who is not a member of a negotiating team may be appointed to act as a member for any meeting of the team by the entity, or jointly by the entities, that nominated the member for appointment.<sup>1</sup>

### **‘Remuneration of members**

‘52E.(1) A member of a negotiating team is entitled to be paid the fees and allowances decided by the entity or entities that nominated the member for appointment.

‘(2) The fees and allowances are payable by the nominating entity or jointly by the nominating entities.

## ***‘Division 2—Functions and powers***

### **‘Functions and powers**

‘52F.(1) The function of a negotiating team is to make an award for the mill or mills for which the team is established.

‘(2) A negotiating team may do all things necessary or convenient to be done for, or incidental to, the performance of its function.

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<sup>1</sup> The *Acts Interpretation Act 1954*, section 24B contains provisions about acting appointments.

**‘Dispute resolution**

‘**52G.(1)** If a dispute arises about a provision to be included in an award, the negotiating team must refer the dispute to mediation.

‘**(2)** The mediator is to be appointed by the relevant negotiating team or, if the team cannot decide on a mediator, by the corporation.

‘**(3)** If, after mediation, the dispute is not resolved, the negotiating team must refer the dispute to arbitration.

‘**(4)** The arbitrator is to be appointed by the team or, if the negotiating team cannot decide on an arbitrator, by the corporation.

‘**(5)** A provision decided by the arbitrator must be included in the award by the negotiating team.

‘**(6)** The *Commercial Arbitration Act 1990* does not apply to an arbitration under this section.

***‘Division 3—Amalgamation of negotiating teams*****‘Negotiating teams must be amalgamated if local boards are amalgamated**

‘**52H.** If local boards established for mills are amalgamated, negotiating teams established for the mills must be amalgamated.

**‘Amalgamation process**

‘**52I.(1)** To amalgamate negotiating teams (“**existing teams**”), the Governor in Council may use powers under division 1 to establish, for all the mills for which the teams were established, a single negotiating team (the “**new team**”).

‘**(2)** From the day of the first appointment of the members of the new team—

- (a) each of the existing teams is abolished; and
- (b) a proceeding started by or against an existing team, or that might have been taken by or against an existing team had it remained in existence, may be continued or taken by or against the new

team; and

- (c) a reference in an Act or document to the existing team may, if the context permits, be taken as a reference to the new team.

### **‘Increasing membership of new negotiating team**

**‘52J.(1)** The Governor in Council may, by gazette notice, decide that the number of members of a negotiating team established under section 52I is to be more than 4.

**‘(2)** However, an equal number of members must be appointed by mill owners and mill suppliers’ committees.

**‘(3)** Division 1 applies to the appointment of the members subject to subsections (1) and (2).’.

### **Amendment of s 94 (Interpretation)**

**12.(1)** Section 94, heading—

*omit, insert—*

### **‘Definitions for pt 6’.**

**(2)** Section 94, definition **“body”**—

*insert—*

**‘(ba)**a negotiating team;or’.

**(3)** Section 94, definition **“body”**, paragraphs (ba) to (d), as amended—

*renumber* as paragraphs (c) to (e).

### **Replacement of ss 97 and 98**

**13.** Sections 97 and 98—

*omit, insert—*

### **‘Convening meetings**

**‘97.(1)** A negotiating team is to meet as often as it decides is necessary.

‘(2) Another body is to meet as often as its chairperson decides is necessary.

‘(3) Subsection (1) does not limit the powers or functions of a mediator or arbitrator resolving a dispute about an award.

### ‘Quorum

‘98.(1) The quorum at a meeting of a local board is to include at least—

- (a) 1 member nominated by mill owners; and
- (b) 1 member nominated by mill suppliers’ committees.

‘(2) The quorum at a meeting of a negotiating team is all the members of the team.

‘(3) The quorum at a meeting of another body is half the number of members appointed to the body plus 1.’.

### **Amendment of s 101 (Meetings of dispersed members)**

14.(1) Section 101(1), ‘the chairperson’—

*omit, insert—*

‘a member of a negotiating team or the chairperson of another body’.

(2) Section 101(1), ‘a body’—

*omit, insert—*

‘the body’.

### **Amendment of s 102 (General procedure at meetings)**

15. Section 102—

*insert—*

‘(2) Subsection (1) does not limit the powers or functions of a mediator or arbitrator resolving a dispute about an award.’.

**Amendment of s 103 (Disclosure of interest)**

**16.** Section 103—

*insert—*

‘(5) This section does not apply to a negotiating team.’

**Insertion of new pt 6A**

**17.** After section 105—

*insert—*

**‘PART 6A—NEW MILLS****‘Establishment of new mills**

‘**105A.(1)** A regulation may authorise the establishment of a new mill.

‘(2) The regulation must state—

- (a) the name of the person (the “**authorised person**”) authorised to establish the mill; and
- (b) where the mill is to be established.

‘(3) The regulation may state—

- (a) the name of the new mill; and
- (b) reasonable and relevant conditions about establishing the mill with which the authorised person must comply.

‘(4) A new mill may be authorised only if the Minister is satisfied—

- (a) the authorised person has demonstrated the person’s commitment to establishing the mill; and
- (b) satisfactory arrangements are in place between the authorised person and cane growers under which the growers are to supply the proposed mill with sugarcane.

*Example of subsection (4)(a)—*

By producing—

- (a) any local government or other government approvals for the proposed mill; or
- (b) plans and specifications for the proposed mill.’.

### **Amendment of s 110 (Directions on brand of raw sugar)**

**18.** Section 110(1), ‘in relation to raw sugar’—

*omit, insert—*

‘about sugar’.

### **Amendment of s 118 (Making of awards)**

**19.(1)** Section 118(1), (2), (6) and (7), ‘local board’—

*omit, insert—*

‘negotiating team’.

**(2)** Section 118(3), ‘chairperson’—

*omit, insert—*

‘members of the negotiating team’.

**(3)** Section 118(8), ‘local board makes the order varying the award’—

*omit, insert—*

‘negotiating team makes the variation’.

### **Amendment of s 119 (Matters to which award extends)**

**20.** Section 119(4)(a), ‘local board’—

*omit, insert—*

‘negotiating team’.

**Amendment of s 120 (Matters relevant to making of award)**

**21.(1)** Section 120, ‘local board’—

*omit, insert—*

‘negotiating team’.

**(2)** Section 120—

*insert—*

‘**(2)** In making an award for a mill, a negotiating team must consider ways the mill owner and the assignment holders can jointly—

- (a) improve productivity; or
- (b) reduce costs.’.

**Amendment of s 122 (Award to regulate price of and payment for sugarcane to assignment holders)**

**22.** Section 122(1), ‘local board’—

*omit, insert—*

‘negotiating team’.

**Replacement of s 124 (Guidelines concerning awards)**

**23.** Section 124—

*omit, insert—*

**‘Guidelines about awards**

‘**124.(1)** The corporation may make guidelines about—

- (a) the selection of mediators or arbitrators; and
- (b) standards for contracts between negotiating teams and mediators or arbitrators, including, for example, contracts for fees; and
- (c) anything else about resolving disputes about an award by negotiation, mediation or arbitration; and
- (d) the form of an award.

‘(2) Guidelines under subsection (1)(c) and (d) are binding on a negotiating team or other person to whom it applies.’.

**Amendment of pt 8, div 2 (Applications to tribunal concerning awards)**

24. Part 8, division 2, heading—

*omit, insert—*

*‘Division 2—Applications about awards’.*

**Omission of s 125 (Corporation may apply to tribunal on award failure)**

25. Section 125—

*omit.*

**Replacement of s 126 (Application for review of award)**

26.(1) Section 126—

*omit, insert—*

**‘Application for review of award**

‘126.(1) The holders of 20 or more assignments for a mill may apply to the mill’s negotiating team for review of a non-arbitrated provision of the award applying to the mill.

‘(2) An application must be made—

- (a) no later than 21 days after the award is published in the gazette; or
- (b) if an application is for the review of an award provision as varied under this part—no later than 21 days after the decision to vary the award.

‘(3) If the members of the negotiating team do not unanimously agree to review the provision, the dispute is to be resolved as if it were a dispute arising in the making of an award.

‘(4) The negotiating team may decide that a variation takes effect retrospectively to apply to a part of a crushing season happening before the decision.

‘(5) In this section—

“**non-arbitrated provision**” means a provision that was not the subject of arbitration.’.

### **Omission of s 132 (Exemption of controls or agreement)**

27. Section 132—

*omit.*

### **Insertion of new s 134A**

28. After section 134—

*insert—*

#### **‘Exemption from controls over agreements**

‘134A. A regulation may exempt a contract or agreement from section 131 or 134.’.

### **Amendment of s 149 (Annual determination of increase in the aggregate of assignments’ areas)**

29. Section 149(3)(b)—

*omit, insert—*

‘(b) the capacity of mills to crush additional sugarcane, including the proposed capacity of any new mill to be established; and’.

### **Amendment of s 219 (Review of determination)**

30.(1) Section 219(c)—

*omit.*

(2) Section 219(d) to (k)—

*renumber* as section 219(c) to (j).

**Omission of s 223 (Application by mill suppliers' committee)**

**31.** Section 223—

*omit.*

**Insertion of new s 244**

**32.** After section 243—

*insert—*

**'Transitional arrangements for bulk sugar terminal organisations**

**'244.(1)** The *Transport Infrastructure Act 1994*, section 237<sup>2</sup> is repealed.

**'(2)** To remove doubt, it is declared that the corporation is the successor in law of each BSTO.

**'(3)** Without limiting subsection (2)—

- (a) an asset or liability of a BSTO immediately before the repeal mentioned in subsection (1) becomes an asset or liability of the corporation; and
- (b) a person employed by a BSTO immediately before the repeal becomes an employee of the corporation and is taken always to have been employed by the corporation instead of the BSTO; and
- (c) a legal proceeding by or against a BSTO may be continued or finished by or against the corporation; and
- (d) an instrument that, apart from the repeal, would apply to a BSTO (whether as a party or otherwise) applies to the corporation instead of the BSTO; and
- (e) an industrial award that, apart from the repeal, would apply to a BSTO (whether as a party or otherwise) applies to the corporation instead of the BSTO.

**'(4)** After the repeal, an employee mentioned in subsection (3)(b) is entitled to the same pay and entitlements (including for example, superannuation, long service leave, recreation leave and sick leave) as the

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<sup>2</sup> Section 237 (Continuation of certain provisions of Harbours Act about Queensland Sugar Corporation)

employee would have been entitled to apart from the repeal.

‘(5) In an Act or document, a reference to a BSTO may, if the context permits, be taken as a reference to the corporation.

‘(6) This section is a law to which the *Acts Interpretation Act 1954*, section 20A<sup>3</sup> applies.

‘(7) This section expires 2 years after it commences.

‘(8) In this section—

“**bulk sugar terminal organisation**” or “**BSTO**” means any of the following—

- (a) Brisbane Bulk Sugar Terminal Organisation;
- (b) Bundaberg Bulk Sugar Terminal Organisation;
- (c) Cairns Bulk Sugar Terminal Organisation;
- (d) Lucinda Bulk Sugar Terminal Organisation;
- (e) Mackay Bulk Sugar Terminal Organisation;
- (f) Mourilyan Bulk Sugar Terminal Organisation;
- (g) Townsville Bulk Sugar Terminal Organisation.

“**industrial award**” includes a certified agreement and an industrial agreement.’.

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<sup>3</sup> *Acts Interpretation Act 1954*, section 20A (Repeal does not end saving, transitional or validating effect etc.)

**SCHEDULE****AMENDMENT OF PRIMARY PRODUCERS'  
ORGANISATION AND MARKETING ACT 1926**

section 2(2)

**1. Section 30A, heading—***omit, insert—***‘Definitions for section 30’.****2. Section 30A—***insert—***‘“mill”** see the *Sugar Industry Act 1991*, section 3(1).’.