

Queensland



LIENS ON CROPS OF SUGAR CANE ACT 1931

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Information about this reprint

This Act is reprinted as at 8 November 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**



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LIENS ON CROPS OF SUGAR CANE ACT 1931

[as amended by all amendments that commenced on or before 8 November 2000]

An Act to amend the laws relating to liens upon crops of sugar cane, and for other purposes consequent thereon

Short title

1. This Act may be cited as the *Liens on Crops of Sugar Cane Act 1931*.

Definitions

2. In this Act—

“crop” means a crop of sugarcane being grown or to be grown for the purpose of being harvested in any one harvesting season.

“incorrect information” see section 7P(e)(ii).

“lien” means the charge (made enforceable under this Act when registered and while subsisting) whereby any crop and the proceeds thereof become security for the discharge of any debt or obligation.

“lienee” means a person to whom a lienor gives a lien, or to whom a lien is assigned as provided by this Act, or on whom a lien devolves by operation of law.

“lienor” means any owner of a crop who gives a lien as provided by this Act.

“official” means the chief executive, or an officer or employee of the department.

“owner of a crop” means a person growing or intending to grow a crop who has any legal or equitable right or interest therein and includes a person who is entitled to emblements.

“owner of a mill” means a person owning or having control of a sugar-mill.

“printed search result” see section 7C.

“register” means the register kept under section 5.

“registered” means included in the register.

“unregistered lien” means a lien that—

- (a) is not registered under this Act; or
- (b) has expired.

Application of s 2 to certain instruments

3. Section 2 applies to instruments made or executed under this Act, unless the contrary intention appears.

Act binds all persons

3A. This Act binds all persons, including the State, and, so far as the legislative power of Parliament permits, the Commonwealth and the other States.

Charge on crop to be created by instrument

4.(1) An owner of a crop may charge the crop as security for the payment or satisfaction of any debt or liability (whether past or present or future, and whether vested or contingent), by signed instrument.

(2) The instrument—

- (a) must adequately identify the land on which the crop intended to be charged is growing or is about to grow; and
- (b) must be witnessed.

Register

5.(1) The chief executive must keep a register of liens.

(2) The register must include the following particulars in relation to each lien included in the register—

- (a) the name and address of the lienee and the lienor;
- (b) the day and time the particulars are included in the register;
- (c) other particulars that may be prescribed under a regulation.

(3) The lien is “**registered**” when the particulars are included in the register.

Application for registration of lien

6.(1) An application for the registration of a lien must be—

- (a) made in the way prescribed under a regulation; and
- (b) accompanied by the fee that may be prescribed under a regulation.

(2) The application must include a description of the land to which the lien relates.

(3) The chief executive is not required to inquire into the validity of information supporting the application.

Application for renewal of registration of lien

7.(1) An application for the renewal of registration of a lien must—

- (a) be made in the way prescribed under a regulation; and
- (b) nominate the day the lien expires; and
- (c) be accompanied by the fee that may be prescribed under a regulation.

(2) The chief executive is not required to inquire into the validity of information supporting the application.

(3) The registration of a lien must be renewed before the registration expires.

Registration, or renewal of registration, of lien

7A.(1) If the chief executive is satisfied that an application for the registration, or renewal of the registration, of a lien is properly made, the chief executive must register, or renew the registration of, the lien by including in the register the relevant particulars mentioned in section 5(2).

(2) Applications for registration, or renewal of registration, of liens must be registered in the order of time of lodgment with the chief executive.

Expiry of registration

7B.(1) A registration of a lien after the commencement of this section expires on the day nominated by the lienee in the application for registration as the day the lien expires.

(2) In this section—

“**registration**” includes renewal of registration.

Inspecting the register

7C.(1) A person may, on payment of the fee that may be prescribed under a regulation—

- (a) inspect the register at an office of the department prescribed under a regulation when the office is open to the public; and
- (b) take extracts from, or obtain a copy of details in, the register (a “**printed search result**”).

(2) A printed search result certified by the chief executive is evidence of the matters stated in it.

Copies of instrument creating lien

7D.(1) The lienee must, at the written request of the lienor, give the lienor a copy of the instrument creating the lien.

Maximum penalty—30 penalty units.

(2) For subsection (1), the copy must be given—

- (a) within 14 days, if the original came into existence 1 year or less before the request is given; or
- (b) within 30 days, if the original came into existence more than 1 year before the request is given.

(3) The copy may be a computer generated facsimile containing the same information contained in the original document.

(4) The licensee may charge a reasonable amount for providing the copy, which must not be more than the actual cost of providing the copy.

Application for registration of assignment of registered lien

7E.(1) An assignment of a registered lien may be registered, but is not required to be registered.

(2) An application for registration of the assignment of a registered lien must be—

- (a) made in the way prescribed under a regulation; and
- (b) accompanied by the fee that may be prescribed under a regulation.

(3) The chief executive is not required to inquire into the validity of information supporting the application.

Registration of assignment of a registered lien

7F.(1) If the chief executive is satisfied that an application for registration of the assignment of a registered lien is properly made, the chief executive must register the assignment by including in the register particulars of the assignment.

(2) Applications for registration of assignments of registered liens must be registered in the order of time of lodgment with the chief executive.

Effect of failure to register lien

7G.(1) An unregistered lien has no effect against a person who is not a party to the instrument creating the lien.

(2) Subsection (1) is subject to section 7I(3).

Priority given from time of registration

7H. A registered lien has priority, for any title to, or right to possession of, crops conferred by the lien, according to the time of its registration.

Priority of liens

7I.(1) A registered lien over a crop ranks in priority over an unregistered lien over the same crop.

(2) A registered lien over a crop ranks in priority over another registered lien over the same crop according to the order of registration.

(3) An unregistered lien over a crop ranks in priority over a registered lien over the same crop if—

- (a) under the unregistered lien the licensee takes possession of the crop; and
- (b) the taking of possession happens before the registered lien is registered.

(4) Despite the *Property Law Act 1974*, section 82,¹ the priority given to a lien under this section has effect for all amounts, including further advances, owing by the lienor to the licensee under the lien.

(5) Subsections (1), (2), (3) and (4) apply subject to the following—

- (a) section 12;²
- (b) an express contrary provision in the Corporations Law;
- (c) an agreement between the licensees holding the liens.

(6) It is declared that the priority given to registered liens under this section applies only to liens created after the commencement of this section.

¹ *Property Law Act 1974*, section 82 (Tacking and further advances)

² Section 12 (Provisions as to priority where 2 or more liens given)

Application for discharge of registered lien

7J.(1) The licensee may apply for the full or partial discharge of a registered lien.

(2) The application must be—

- (a) made in the way prescribed under a regulation; and
- (b) accompanied by the fee that may be prescribed under a regulation.

(3) The chief executive is not required to inquire into the validity of information supporting the application.

(4) In this section—

“partial discharge”, of a registered lien, means—

- (a) a discharge of a lienor under the lien from the lienor’s performance of a stated part of the lienor’s obligation under the lien; or
- (b) if the lien relates to a number of crops—a discharge of the lien in relation to any of the crops.

Registration of discharge of registered lien

7K. If the chief executive is satisfied that an application for a full or partial discharge of a registered lien is properly made, the chief executive must register the discharge by—

- (a) including in the register the particulars that may be prescribed under a regulation; and
- (b) doing anything else that may be prescribed under a regulation.

Duty after lien fully discharged

7L. The licensee under a registered lien at the time the lien is fully discharged must, within 14 days after the lien is fully discharged—

- (a) file an application under section 7J³ for the full discharge of the lien; and

³ Section 7J (Application for discharge of registered lien)

- (b) do anything else that may be necessary to effect the registration of the discharge.

Maximum penalty—20 penalty units.

Lienor may seek registration of discharge or change in particulars

7M.(1) A lienor may, in relation to a registered lien, ask the lienee—

- (a) to file an application under section 7J for the full or partial discharge of the lien if the lien has been fully or partially discharged; or
- (b) to join with the lienor to file an application under section 7N to change the particulars in the register.

(2) A lienee who receives a request under subsection (1) must, within 30 days after receiving the request—

- (a) file the application or join with the lienor in filing the application; or
- (b) apply to a Magistrates Court for an order maintaining the registration.

(3) If, at the end of the time allowed under subsection (2), the lienee has not complied with subsection (2)(a) or (b), the lienor may ask the chief executive in the approved form to give the lienee a notice under subsection (4).

(4) The notice must state that, unless the lienee obtains a court order maintaining the registration before the end of the notice period, at the end of the notice period—

- (a) the discharge will be registered; or
- (b) stated particulars will be changed under section 7N.

(5) If a lienee who has been given notice under subsection (4) has not—

- (a) filed an application for the discharge or the change to particulars in accordance with the request under subsection (1); or
- (b) given the chief executive a copy of a court order maintaining the registration;

before the end of the notice period, the chief executive must register the

discharge or change the particulars included in the register as requested.

(6) On application by the lienee, the court may make any of the following orders—

- (a) an order that the registration be maintained;
- (b) an order that the discharge be registered;
- (c) an order that the particulars included in the register be changed;
- (d) another order, including an order for costs, the court considers appropriate.

(7) In this section—

“**notice period**” means a period of 30 days after giving a notice under subsection (4).

Changes to particulars in register

7N.(1) A lienee may apply to the chief executive to change stated particulars included in the register relating to the lien.

(2) The application must be—

- (a) made in the way prescribed under a regulation; and
- (b) accompanied by the fee that may be prescribed under a regulation.

(3) The chief executive may change the particulars and must include in the register the date on which the particulars were changed.

(4) If the change is other than a change of a minor and non-controversial nature, the chief executive may require the application to be made jointly by the lienee and lienor.

Correction of errors

7O.(1) This section applies if the chief executive is satisfied that an error, omission or failure to comply with this Act has happened in relation to—

- (a) a registered lien; or
- (b) the register.

(2) The chief executive must do everything necessary to correct the error, omission or failure.

Application of compensation provision

7P. Section 7Q applies if a person suffers loss because—

- (a) a lien in relation to which an application for registration had been filed with the chief executive had not been registered; or
- (b) particulars of a lien were incorrectly entered in the register; or
- (c) a lien had been discharged incorrectly under section 7M; or
- (d) a discharge of a lien under section 7M, of which the chief executive has notice, had not been included in the register; or
- (e) the person—
 - (i) searches the register for a lien or particulars of a lien; and
 - (ii) there is an error in the register because of a negligent act or omission by the chief executive (the “**incorrect information**”); and
 - (iii) the person relies on the incorrect information contained in a printed search result issued by the chief executive.

Compensation for loss

7Q.(1) A person who suffers loss for a reason stated in section 7P may apply to the accountable officer for payment of compensation to the person.

(2) The accountable officer may make a payment to the applicant under the *Financial Administration and Audit Act 1977*, section 106.⁴

(3) The accountable officer must not make a payment in relation to a loss for a reason mentioned in section 7P(e) if the applicant, at the time of suffering the loss—

- (a) had actual notice of the lien; or

⁴ *Financial Administration and Audit Act 1977*, section 106 (Losses and special payments)

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- (b) had been put on inquiry as to the existence of the lien and had abstained from inquiry or further inquiry when the person might reasonably have expected the inquiry or further inquiry to reveal the lien.

(4) Compensation paid under section 7P(a), (b), (c) or (d) must not be more than, after discounting for any GST payable on any supply relating to the payment of the compensation, the lesser of the following, worked out as at the time the loss was suffered—

- (a) the amount of the debt or other pecuniary obligation or the value of any other obligation secured by the lien;
- (b) the value of the crop in which was held the lien in relation to which compensation was applied for.

(5) Compensation paid under section 7P(e) must not be more than, after discounting for any GST payable on any supply relating to the payment of the compensation, the actual loss attributable to reliance by the person on the incorrect information, worked out as at the time the loss was suffered.

(6) The accountable officer must give to the person written notice of the decision on the application and the reasons for the decision.

(7) In this section—

“accountable officer” means the accountable officer of the department under the *Financial Administration and Audit Act 1977*.

Chief executive to be satisfied stamp duty has been accounted for

7R.(1) If an instrument relating to a lien is chargeable with stamp duty under the *Stamp Act 1894*, the chief executive may deal with the lien under this Act only if the chief executive is satisfied that stamp duty on the instrument has been paid or accounted for⁵ under that Act.

(2) The chief executive may assume stamp duty on the instrument has been paid or accounted for if the person asking the chief executive to deal with the lien states, in writing, that the stamp duty has been paid or accounted for under that Act.

⁵ See, for example, the *Stamp Act 1894*, section 13A (Duty accounted for by returns).

Power of lienee where lienor neglects to pay off the moneys secured by lien

8.(1) Subject to the *Sugar Industry Act 1999* and any collective agreement mentioned in section 40⁶ of that Act and affecting any crop, if a lienor, the lienor's executors, administrators, or assigns shall neglect or refuse either to pay off the whole of the moneys secured by a lien upon such crop with interest as agreed upon as aforesaid, or to give up such crop to such lienee in pursuance of such lien, such lienee, the lienee's executors, administrators, or assigns may himself or herself or by his or her servants or agents, and upon giving notice to the owner of any sugar-mill to which relates any cane production area in which is included the lands described in the lien, enter upon such land and cultivate, gather, carry away, and sell such crop or crops to the owner of such sugar-mill or to any other person in the manner and subject to the same conditions and to the same effect as the lienor could lawfully have sold the same.

(2) However, if such lienor be a tenant then the lienee shall before carrying away any such crop pay to the landlord of the land whereon such crop shall be growing such sum of money as may be due to the landlord for rent at the time of carrying away such crop, provided that the sum so paid shall not exceed 1 year's rent.

(3) In addition, if at the time of the registration of such lien there be in force a mortgage or a contract for the purchase by the lienor of the land whereon such crop shall be growing and the land shall at the time of harvesting be in the occupation of the mortgagee or the vendor, such lienee shall before carrying away and selling any such crop pay to the mortgagee or to the vendor the amount of interest, not, however, exceeding 12 months interest, due upon such mortgage or such contract of sale at the time of carrying away and selling such crop.

(4) In this section—

“cane production area” has the meaning given by the *Sugar Industry Act 1999*, section 6.⁷

⁶ *Sugar Industry Act 1999*, section 40 (Collective agreement—nature)

⁷ *Sugar Industry Act 1999*, section 6 (Cane production area)

Application of proceeds of sugarcane

9.(1) The purchaser of any sugarcane, whether such purchaser is the owner of a mill or not, shall after production to such purchaser of any duly registered lien given over such sugarcane apply the proceeds so far as they are available of all such sugarcane so purchased in such order, and such proceeds are deemed to be charged to such extent as follows, that is to say—

- (a) when an owner of a mill has become entitled under a cane supply and processing agreement entered into under the *Sugar Industry Act 1999* to any costs of harvesting or other expenses incidental thereto, then in repaying such costs to such owner together with any amount which the owner may with the consent of the lienee have advanced to any person or may himself or herself otherwise than as aforesaid have paid or incurred for the purpose of harvesting such crop;
- (b) in paying to the lienee any sum or sums paid by the lienee under section 8 to a landlord or to a mortgagee or to a vendor for rent or interest;
- (c) unless otherwise stated in the instrument creating the lien, in paying to the lienee any amount paid or incurred for wages or otherwise by the lienee in cultivating or harvesting and carrying away the sugarcane covered by the lienee's lien;
- (d) when the purchaser is the owner of a mill, in paying such levies as such owner may lawfully deduct from such proceeds;
- (e) in paying to the lienee any amount due and owing to such lienee for any moneys secured by such lien;
- (f) however, where a lien is given to the extent of a stated percentage of the proceeds of a crop of sugarcane or a stated amount per ton of such crop, then such purchaser shall under this subsection pay to such lienee such stated percentage only of such proceeds as are available from time to time, or such amount on each ton of cane so realised, as the case may be, towards the satisfaction of the principal moneys and interest secured by the said lien;
- (g) in paying to any second or subsequent lienee in like manner as aforesaid, and in order of the priority of the registration of their

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respective liens any moneys paid by such lienee for rent or interest under this Act and any amount paid or incurred for wages or otherwise for cultivating or harvesting and carrying away such sugarcane, and any moneys secured by such liens.

(2) However, where the sugarcane is harvested by the lienor the purchaser may, if so requested by the lienor, and with the consent of the lienee or the lienee's agent, endorsed upon the instrument creating the lien, advance to the lienor such amount as may reasonably be necessary for payment by the lienor of wages due and payable by the lienor to any employees for harvesting any sugarcane covered by the lien.

(3) Subject to subsections (1) and (2) and subject to any equities affecting such proceeds of which such purchaser shall have had notice, such purchaser shall pay the proceeds of such sugarcane to the lienor.

Further provisions regarding liens

11. Where a lien is given to secure the payment with or without interest of purchase money under an agreement of sale of the land upon which the crop or crops given as security is or are growing or to grow, or to secure the payment with or without interest of a debt owing under a mortgage of such land, or to secure any rent or royalty payable under a lease of such land and where such lien shall contain as a schedule thereto or embodied therein a true copy of such agreement for sale or such mortgage or lease, such lien may be given over the crop or crops growing or to grow on the said land in any year or in any year and any subsequent year or years, but such lien shall not continue in force longer than that period specified in the instrument of lien as being the period for which the lien is to continue in force unless renewed under section 7.⁸

Provisions as to priority where 2 or more liens given

12.(1) Where 2 or more liens given by way of collateral security to mortgages over the same land shall be renewed they shall take effect as between themselves in the same order of priority as such mortgages and not in the order of the registration of such liens, but no lien given to secure

⁸ Section 7 (Application for renewal of registration of lien)

purchase money with or without interest under any agreement of sale, or given as collateral security to a second or subsequent mortgage, or given to secure any rent or royalty payable under a lease shall be renewed after a prior vendor mortgagee or lessor has lawfully entered into possession of such land, unless at the time of the renewal of such lien there shall be filed a written consent thereto signed by such prior vendor or mortgagee or lessor.

(2) However, subsection (1) does not affect the priority of a lien whose registration is renewed because of section 13(1).

Effect of harvesting crop on lien

13.(1) A lien over a crop that, when the lien expires, has not been fully harvested, may be renewed under section 7.

(2) However, if the crop covered by a lien is fully harvested when the lien expires under section 7B,⁹ it is not necessary to renew the lien for the lien to remain effective against the proceeds of the crop.

Liens not affected by sale etc. of land

15. No lien given in good faith and for valuable consideration and duly registered shall be extinguished or otherwise prejudicially affected by any sale, assignment, partition, lease, agreement for a lease, mortgage, or encumbrance of or other dealing with the land on which any such crop may be growing or shall be grown, or by the surrender of any lease, or by the death of the lienor, or by any re-entry or foreclosure by any vendor, lessor, mortgagee, or encumbrancee or other person than a lienor entitled thereto under this Act.

Application of proceeds of crop to costs of sugarcane protection etc.

16.(1) This Act is subject to the *Industrial Relations Act 1999*, chapter 11, part 2.

(2) Notwithstanding anything in this Act or in any other Act or law to the contrary the proceeds of any sugarcane shall be applied in satisfaction of any

⁹ Section 7B (Expiry of registration)

sum lawfully payable and not duly paid to a cane protection and productivity board established under the Sugar Industry Act 1999 for the supplying of any fumigant, insecticide, fungicide, poison, or other material, or more than 1 of those materials, for the purpose of the control with respect to that sugarcane of any pest within the meaning of that Act and for any services rendered in connection with the use of that material for that purpose, in priority to all other sums, secured or unsecured, payable from such proceeds including any sum due and owing to any lienee and secured by a lien duly registered under this Act and in force over that sugarcane.

(3) Notice to any person who has in the person's hands the proceeds of any sugarcane of any aforementioned sum so payable and not paid to any Board as aforesaid shall render that person liable, to the extent of such proceeds, for the payment of that sum to that Board and such sum may be recovered from the person as if the person were a debtor to that Board.

(4) Without prejudice to any other mode of proof—

- (a) a certificate in writing of the Board concerned certifying that the sum therein specified is then lawfully payable and has not been duly paid to that Board for the supplying of the material therein stated for the purpose of the control with respect to sugarcane grown during the calendar year therein mentioned on the land therein sufficiently described for identification purposes of any pest within the meaning of the *Sugar Industry Act 1999* and for the services as specified rendered in connection with the use of that material for that purpose, shall be received in evidence and shall be evidence of the facts therein stated, and in the absence of evidence in rebuttal thereof, shall be conclusive evidence of those facts; and
- (b) any person shall be deemed to have had notice of any aforementioned sum so payable and not paid to any Board as aforesaid if and when a certificate in writing as referred to in paragraph (a) is delivered to the person.

Notice of lien to be given to mill owner

17.(1) This section applies if—

- (a) a lienee holds a lien over a crop that is growing, or will be grown,

on land all or part of which is assigned to a mill under the *Sugar Industry Act 1991*; and

- (b) the lien is registered; and
- (c) the lienee after the registration, or the renewal, transfer or assignment of the registration, gives to the owner of the mill a certified printed search result relating to the registration, renewal, transfer or assignment.

(2) The lienee or the assignee under the lien is entitled to be paid from the proceeds of the crop then next available the amount secured by the lien to the extent the proceeds allow.

(3) If the lien is discharged, the lienee must give to the owner of the mill a certified printed search result relating to the discharge of the registration as soon as possible after the discharge is registered.

(4) The owner of the mill is not affected by the registration, renewal, assignment, transfer or discharge of the lien until a certified printed search result relating to the registration, renewal, assignment, transfer or discharge is given to the owner by the lienee.

(5) In this section—

“assignee” includes a transferee.

Relationship of other Acts to liens under this Act

23.(1) To remove any doubt, it is declared that a lien under this Act is not a bill of sale under the *Bills of Sale and Other Instruments Act 1955*.

(2) The provisions of this Act relating to registration do not apply to any lien on crops of sugarcane given by any person to the Crown as defined by the repealed *State Securities Registration Act 1925* and the provisions of the repealed Act relating to those liens continue to have effect.

(3) Also, for deciding priority under this Act between or among liens, a lien registered under the repealed *State Securities Registration Act 1925* is taken to be registered under this Act.

(4) Subsections (2) and (3) and this subsection expire 10 years after the commencement of this subsection.

False or misleading statements

23A.(1) A person must not state anything to an official the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units or 1 year’s imprisonment.

(2) It is enough for a complaint for an offence against subsection (1) to state the statement made was ‘false or misleading’ to the person’s knowledge, without stating which.

False or misleading documents

23B.(1) A person must not give an official a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units or 1 year’s imprisonment.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the official, to the best of the person’s ability, how it is false, misleading or incomplete; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

(3) It is enough for a complaint for an offence against subsection (1) to state the document was ‘false or misleading’ to the person’s knowledge, without stating which.

Protection from liability

23C.(1) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to an official, liability attaches instead to the State.

Delegations

23D.(1) The chief executive may delegate the chief executive’s powers under this Act to an appropriately qualified officer or employee of the department.

(2) In this section—

“appropriately qualified”, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of ‘standing’—

A person’s classification level in the public service.

Validation

24.(1) It is declared that anything done between 23 April 1999 and 7 May 1999 that would have been validly done or effectual under this Act, had the amending Act commenced on 23 April 1999, is and always was as valid and effectual as if the amending Act had commenced on 23 April 1999.

(2) In this section—

“amending Act” means the *Bills of Sale and Other Securities Amendment Act 1999*, part 3.

“done” includes, made, applied for, registered, discharged, renewed, given, exercised, charged, established, changed and omitted to be done.

Regulations

25.(1) The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may make provision with respect to the prescribing of fees and charges.

Transitional provisions about register—Bills of Sale and Other Securities Amendment Act 1999

26. The register of liens on sugarcane kept under this Act immediately before the commencement of this section from the commencement continues as the register of liens kept under section 5.

Transitional provision about registered instruments—Bills of Sale and Other Securities Amendment Act 1999

27.(1) Each instrument registered under this Act immediately before the commencement of this section is taken to be a registered lien.

(2) The particulars of each lien registered in the register of liens on sugarcane immediately before the commencement are taken to be included in the register of liens kept under section 5.

Transitional provisions about existing liens—Bills of Sale and Other Securities Amendment Act 1999

28.(1) This section applies to each instrument registered under this Act before the commencement of this section (“**existing liens**”).

(2) Each existing lien expires as follows—

- (a) if registered in 1993—5 years after the commencement;
- (b) if registered in 1994—6 years after the commencement;
- (c) if registered in 1995—7 years after the commencement;
- (d) if registered in 1996—8 years after the commencement;
- (e) if registered in 1997—9 years after the commencement;
- (f) if registered after 1997 but before the commencement—10 years after the commencement.

Transitional provision about expiry of registered liens—Bills of Sale and Other Securities Amendment Act 1999

29. Section 10(2) of this Act, as in force immediately before the commencement of this section, from the commencement continues to have effect, but only for deciding when the registration of a lien executed before the commencement expires.

Saving of priority—Bills of Sale and Other Securities Amendment Act 1999

30.(1) This section applies to registered liens that immediately before the commencement of this section were instruments registered under this Act.

Liens on Crops of Sugar Cane Act 1931

(2) The provisions of this Act for deciding priority, as in force immediately before the commencement, continue to have effect for deciding priority of those registered liens after the commencement.

(3) This section applies despite section 7I.¹⁰

¹⁰ Section 7I (Priority of liens)

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 8 November 2000. Future amendments of the Liens on Crops of Sugar Cane Act 1931 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
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 40 of 1992	26 April 1994
1A	to Act No. 57 of 1995	2 July 1996
1B	to Act No. 56 of 1996	18 December 1996
1C	to Act No. 38 of 1997	8 August 1997
1D	to Act No. 63 of 1999	16 June 2000
2	to Act No. 24 of 2000	4 August 2000

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Renumbered provisions	1

6 List of legislation

Liens on Crops of Sugar Cane Act 1931 22 Geo 5 No. 37

date of assent 24 December 1931

commenced 11 January 1932 (proc pubd gaz 9 January 1932 p 28)

as amended by—

Liens on Crops of Sugar Cane Act Amendment Act 1933 24 Geo 5 No. 4

date of assent 11 October 1933

s 3 commenced 14 January 1932 (see s 3)

remaining provisions commenced on date of assent

Liens on Crops of Sugar Cane Acts Amendment Act 1951 15 Geo 6 No. 29

date of assent 11 October 1951

commenced on date of assent

Liens on Crops of Sugar Cane Acts Amendment Act 1961 10 Eliz 2 No. 47

date of assent 14 December 1961

commenced on date of assent

Decimal Currency Act 1965 No. 61 s 11 sch 2

date of assent 23 December 1965

commenced 14 February 1966 (see s 1(2))

Bills of Sale and Other Instruments Act and Other Acts Amendment Act 1971 No. 10 pt 3

date of assent 16 April 1971

commenced 29 January 1973 (proc pubd gaz 27 January 1973 p 355)

Liens on Crops of Sugar Cane Act Amendment Act 1975 No. 54

date of assent 4 November 1975

commenced 1 December 1975 (proc pubd gaz 15 November 1975 p 1099)

Sugar Experiment Stations Act and Another Act Amendment Act 1981 No. 7 pt 3

date of assent 30 March 1981

commenced on date of assent

Administration of Commercial Laws Act and Other Acts Amendment Act 1981 No. 57 pt 8

date of assent 12 June 1981

commenced 1 July 1982 (proc pubd gaz 29 June 1982 p 2101)

Corporations (Consequential Amendments) Act 1990 No. 99 s 3.1 sch

date of assent 12 December 1990

commenced 1 January 1991 (proc pubd gaz 22 December 1990 p 2270)

Sugar Industry Act 1991 No. 20 pt 14 div 4

date of assent 1 May 1991

commenced 15 July 1991 (1991 SL No. 19)

Justice Legislation (Miscellaneous Provisions) Act 1992 No. 40 ss 1–2, 163 sch 1

date of assent 14 August 1992

ss 1–2 commenced on date of assent

amendments 4–7, 11, 14 commenced 1 April 1994 (1994 SL No. 94)

remaining provisions commenced on date of assent

Statute Law Revision Act 1995 No. 57 s 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Consumer Law and Other Justice Legislation (Miscellaneous Provisions) Act 1996 No. 56 pts 1, 13

date of assent 20 November 1996

commenced on date of assent

Courts Reform Amendment Act 1997 No. 38 pt 1 sch

date of assent 18 July 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 1997 (1997 SL No. 235)

Bills of Sale and Other Securities Amendment Act 1999 No. 4 pts 1, 3

date of assent 18 March 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 7 May 1999 (1999 SL No. 78)

Sugar Industry Act 1999 No. 51 ss 1, 2(2), 228 sch 1

date of assent 18 November 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2000 (see s 2(2))

Equity and Fair Trading (Miscellaneous Provisions) Act 1999 No. 63 pts 1, 10

date of assent 6 December 1999

ss 1–2 commenced on date of assent

s 77 (amendment could not be given effect)

remaining provisions commenced 10 March 2000 (2000 SL No. 36)

GST and Related Matters Act 2000 No. 20 ss 1, 2(4), 29 sch 3

date of assent 23 June 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(4))

Equity and Fair Trading (Miscellaneous Provisions) Act 2000 No. 24 pts 1, 10

date of assent 27 June 2000

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch

date of assent 25 October 2000

commenced on date of assent

7 List of annotations

Short title

prov hdg amd 1997 No. 38 s 3 sch
s 1 amd 1997 No. 38 s 3 sch

Definitions

prov hdg sub 1999 No. 4 s 26(1)
s 2 amd 1999 No. 4 s 26(1)
 def **“Assistant Commissioner”** ins 1971 No. 10 s 20
 om 1981 No. 57 s 27
 def **“central district”** ins 1992 No. 40 s 163 sch 1
 sub 1997 No. 38 s 3 sch
 om 1999 No. 4 s 26(1)
 def **“Commissioner”** ins 1971 No. 10 s 20
 om 1981 No. 57 s 27
 def **“far northern district”** ins 1997 No. 38 s 3 sch
 om 1999 No. 4 s 26(2)
 def **“incorrect information”** ins 1999 No. 4 s 26(3)
 def **“northern district”** ins 1992 No. 40 s 163 sch 1
 sub 1997 No. 38 s 3 sch
 om 1999 No. 4 s 26(2)
 def **“official”** ins 1999 No. 4 s 26(3)
 def **“owner of a mill”** amd 1999 No. 4 s 26(4)
 def **“printed search result”** ins 1999 No. 4 s 26(3)
 def **“Register”** om 1999 No. 4 s 26(2)
 def **“register”** ins 1999 No. 4 s 26(3)
 def **“registered”** ins 1999 No. 4 s 26(3)
 def **“Registrar”** ins 1981 No. 57 s 27
 amd 1990 No. 99 s 3.1(1) sch
 om 1992 No. 40 s 163 sch 1
 def **“registrar”** ins 1992 No. 40 s 163 sch 1
 om 1999 No. 4 s 26(2)
 def **“southern district”** ins 1992 No. 40 s 163 sch 1
 sub 1997 No. 38 s 3 sch
 om 1999 No. 4 s 26(2)
 def **“unregistered lien”** ins 1999 No. 4 s 26(3)

Application of s 2 to certain instruments

s 3 amd 1971 No. 10 s 24
 prev s 3 om 1992 No. 40 s 163 sch 1
 pres s 3 ins 1999 No. 4 s 27

Act binds all persons

s 3A ins 1999 No. 4 s 27

Charge on crop to be created by instrument

prov hdg amd 1992 No. 40 s 163 sch 1
s 4 amd 1971 No. 10 ss 21, 24; 1992 No. 40 s 163 sch 1
 sub 1999 No. 4 s 28

Register

s 5 sub 1999 No. 4 s 28

Application for registration of lien

s 6 amd 1971 No. 10 s 24
sub 1992 No. 40 s 163 sch 1; 1999 No. 4 s 28

Application for renewal of registration of lien

s 7 amd 1971 No. 10 s 24
sub 1992 No. 40 s 163 sch 1; 1999 No. 4 s 28

Registration, or renewal of registration, of lien

s 7A ins 1999 No. 4 s 28

Expiry of registration

s 7B ins 1999 No. 4 s 28

Inspecting the register

s 7C ins 1999 No. 4 s 28

Copies of instrument creating lien

s 7D ins 1999 No. 4 s 28

Application for registration of assignment of registered lien

s 7E ins 1999 No. 4 s 28

Registration of assignment of a registered lien

s 7F ins 1999 No. 4 s 28

Effect of failure to register lien

s 7G ins 1999 No. 4 s 28

Priority given from time of registration

s 7H ins 1999 No. 4 s 28

Priority of liens

s 7I ins 1999 No. 4 s 28

Application for discharge of registered lien

s 7J ins 1999 No. 4 s 28

Registration of discharge of registered lien

s 7K ins 1999 No. 4 s 28

Duty after lien fully discharged

s 7L ins 1999 No. 4 s 28

Lienor may seek registration of discharge or change in particulars

s 7M ins 1999 No. 4 s 28

Changes to particulars in register

s 7N ins 1999 No. 4 s 28

Correction of errors

s 7O ins 1999 No. 4 s 28

Application of compensation provision

s 7P ins 1999 No. 4 s 28

Compensation for loss

- s 7Q** ins 1999 No. 4 s 28
amd 2000 No. 20 s 29 sch 3

Chief executive to be satisfied stamp duty has been accounted for

- s 7R** ins 1999 No. 4 s 28

Power of licensee where lienor neglects to pay off the moneys secured by lien

- s 8** amd 1991 No. 20 s 14.20; 1999 No. 51 s 228 sch 1

Application of proceeds of sugarcane

- s 9** amd 1991 No. 20 s 14.21; 1999 No. 4 s 29; 1999 No. 51 s 228 sch 1

Restriction as to continuance of lien

- s 10** sub 1981 No. 7 s 6
om 1999 No. 4 s 30

Further provisions regarding liens

- s 11** amd 1981 No. 7 s 7; 1999 No. 4 s 31

Provisions as to priority where 2 or more liens given

- s 12** amd 1999 No. 4 s 32

Effect of harvesting crop on lien

- s 13** sub 1999 No. 4 s 33

Provision as to renewal of liens

- s 14** amd 1971 No. 10 ss 22, 24
sub 1981 No. 7 s 8
amd 1981 No. 57 s 28; 1992 No. 40 s 163 sch 1
om 1999 No. 4 s 34

Application of proceeds of crop to costs of sugarcane protection etc.

- prov hdg** sub 1999 No. 4 s 35(1)
s 16 amd 1933 24 Geo 5 No. 4 s 2; 1951 15 Geo 6 No. 29 s 2; 1991 No. 20
s 14.22; 1999 No. 4 s 35(2); 1999 No. 51 s 228 sch 1; 2000 No. 46 s 3
sch

Notice of lien to be given to mill owner

- s 17** sub 1999 No. 4 s 36

Place of registration

- s 18** amd 1961 10 Eliz 2 No. 47 s 2; 1971 No. 10 ss 23–24; 1981 No. 57 s 29
sub 1992 No. 40 s 163 sch 1
amd 1997 No. 38 s 3 sch
om 1999 No. 4 s 37

Assignment or transfer of lien by endorsement

- s 19** amd 1971 No. 10 s 24
om 1999 No. 4 s 37

Power of search of register for obtaining copies

- s 20** amd 1971 No. 10 s 24
om 1999 No. 4 s 37

Fees

- s 21** amd 1961 10 Eliz 2 No. 47 s 4
 sub 1965 No. 61 s 11 sch 2; 1975 No. 54 s 3
 om 1992 No. 40 s 163 sch 1

Judge may order extension of time or correction of errors

- s 22** om 1999 No. 4 s 37

Relationship of other Acts to liens under this Act

- s 23** amd 1933 24 Geo 5 No. 4 s 3
 sub 1999 No. 4 s 38
 (2)–(4) exp 7 May 2009 (see s 23(4))

False or misleading statements

- s 23A** prev s 23A ins 1992 No. 40 s 163 sch 1
 om 1999 No. 63 s 76
 pres s 23A ins 1999 No. 4 s 38

False or misleading documents

- s 23B** ins 1999 No. 4 s 38

Protection from liability

- s 23C** ins 1999 No. 4 s 38

Delegations

- s 23D** ins 1999 No. 4 s 38

Validation

- s 24** orig s 24 ins 1933 24 Geo 5 No. 4 s 4
 om 1995 No. 57 s 4 sch 1
 prev s 24 ins 1996 No. 56 s 128
 exp 21 November 1996 (see s 24(2))
 prev s 24 purported ins 1999 No. 63 s 77 (amendment could not be given effect)
 exp 31 December 1999 (see s 24(3))
 pres s 24 ins 2000 No. 24 s 40

Regulations

- s 25** ins 1992 No. 40 s 163 sch 1

Transitional provisions about register—Bills of Sale and Other Securities Amendment Act 1999

- s 26** ins 1999 No. 4 s 39

Transitional provision about registered instruments—Bills of Sale and Other Securities Amendment Act 1999

- s 27** ins 1999 No. 4 s 39

Transitional provisions about existing liens—Bills of Sale and Other Securities Amendment Act 1999

- s 28** ins 1999 No. 4 s 39

Transitional provision about expiry of registered liens—Bills of Sale and Other Securities Amendment Act 1999

- s 29** ins 1999 No. 4 s 39

Saving of priority—Bills of Sale and Other Securities Amendment Act 1999
s 30 ins 1999 No. 4 s 39

SCHEDULE A—FORM OF AGREEMENT
om 1992 No. 40 s 163 sch 1

SCHEDULE B
amd 1971 No. 10 s 25; 1981 No. 57 s 29
om 1992 No. 40 s 163 sch 1

SCHEDULE C
om 1992 No. 40 s 163 sch 1