

Queensland



TOBACCO INDUSTRY STABILISATION ACT 1965

**Reprinted as in force on 15 January 1996
(includes amendments up to Act No. 58 of 1995)**

Reprint No. 1

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Information about this reprint

This Act is reprinted as at 15 January 1996. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- use gender neutral office names (s 25)
- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use conjunctives and disjunctives consistent with current drafting practice (s 28)
- use expressions consistent with current drafting practice (s 29)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 36, 37, 38 and 39)
- omit unnecessary referential words (s 41)
- omit the enacting words (s 42A)
- number and renumber provisions and references (s 43)
- correct minor errors (s 44).

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **table of changed citations and remade laws**
 - **table of obsolete and redundant provisions**
 - **table of corrected minor errors**
 - **table of renumbered provisions.**

Queensland



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TOBACCO INDUSTRY STABILISATION ACT 1965

[as amended by all amendments that commenced on or before 15 January 1996]

An Act relating to the stabilisation of the tobacco industry

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Tobacco Industry Stabilisation Act 1965*.

Primary Producers' Organisation and Marketing Act preserved

2. This Act shall be read and construed with the *Primary Producers' Organisation and Marketing Act 1926*, and all proclamations, orders in council and regulations thereunder for the time being in force, (to the extent to which they relate to the Tobacco Leaf Marketing Board and to tobacco leaf, or to either) and the provisions of the *Primary Producers' Organisation and Marketing Act 1926*, and of all proclamations, orders in council and regulations thereunder (to the extent to which they relate to the Tobacco Leaf Marketing Board and to tobacco leaf, or to either) shall, save in so far as they are inconsistent with the express provisions of this Act, continue to apply to and with respect to the Tobacco Leaf Marketing Board and to tobacco leaf and to tobacco growers and all persons and matters to or with respect to whom or which those provisions apply at the coming into operation of this Act.

Application of this Act

3. This Act applies in relation to—
 - (a) tobacco leaf grown in Queensland and held by any person other

- than a tobacco manufacturer; and
- (b) tobacco leaf harvested in Queensland.

Functions of State board under Commonwealth Act and this Act

4.(1) For the purposes of the Commonwealth Act the State board shall from time to time as occasion requires, nominate to the Minister 2 or more of its members, being members elected by tobacco growers, and one of the members so nominated shall be nominated by the Minister to the Commonwealth Minister for appointment as the member of the Commonwealth board representing tobacco growers in this State and another of the members so nominated by the State board shall be nominated by the State Minister to the Commonwealth Minister for appointment as the deputy of such member of the Commonwealth board.

(2) The State board may act as agent of the Commonwealth board.

(3) Subject only to such terms and conditions as may from time to time be determined by the Commonwealth board during the operation of section 6, the State board shall receive, store, handle or sell or offer for sale all quota-tobacco leaf produced in Queensland and may enter into such contracts or arrangements with a tobacco leaf marketing board of another State to receive, store, handle or sell or offer for sale quota-tobacco leaf produced in such other State.

(4) Subject to subsection (5), the State board may receive, store, handle, or sell or offer for sale non-quota-tobacco leaf produced in Queensland and may enter into contracts or arrangements with a tobacco leaf marketing board of another State to receive, store, handle or sell or offer for sale non-quota-tobacco leaf produced in such other State.

(5) During the operation of section 6 the State board shall not sell or offer for sale any non-quota-tobacco leaf unless with the approval of the Commonwealth board.

(6) Notwithstanding the provisions of the *Primary Producers' Organisation and Marketing Act 1926*, or of any proclamation, order in council or regulation thereunder the State board shall at all times be at liberty to refuse to accept delivery of any non-quota-tobacco leaf.

Definitions

5. In this Act—

“appeals tribunal” means the Tobacco Quota Appeals Tribunal constituted under this Act.

“appropriate State Minister”, in relation to a State wherein tobacco leaf is produced, means the Minister of State of that State who administers the department in that State dealing with agricultural matters, and includes a Minister of State of that State acting on behalf of that Minister.

“approved form” see section 49.¹

“Australian tobacco quota” means the quantity of tobacco leaf, of those grades stipulated by the Commonwealth board, which the Commonwealth Minister declares from time to time to be the Australian tobacco quota.

“committee” means the Tobacco Quota Committee constituted under this Act.

“Commonwealth Act” means the *Tobacco Marketing Act 1965* (Cwlth), and includes any Act amending or in substitution for that Act.

“Commonwealth board” means the Australian Tobacco Board established under the *Tobacco Marketing Act 1965* (Cwlth).

“Commonwealth Minister” means the Minister of State for the time being administering the Commonwealth Act, or another Minister of State of the Commonwealth acting for and on behalf of that Minister.

“grower’s adjusted quota” means a grower’s adjusted quota determined by the committee in accordance with this Act.

“grower’s basic quota” means a grower’s basic quota allocated by the committee in accordance with this Act.

“non-quota-tobacco leaf” means any tobacco leaf which does not form part of the Australian tobacco quota.

“person” includes any partnership or firm and any body of persons, corporate or unincorporate.

¹ Section 49 (Approval of forms)

Tobacco Industry Stabilisation Act 1965

“quota-tobacco leaf” means any tobacco leaf within the Australian tobacco quota.

“season”, in relation to tobacco leaf, means any period of 12 consecutive months, commencing on 1 July, during which tobacco leaf is harvested.

“shortfall” means—

- (a) in relation to an individual quota farm—the amount in any one year by which the grower’s basic quota for that farm exceeds the quantity of quota-tobacco leaf available from that farm; and
- (b) in relation to a selling floor district—the amount in any one year by which the total of growers’ basic quotas for that selling floor district exceeds the quantity of quota-tobacco leaf available within that selling floor district; and
- (c) in relation to a State—the amount in any one year by which the State tobacco quota exceeds the total of quota-tobacco leaf available within that State; and
- (d) in relation to Australia—the amount in any one year by which the Australian tobacco quota exceeds the total of quota-tobacco leaf available in Australia.

“State board” means the Tobacco Leaf Marketing Board constituted under the *Primary Producers’ Organisation and Marketing Act 1926*.

“State tobacco quota” means such quantity of tobacco leaf as may from time to time be agreed by the Australian Agricultural Council or the Ministers who are members of such council as the quantity of tobacco leaf which shall be Queensland’s share of the Australian tobacco quota.

“tobacco leaf” means leaf of the tobacco plant that has been cured, but has not been subjected to any process of manufacture other than drying or redrying.

PART 2—POWERS OF COMMONWEALTH BOARD

Powers of board

6. For the purpose of giving effect to such policy with respect to the marketing of Australian tobacco leaf as is from time to time agreed upon between the Commonwealth, the State and any other States that are declared by the Commonwealth Minister to be tobacco-growing States, the Commonwealth board, by instrument in writing, may give directions to the State board with respect to the sale or other disposal by the State board of Australia tobacco leaf and, in particular, without limiting the generality of the foregoing, may direct the State board not to sell Australian tobacco leaf of a grade specified in the instrument at a price less than such price as is specified in the instrument in relation to that grade, and, while the instrument remains in force, the State board shall comply with the directions contained in the instrument.

Suspension of s 6

7. The Governor in Council may by order in council at any time suspend the operation of section 6.

PART 3—TOBACCO QUOTA COMMITTEE

Appointment of committee

8.(1) For the purposes of this Act there shall be a Tobacco Quota Committee which shall have the functions and powers conferred or imposed upon it by this Act.

(2) The Tobacco Quota Committee shall consist of 4 members appointed by the Minister by gazette notice—

- (a) a representative of the Department of Primary Industries who shall be chairperson;
- (b) 3 representatives of tobacco producers who shall be nominated by

the State board as follows—

- (i) where the basis of representation is prescribed by regulation under this Act—in accordance with such regulation;
- (ii) where the basis of representation is not so prescribed—from among the elected members of the State board for the time being in office.

(3) However, in the event of the failure of the State board to nominate a sufficient number of representatives of tobacco producers the Minister may appoint a sufficient number of persons who shall be deemed to have been nominated by the State board.

(4) Where by or under any Act it is provided that the holder of any office shall devote the whole of the holder's time to the duties of such office or shall be prohibited from engaging in employment other than such office, such provision shall be construed so as not to disqualify such holder from holding that office and also the office of a member of the committee or from receiving and retaining any salary, allowance or expenses payable to him or her as a member of the committee.

Term of office of members

9.(1) The persons, other than the chairperson, appointed as members of the Tobacco Quota Committee hold office for the period prescribed.

(2) The chairperson of the Tobacco Quota Committee shall hold office during the pleasure of the Minister.

Disqualifications from office

10.(1) A person who—

- (a) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankruptcy; or
- (b) has been convicted of an indictable offence; or
- (c) is a patient within the meaning of the *Mental Health Act 1974*;

shall not be capable of being or continuing to be a member of the committee.

Vacation of office

(2) A member of the committee shall be deemed to have vacated office as such if the member—

- (a) dies; or
- (b) is absent from 3 consecutive meetings of the committee, of which due notice has been given to the member, without leave granted by the chairperson; or
- (c) resigns such office by signed notice delivered to the chairperson.

(3) Where the Governor in Council is satisfied that a member of the committee has contravened or failed to comply with any provision relating to tobacco leaf of any Act or with any provision of this Act the Governor in Council may, whether or not such member has been convicted of such contravention or failure, vacate the office of such member.

Filling of vacancies

11. In the event of any vacancy arising in the membership of the committee through any cause whatsoever, the Minister may appoint another person as a member for the unexpired portion of the term of office of the person's predecessor and any such appointment shall be made in the same manner as is provided in section 8 for the appointment of members.

Presiding at meetings

12.(1) The chairperson shall preside at all meetings of the committee at which the chairperson is present.

(2) If the chairperson is unable for any reason to attend any meeting of the committee, the acting chairperson (if any) shall preside at the meeting.

(3) If both the chairperson and the acting chairperson (if any) are absent from any meeting of the committee, the members present shall appoint one of their number to preside at the meeting.

(4) The person presiding at a meeting of the committee shall have a vote and when there is an equal division of votes upon any question shall have a second or casting vote.

Deputy for member

13.(1) The Minister may at any time appoint a deputy for any member of the committee and any deputy so appointed shall in the absence of the member for whom the deputy acts have the powers and authorities and shall perform the duties of the member whose deputy he or she is.

(2) Without limiting subsection (1), the deputy of the member who is the chairperson of the committee shall also perform the duties and have the authorities of the chairperson.

Notice and adjournment of meeting

14.(1) All meetings of the committee shall be convened by the chairperson who shall cause at least 2 days notice to be given in writing to each member.

(2) The committee may unanimously decide that shorter notice may be given of any meeting either generally or in a particular case.

(3) The chairperson or the person acting as chairperson may at any time during the course of any meeting of the committee adjourn such meeting until such time and to such place as may be decided by the meeting.

Quorum

15.(1) At any meeting of the committee, 3 members shall constitute a quorum.

(2) If a quorum is not present within half an hour after the time appointed for a meeting, the members present, or the majority of them or any 1 member, if only one is present, may adjourn such meeting to any time not later than 14 days from the date of such adjournment.

(3) However, nothing in this Act shall be construed so as to prevent the adjournment of any meeting to a later hour of the same day on which such meeting was appointed to be held.

Voting

16.(1) At any meeting of the committee all questions shall be decided by a majority of votes of the members present.

(2) If a member fails or refuses to vote the member shall be deemed to have voted in the negative.

(3) Notwithstanding the provisions of sections 14 and 15 and subsections (1) and (2), the chairperson of the committee may at any time refer any question requiring the consideration of the committee to all members of the committee in writing and any decision made in writing by a majority of the members of the committee shall have the same force and effect as a decision made at a properly constituted meeting.

(4) For the purposes of subsection (3) a reference by telegram shall constitute a sufficient reference in writing.

(5) An act or proceeding of the committee shall not be invalid or illegal in consequence only of the number of members of the committee not being complete at the time of such act or proceeding.

(6) No member of the committee shall at any time exercise a vote in respect of the allocation, reallocation, transfer, review, forfeiture or reduction of any grower's basic quota in respect of which the member holds any pecuniary interest, and any member who holds any such interest shall declare such interest to the committee and shall vacate any meeting of the committee during any discussion concerning such grower's basic quota.

Subcommittee

17. The committee may at any time appoint a subcommittee from among its members to examine and recommend to the committee any matter or thing relevant to its functions as defined in this Act.

Minutes

18.(1) The chairperson of the committee shall cause a record to be kept of all decisions of the committee whether made at a duly constituted meeting or by reference in writing and such record shall be presented to the duly convened meeting of the committee immediately following, for confirmation as to its correctness and shall thereupon be signed by the chairperson and thereupon shall form part of the official minutes of the committee.

(2) Any record of a decision contained in such minutes may be tendered

as evidence of such decision by the committee at any hearing by the appeals tribunal or in any court and shall be judicially noticed.

Fees and expenses

19. The members of the committee, including the chairperson, shall be entitled to receive such allowances, fees and expenses as may from time to time be approved by the Minister.

Finance

20.(1) All costs including any allowances, fees and expenses associated with the functions and operation of the committee shall be a charge against the State board and shall be recoverable from the State board.

(2) Any charges imposed on the State board by virtue of this section shall be deemed to be a marketing expense incurred by the State board under and for the purposes of the *Primary Producers' Organisation and Marketing Act 1926*.

Accounts

21.(1) The chairperson of the committee shall cause true and regular accounts to be kept of all sums of money received and paid by or on behalf of the committee for or on account of this Act or pursuant thereto, and of the several purposes for which sums of money have been received and paid.

(2) However, with the approval of the Minister the chairperson may arrange for the keeping of such accounts on behalf of the committee by the State board (which is hereby thereunto authorised).

(3) Such accounts as are kept in accordance with subsection (1) shall be audited by the auditor-general or by a person appointed by the auditor-general.

(4) The auditor-general shall have with respect to such accounts all the powers conferred on the auditor-general by the *Financial Administration and Audit Act 1977*.

Staff

22.(1) The committee may appoint a secretary and such other officers as may in its opinion be necessary for the proper performance of its functions and duties under this Act.

(2) Subject to the approval of the Minister, an officer of the public service may, in addition to the position which the officer holds therein, be appointed also the secretary to the committee or an officer of the committee.

(3) The committee may with the approval of the Minister, arrange with the State board, which is hereby thereunto authorised, for the performance of secretarial and other duties in relation to the committee.

Powers of committee

23. The committee shall, with respect to the functions conferred upon it by this Act, or the regulations hereunder, have power and authority from time to time to take such action and to obtain such information as in its opinion is necessary or expedient for the carrying into execution of the objects and intentions of this Act, and in particular but without in any way limiting the generality of the powers aforesaid may—

- (a)** obtain the assistance of technical or other advisers who in the opinion of the committee may be able to furnish information or advice which would be of assistance to the committee in the performance of its functions, and defray such costs as may be incurred in obtaining such assistance;
- (b)** notwithstanding the provisions of the *Primary Producers' Organisation and Marketing Act 1926*, or any order in council or regulation under that Act, require the State board to furnish any information or copy of any record, document or writing which in the opinion of the committee is relevant to any matter before it and which is in the possession of or is known to the State board, or its agents, and the State board or its agents shall at all times make such information or copy of such record, document or writing available to the committee.

PART 4—TOBACCO QUOTA APPEALS TRIBUNAL

Appointment of appeals tribunal

24.(1) For the purposes of this Act, there shall be a Tobacco Quota Appeals Tribunal which shall have the functions and powers conferred or imposed upon it by this Act.

(2) The appeals tribunal shall consist of 3 members appointed by the Governor in Council by gazette notice—

- (a) a barrister-at-law, a stipendiary magistrate, or a person who has been a stipendiary magistrate, who shall be chairperson;
- (b) a person nominated by the Minister who shall be well versed in matters relating to the tobacco industry and who shall not directly or indirectly by himself, herself or his or her partner or partners have any pecuniary interest in the production, sale or manufacture of tobacco leaf;
- (c) a person to be selected by the Minister from a panel of 3 persons nominated by the State board.

(3) However, a member of the Legislative Assembly or of the Parliament of the Commonwealth shall not be qualified to be, or to act as a member of the appeals tribunal.

(4) In the event of the failure or refusal by the State board to nominate a panel of 3 the Governor in Council may appoint any person to be the third member of the tribunal.

Term of office of members

25. Persons appointed as members of the appeals tribunal hold office for the period prescribed.

Disqualification from office

26.(1) Any person who—

- (a) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankruptcy;

- (b) has been convicted of an indictable offence;
- (c) is a patient within the meaning of the *Mental Health Act 1974*;

shall not be capable of being or continuing to be a member of the appeals tribunal.

Vacation of office

(2) A member of the appeals tribunal shall be deemed to have vacated office as such member if the member—

- (a) dies; or
- (b) is absent from 3 consecutive sittings of the appeals tribunal without leave granted by the chairperson; or
- (c) resigns such office by signed notice delivered to the chairperson; or
- (d) where the member was nominated by the Minister in accordance with section 24(2)(b)—is directly or indirectly interested by himself or herself in, or the member or his or her partner or partners have a pecuniary interest in, the production, sale or manufacture of tobacco leaf.

(3) Where the Governor in Council is satisfied that a member of the appeals tribunal has contravened or failed to comply with any provision relating to tobacco leaf of any Act or with any provision of this Act the Governor in Council may, whether or not such member has been convicted of such contravention or failure, vacate the office of such member.

Fees and expenses

27. The members of the appeals tribunal including the chairperson shall be entitled to receive such allowances, fees and expenses as may from time to time be approved by the Governor in Council.

Notice and adjournment of sittings

28.(1) All sittings of the appeals tribunal shall be convened by the chairperson who shall cause at least 2 days notice to be given in writing to each member.

(2) The chairperson or in the event of an acting chairperson having been appointed, the acting chairperson, may adjourn any sitting from time to time and from place to place.

Quorum

29. At any sitting of the appeals tribunal any 2 members shall constitute a quorum provided that the chairperson, or in the event of an acting chairperson having been appointed the acting chairperson, is one of the members present, and all the powers and authorities of the appeals tribunal shall be exercisable at any sitting thereof at which a quorum is present.

Decisions

30.(1) At any sitting of the appeals tribunal all questions shall be decided by a majority of the members present.

(2) The member appointed in accordance with section 24(2)(c) shall not take part in proceedings of the tribunal in respect of any matter relating to any grower's basic quota in which the member holds any pecuniary interest.

(3) In the event of only 2 members being present at a sitting of the appeals tribunal and failing to agree on any matter, such matter shall be referred to the next sitting of the appeals tribunal.

Record of decisions

31.(1) The chairperson of the appeals tribunal shall cause a record signed by the chairperson to be kept of all decisions of the appeals tribunal.

(2) Any such record purporting to be under the hand of the chairperson shall be evidence of the decision in question and until the contrary is proved, shall be conclusive such evidence.

Finance

32.(1) All costs including any allowances, fees and expenses associated with the functions and operation of the appeals tribunal shall be a charge against the State board and shall be recoverable from the State board.

(2) Any charges imposed on the State board by virtue of this section shall

be deemed to be marketing expenses incurred by the State board under and for the purposes of the *Primary Producers' Organisation and Marketing Act 1926*.

Staff

33.(1) The appeals tribunal shall appoint or arrange for the services of a secretary and may appoint or arrange for the services of such other officers as may in its opinion be necessary for the proper performance of its functions and duties under this Act.

(2) Subject to the approval of the Minister an officer of the public service may in addition to the position which the officer holds therein, be appointed also the secretary to the appeals tribunal or any officer of the appeals tribunal.

(3) The appeals tribunal may with the approval of the Minister arrange with the State board, which is hereby thereunto authorised, for the performance of secretarial and other duties in relation to the appeals tribunal.

Powers of appeals tribunal

34.(1) For the purpose of exercising its functions under this Act the appeals tribunal shall have and may exercise all the powers, authorities, protection and jurisdiction of a commission under the *Commissions of Inquiry Act 1950*, except such as are limited to a chairperson of such a commission who is a judge of the Supreme Court.

(2) Any witness summoned to appear before the appeals tribunal shall be entitled to receive payment for the expenses of the witness's attendance in accordance with such scale as may be prescribed or in the absence of a prescribed scale as may be determined by the chairperson of the appeals tribunal.

PART 5—REGULATION OF TOBACCO QUOTAS

Determination of grower's basic quota

35.(1) Any person who desires to be allocated a grower's basic quota shall make application in the approved form and in the prescribed manner to the chairperson of the committee.

(2) Upon consideration of such an application the committee may—

- (a) refuse the application; or
- (b) grant to the applicant a grower's basic quota.

Grower's basic quota to attach to land and holder

36.(1) A grower's basic quota shall attach to both the person to whom it is allocated and to the land specified in such allocation.

(2) Any tobacco leaf produced by such person on any land other than the land specified in the allocation of a grower's basic quota shall not form part of that grower's basic quota or that grower's adjusted quota.

Qualifications of quota holders

37.A person shall not be qualified to hold a grower's basic quota unless—

- (a) the person is the owner or lessee of the land to which the quota is to be attached; or
- (b) the person satisfies the committee that his or her interest in such land is such that the holding by the person of a grower's basic quota would be fair and reasonable.

Transfer of grower's basic quota

38.(1) A person to whom a grower's basic quota has been granted shall not transfer that quota to any other person unless such firstmentioned person has obtained the prior approval in writing of the committee (which is hereby thereunto authorised) to such transfer and unless such other person is qualified to hold that grower's basic quota.

(2) The committee may approve of the allocation in Queensland of a grower's basic quota to any person in respect of whom the authority administering such quotas or the equivalent thereof in another State has approved of the transfer of such person's grower's basic quota or the equivalent thereof from such State to Queensland.

(3) A grower's basic quota shall not be transferred from Queensland to another State unless the Minister has first approved of such transfer.

Forfeiture and reduction of quota

39.(1) Where the committee is satisfied that—

- (a) a person holding a grower's basic quota has failed for any 2 successive years to plant a sufficient area to tobacco to produce his or her grower's basic quota; or
- (b) a person holding a grower's basic quota has failed for 3 consecutive years to produce the basic quota; or
- (c) a grower's basic quota was issued erroneously or in consequence of any false document, statement or representation or fraudulent document, statement or misrepresentation;

the committee may by notice call upon the holder of the grower's basic quota in question to show cause within the time specified in the notice why the committee should not—

- (d) forfeit the grower's basic quota concerned; or
- (e) reduce the amount of the grower's basic quota concerned by such amount as is specified in the notice;

and where the holder of the grower's basic quota in question fails to show cause within the time specified in the notice or within any extension of time which the committee may allow, the committee may deal with the grower's basic quota in accordance with the notice.

(2) Where the holder of a grower's basic quota shows cause why the committee should not forfeit the quota, the committee may, if it thinks fit, reduce the amount of the quota by such amount as it thinks fit.

Increase of quota

40.(1) Any person holding a grower's basic quota who desires an increase in such quota shall make application in the approved form and in the prescribed manner to the chairperson of the committee.

(2) Upon consideration of such application the committee may—

- (a) refuse the application; or
- (b) grant the application by increasing the grower's basic quota by such amount as it thinks fit.

(3) The committee may at any time, irrespective of whether an application has been made or not, increase the grower's basic quota of any person.

Appeal

41.(1) Any person who is aggrieved by a decision of the committee—

- (a) upon an application made by the person under section 35, 38 or 40; or
- (b) forfeiting or reducing the his or her grower's basic quota;

may appeal against the decision to the appeals tribunal.

(2) An appeal shall not be brought under this section unless—

- (a) it is limited to 1 or more of the following grounds of appeal—
 - (i) that the decision of the committee was not in accordance with the Act;
 - (ii) that the decision of the committee was manifestly unfair;
 - (iii) that the decision of the committee would cause severe personal hardship to the appellant; and
- (b) it is made in the approved form which shall be accompanied by the prescribed fee, or if not prescribed, a fee of \$20; and
- (c) it is made in the prescribed manner.

(3) The appeals tribunal shall hear and determine every appeal under this section and may by its decision confirm, vary or reverse the decision of the committee.

(4) Any appeal which the appeals tribunal considers frivolous or vexatious shall be dismissed by the appeals tribunal.

(5) Where the appeals tribunal does not consider that an appeal is frivolous or vexatious, the fee mentioned in subsection (2)(b) shall be refunded to the appellant.

PART 6—ADJUSTED QUOTAS AND RIGHTS OF QUOTA HOLDERS

Determination of adjusted quotas

42. The committee may from time to time during any year in relation to each holder of a grower's basic quota, determine a grower's adjusted quota for that year, which quota shall be arrived at by taking into consideration—

- (a) his or her grower's basic quota; and
- (b) any 1 or more types of shortfalls; and
- (c) all allocations of growers' basic quotas in excess of the State tobacco quota.

Rights attaching to a grower's basic quota

43. A person who holds a grower's basic quota shall be entitled—

- (a) to deliver to the State board for sale, at any sale declared by that board to be a sale for quota-tobacco leaf, such proportion of his or her grower's basic quota or grower's adjusted quota as the State board, with the approval of the committee, may from time to time determine and any such leaf so delivered shall be offered for sale by the State board as quota-tobacco leaf subject to the provisions of this Act; and
- (b) to share in the allocation by the committee or by the State board acting under the authority of the committee of any shortfalls on such basis as may from time to time be prescribed under this Act,

or in the event of such basis not being prescribed on a basis determined by the committee.

PART 7—GENERAL

Limitation of liability

44. No act, matter, thing, recommendation or decision done or made in good faith by—

- (a) the Minister;
- (b) the State board;
- (c) any member of the committee;
- (d) any member of the appeals tribunal;
- (e) any officer of the Department of Primary Industries;

for the purpose of carrying out or giving effect to this Act, shall subject them or any of them or the Crown to any action, liability, claim or demand.

Offences and penalties

45.(1) Any person who except with the prior approval of the State board (proof whereof shall lie upon the person) delivers to the board any tobacco leaf which the person knows not to be part of his or her grower's adjusted quota for the time being shall be guilty of an offence and be liable to a maximum penalty of 20 penalty units and to the forfeiture to the State board of the tobacco leaf in respect of which the offence was committed and any payment made by the State board to any person, prior to the conviction of such person, for such tobacco leaf shall be recoverable by the State board from the person to whom the payment was made as if it were a debt due and unpaid by the person to the board.

(2) Any person who refuses or fails to furnish any information or return as required under this Act shall be guilty of an offence against this Act and shall be liable to a maximum penalty of 2 penalty units and to an additional penalty not exceeding 1 penalty unit for each day.

(3) A person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act.

(4) Any person who commits an offence against any provision of this Act, for which a penalty is not expressly provided, shall be liable to a maximum penalty not exceeding 2 penalty units.

Liability for offences by corporations etc.

46.(1) Except where otherwise expressly provided in this Act, where a corporation offends against this Act each and every one of the following persons shall be deemed to have committed the offence, and shall be liable to be proceeded against and punished accordingly—

- (a) the managing director, manager, or other governing officer, by whatever name called, and every member of the governing body, by whatever name called, thereof;
- (b) every person who in Queensland manages or acts or takes part in the management, administration, or government of the business in Queensland of the corporation.

(2) Subsection (1) applies so as not to limit or affect howsoever the liability of a corporation to be proceeded against and punished for an offence against this Act committed by it.

(3) Except where otherwise expressly provided in this Act, where any member of a partnership, firm, an unincorporate body or association of persons commits an offence against this Act, the other member or members, as the case requires, of that partnership, firm, body or association shall be deemed to have also committed the offence and shall be liable to be proceeded against and punished accordingly.

(4) No person who is proceeded against pursuant to this section shall be convicted if the court is satisfied that the offence was committed without his or her consent or connivance and that the person exercised all such diligence to prevent the commission of the offence as the person ought to have exercised having regard to all the circumstances.

Recovery of penalties

47.(1) All offences against this Act may be prosecuted in a summary

way under the *Justices Act 1886*, upon the complaint of the chairperson of the Tobacco Quota Committee or of any person authorised by the Minister either generally or in the particular case.

(2) A prosecution for an offence against this Act may be instituted at any time within 12 months after the commission of the offence or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

Regulations

48.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made about—

- (a) the basis on which representatives of tobacco producers on the committee may be nominated by the State board including the definition of any districts necessary for such purpose;
- (b) any matter relating to the calling, conduct and adjournment of meetings of the committee or any matter relating to the conduct of the sittings of the appeals tribunal;
- (c) providing for any matter concerning the records, finance, accounts or staff of the committee;
- (d) providing for such additional functions and duties to be performed by the committee as may be considered by the Minister to be desirable;
- (e) prescribing the basis of allocation or reallocation of growers' basic quotas to be adopted by the committee and the fixing of maximum growers' basic quotas that may be granted by the committee;
- (f) prescribing the basis of allocation of shortfalls to be adopted by the committee;
- (g) providing for the determination of growers' adjusted quotas;
- (h) prescribing the basis on which the committee may approve or disapprove of any transfer, amendment or forfeiture of a grower's basic quota;
- (i) prescribing returns of any information, statistics and data and the

persons or classes of persons who shall furnish such returns and the times and places of the furnishing thereof;

- (j) prescribing the amount of any penalty but not exceeding in any case \$200, for any contravention of or failure to comply with a regulation;
- (k) providing for the subscribing of declarations as to the truth of any statement, application or return or any part or parts thereof made pursuant to this Act.

Approval of forms

49. The chief executive may approve forms for use under this Act.

Transitional provision about forms

50.(1) This section applies if—

- (a) immediately before its commencement there was a prescribed form for a matter; and
- (b) on the commencement there is to be an approved form for the matter or a form may be approved for the matter.

(2) Until there is an approved form for the matter, the form that was the prescribed form for the matter immediately before the commencement is taken to be the approved form for the matter.

(3) This section expires 6 months after it commences.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 15 January 1996. Future amendments of the Tobacco Industry Stabilisation Act 1965 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 List of legislation

Tobacco Industry Stabilisation Act 1965 No. 57

date of assent 17 December 1965

commenced 4 December 1965 (see s 1(2))

as amended by—

Metric Conversion Act 1972 No. 31 pt 2 sch 1

date of assent 21 December 1972

commenced 23 July 1973 (proc pubd gaz 21 July 1973 p 2150)

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1-2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

5 List of annotations

Short title

s 1 amd 1995 No. 58 s 4 sch 1

Parts

s 2 om R1 (see RA s 36)

Application of this Act

s 3 amd 1995 No. 58 s 4 sch 1

Act to apply subject to Constitution

s 6 om 1995 No. 58 s 4 sch 1

Definitions

s 5 def “**approved form**” ins 1995 No. 58 s 4 sch 1
def “**Minister**” om 1995 No. 58 s 4 sch 1
def “**shortfall**” amd 1995 No. 58 s 4 sch 1

Appointment of committee

s 8 amd 1995 No. 58 s 4 sch 1

Term of office of members

s 9 amd 1995 No. 58 s 4 sch 1

Presiding at meetings

s 12 amd 1995 No. 58 s 4 sch 1

Notice and adjournment of meeting

s 14 amd 1995 No. 58 s 4 sch 1

Appointment of appeals tribunal

s 24 amd 1995 No. 58 s 4 sch 1

Term of office of members

s 25 sub 1995 No. 58 s 4 sch 1

Filling of vacancies

s 29 om 1995 No. 58 s 4 sch 1

Acting chairman

s 30 om 1995 No. 58 s 4 sch 1

Acting member

s 31 om 1995 No. 58 s 4 sch 1

Notice and adjournment of sittings

s 28 amd 1995 No. 58 s 4 sch 1

Determination of grower’s basic quota

s 35 amd 1995 No. 58 s 4 sch 1

Transfer of grower’s basic quota

s 38 amd 1995 No. 58 s 4 sch 1

Forfeiture and reduction of quota

s 39 amd 1972 No. 31 s 6 sch 1

Increase of quota

s 40 amd 1995 No. 58 s 4 sch 1

Application made before commencement of Act

s 46 amd 1995 No. 58 s 4 sch 1
om R1 (see RA s 38)

Appeal

s 41 amd 1995 No. 58 s 4 sch 1

Determination of adjusted quotas

s 42 amd 1995 No. 58 s 4 sch 1

No restriction on re-appointment

s 51 om 1995 No. 58 s 4 sch 1

Offences and penalties

s 45 amd 1995 No. 58 s 4 sch 1

Regulations

s 48 amd 1995 No. 58 s 4 sch 1

Approval of forms

s 49 sub 1995 No. 58 s 4 sch 1

Transitional provisions about formss 50 ins 1995 No. 58 s 4 sch 1
exp 28 May 1996 (see s 50(3))**Numbering and renumbering of Act**s 58 ins 1995 No. 58 s 4 sch 1
om R1 (see RA s 37)**6 Table of changed citations and remade laws**TABLE OF CHANGED CITATIONS AND REMADE LAWS
under the Reprints Act 1992 ss 21A and 22

Old	New	Reference provision
Audit Act 1874	Financial Administration and Audit Act 1977	Financial Administration and Audit Act 1977 s 114
Mental Health Act 1962	Mental Health Act 1974	Mental Health Act 1974 s 77

7 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS under the Reprints Act 1992 s 39

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definitions to be read in context	Acts Interpretation Act 1954 s 32A
references to Queensland implied	Acts Interpretation Act 1954 s 35

8 Table of corrected minor errors

TABLE OF CORRECTED MINOR ERRORS under the Reprints Act 1992 s 44

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45(2)	before 'maximum penalty' ins 'a'

9 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS under the Reprints Act 1992 s 43 and the Tobacco Industry Stabilisation Act 1965 No. 57 s 58

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8	6
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