

# SUGAR INDUSTRY ACT

No. 20 of 1991

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3. Instruments
4. Fees etc.
5. Licences, permits, approvals
6. Exercise of discretion
7. Information
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9. Control over bodies
10. Guidelines
11. Programmes
12. Awards
13. Polls

Queensland



ANNO QUADRAGESIMO

ELIZABETHAE SECUNDAE REGINAE



No. 20 of 1991

**An Act to provide comprehensively for all matters relating  
to the promotion and regulation of the sugar industry  
in Queensland**

[ASSENTED TO 1ST MAY, 1991]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

**1.1 Short title.** This Act may be cited as the *Sugar Industry Act 1991*.

**1.2 Commencement.** (1) Section 1.1 and this section commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) The remaining provisions of this Act commence on a day or days appointed by Proclamation.

**1.3 Repeals.** The Acts referred to in the First Schedule are repealed as and to the extent specified in the Schedule.

**1.4 Interpretation.** (1) In this Act, unless the contrary intention appears—

“acquire” includes purchase, take on lease, licence or pursuant to any other interest;

“Administrator” means a person appointed under section 10.15 and includes a person acting under the authority of an Administrator;

“appointed member” means—

(a) in relation to the Corporation—each member of the Corporation other than the member who is chief executive of the Corporation; and

(b) in relation to a Local Board—each member of the Local Board; and

(c) in relation to the Sugar Experiment Stations Board— each member of the Board referred to in paragraph (d), (e) or (f) of section 4.4 (1); and

(d) in relation to a Productivity Board—each member of the Productivity Board except the person nominated by the Sugar Experiment Stations Board;

“approved” means approved under guidelines made by the Corporation in writing;

“assignment” means an assignment within the meaning of section 9.1 and includes an interest in an assignment;

“assignment holder” means—

(a) a person who holds an assignment; and

(b) for the purpose of determining whether an assignment holder is within the jurisdiction of a Local Board—a person who holds an assignment the land of which is assigned to the mill for which the Local Board is established;

- “Board” means the Sugar Experiment Stations Board constituted under section 4.1;
- “commercial cane sugar” means the estimated yield of cane sugar from sugar cane, determined as prescribed by the regulations;
- “Corporation” means the Queensland Sugar Corporation constituted under section 2.1;
- “crushing capacity” means the estimated maximum rate of crushing at which a mill can operate continuously while maintaining a proper level of efficiency;
- “crushing season” means, in relation to any calendar year, the season for the harvesting and crushing of sugar cane commencing in that year;
- “Department” means the department of the government of the State in which this Act is administered;
- “determination” includes order, direction and decision;
- “Director” means the Director of Sugar Experiment Stations employed under section 4.18 and includes a person temporarily performing the duties of the Director;
- “Director-General” means the chief executive of the Department and includes a person temporarily performing the duties of the chief executive;
- “farm peak” means farm peak within the meaning of section 9.29 and includes an interest in farm peak;
- “legal practitioner” means—
- (a) a person duly admitted as a barrister of the Supreme Court whose name is currently on the Roll of Barristers of that Court; or
  - (b) a person duly admitted as a solicitor of the Supreme Court whose name is currently on the Roll of Solicitors of that Court;
- “Local Authority” means a Local Authority within the meaning of the *Local Government Act 1936-1990* and includes Brisbane City Council;
- “Local Board” means—
- (a) a Local Board constituted under section 3.1; or
  - (b) the Corporation when discharging the functions of a Local Board;
- “maintain” includes establish;
- “mill owner” “owner of a mill” means—
- (a) a person, body or association of persons, whether corporate or unincorporate, owning or having the control of a mill and includes where necessary the manager or managing director or other person controlling the business of a mill; and

- (b) for the purpose of determining whether a mill owner is within the jurisdiction of a Local Board—the owner of the mill for which the Local Board is established;
- “mill region” means a mill region prescribed by the regulations;
- “mill suppliers’ committee” means a mill suppliers’ committee constituted under the *Primary Producers’ Organisation and Marketing Act 1926-1990*;
- “Minister” means the Minister of the Crown who at the material time is charged with the administration of this Act and includes any Minister of the Crown who is temporarily performing the duties of the Minister;
- “non-approved sugar cane” means sugar cane—
- (a) grown at a place where and at a time when sugar cane of the variety to which it belongs was not approved for growing under section 4.21; and
  - (b) not grown under a permit issued under section 4.22; and
  - (c) not grown by, on behalf of or at the request of, the Director;
- “obstructs” includes assaults, threatens, abuses, insults, intimidates, hinders;
- “pest” means a pest within the meaning of the *Plant Protection Act 1989*;
- “pest infestation” means a pest infestation within the meaning of the *Plant Protection Act 1989*;
- “productivity area” means a sugar cane productivity area declared under section 5.1;
- “Productivity Board” means a Cane Protection and Productivity Board constituted under section 5.2;
- “products” includes by-products;
- “records” includes any information however compiled, recorded or stored and any books, accounts, documents or writings;
- “Register of Easements” means the Register of Easements maintained under section 11.7;
- “repealed Regulation of Sugar Cane Prices Act” means “*The Regulation of Sugar Cane Prices Act of 1962*” repealed by the First Schedule and that Act as amended between being passed and being repealed;
- “repealed Sugar Acquisition Act” means “*The Sugar Acquisition Act of 1915*” repealed by the First Schedule and that Act as amended between being passed and being repealed;
- “repealed Sugar Experiment Stations Act” means “*The Sugar Experiment Stations Act of 1900*” repealed by the First Schedule and that Act as amended between being passed and being repealed;
- “research” includes investigation or consideration;

“sugar cane” means any plant or part of a plant of the genus *Saccharum* or any hybrid of sugar cane;

“Sugar Cane Assignment Register” means the register maintained under section 2.25;

“sugar cane works” “works” means a sugar mill and any other works equipped for the manufacture of sugar cane products from sugar cane;

“sugar mill” “mill” means a works equipped for the manufacture of sugar from sugar cane and prescribed by the regulations;

“Tribunal” means the Sugar Industry Tribunal constituted under section 12.1.

- (2) In this Act, a reference to one of the following matters—  
 the discharge of a function;  
 the exercise of a power;  
 the performance of a duty;

includes a reference to each of the other matters.

(3) For the purposes of this Act, a person is taken to be in possession of—

- (a) a matter or thing—if the person has actual possession or custody of it or if the person has it under control in any place whether for the person’s or another’s use or benefit and although another person has actual control of it; and
- (b) information—if the person has the information in possession or is entitled to access to the information.

**1.5 Sugar Industry Policy Council.** (1) The Minister is to maintain, with such membership and on such conditions as the Minister determines, a Sugar Industry Policy Council.

(2) The functions of the Sugar Industry Policy Council are—

- (a) to provide advice to the Corporation and to the Minister concerning the extent to which the aggregate of all assignments’ areas should be increased in any year under section 9.15; and
- (b) to consult with and advise the government of Queensland generally on issues of strategic sugar industry policy and direction.

**1.6 Other committees.** The Minister may maintain such committees as the Minister thinks fit—

- (a) to advise the Minister and sugar industry organizations of research priorities; or
- (b) to assist in the co-ordination of research activities relating to the sugar industry; or

- (c) to assist in the administration of this Act in any respect.

**1.7 Reports to Minister.** (1) Upon being requested to do so by the Minister—

- (a) the Corporation; or
- (b) a Local Board; or
- (c) the Sugar Experiment Stations Board; or
- (d) a Productivity Board;

is to provide to the Minister a report concerning any matter specified by the Minister relating to the discharge by it of functions under this Act or to its activities.

(2) If the Minister specifies a period of time within which a report referred to in subsection (1) is to be provided, the report is to be provided within the period.

**1.8 Power of delegation.** (1) The Minister, by instrument in writing, may delegate—

- (a) to the Director-General or an officer of the Department; or
- (b) to any body constituted under this Act or to a member of such a body or a person holding office within such a body;

the discharge of any function conferred upon the Minister by this Act.

(2) A delegation—

- (a) may be made subject to such terms and limitations as the Minister thinks fit; and
- (b) may be revoked by the Minister at any time by instrument in writing; and
- (c) does not prevent the Minister from continuing to discharge the function delegated.

(3) More than one delegation may be made in relation to a discharge of a function.

(4) If a delegate discharges a function in accordance with the instrument of delegation, the delegate's acts and omissions to act are taken to be those of the Minister.

(5) This section does not authorize the Minister to delegate the power conferred upon the Minister by this section.

**1.9 Crown bound.** This Act binds the Crown in right of the State and also, so far as the legislative power of the State extends, in all its other capacities, subject to the following:—

- (a) the Crown is not liable to a penalty for a contravention of this Act; and
- (b) an agent of the Crown who contravenes this Act is liable for any penalty prescribed by this Act in relation to such a contravention.

## PART 2—QUEENSLAND SUGAR CORPORATION

*Division 1—Constitution and membership*

**2.1 Constitution.** (1) A body corporate is constituted called the Queensland Sugar Corporation having perpetual succession and a common seal.

- (2) Subject to this Act, the Corporation is capable of—
- (a) suing and being sued; and
  - (b) acquiring, holding, dealing with and disposing of real and personal property; and
  - (c) doing and suffering all acts and things as bodies corporate may in law do and suffer.

**2.2 Judicial notice of Corporation's seal.** All courts and persons acting judicially are to take judicial notice of the common seal of the Corporation and are to presume the common seal affixed to any document to have been duly affixed until the contrary is proved.

**2.3 Corporation does not represent the Crown.** (1) The Corporation does not represent the Crown.

(2) Except where it is authorized to do so by the Crown under any Act, the Corporation is not competent to render the Crown liable for the debts and obligations of the Corporation or any other person.

**2.4 Objectives of Corporation.** The principal objectives of the Corporation are—

- (a) to ensure that the policies for the Queensland sugar industry including those determined by the Minister or accepted by the Corporation upon the advice of the Sugar Industry Policy Council are successfully implemented; and
- (b) to enhance the efficiency, competitiveness and access to markets of the Queensland sugar industry; and
- (c) to enhance the long term economy of the Queensland sugar industry; and
- (d) to enhance the benefits flowing from the Queensland sugar industry to cane growers and mill owners and to the economy of Queensland generally; and
- (e) to encourage initiative and innovation among cane growers and mill owners and others involved in the Queensland sugar industry.

**2.5 Membership of Corporation.** (1) The Corporation is to consist of 9 members of whom—

- (a) one is to be the chief executive officer of the Corporation, who is to be a member *ex officio*; and
- (b) 8 are to be persons appointed by the Governor in Council upon the recommendation of the Minister, one of whom is to be appointed as chairperson.

(2) Subject to section 2.9, each appointed member of the Corporation is to be appointed for a term of three years ending on the same date as the term of every other appointed member.

(3) An appointed member of the Corporation whose term of office has expired is eligible for reappointment if otherwise qualified.

**2.6 Qualifications for appointment.** Of the appointed members of the Corporation—

- (a) at least two must have experience in the production of sugar cane; and
- (b) at least two must have experience in the milling of sugar cane; and
- (c) each must have experience in one or more of the following areas—
  - sugar cane production or milling;
  - trade or commerce;
  - industrial relations;
  - public administration.

**2.7 Selection of appointed members.** (1) Before recommending to the Governor in Council that a person be appointed to be a member of the Corporation under section 2.5, other than the member appointed to be chairperson, the Minister is to establish a selection committee with the function to nominate the person to be appointed.

(2) The selection committee is to consist of 9 members appointed by the Minister, being—

- (a) one person appointed as chairperson who the Minister is satisfied will act independently in performing the duties of chairperson; and
- (b) 4 persons, each of whom is to be appointed as the representative of all the cane growers within a mill region, which region is not otherwise so represented on the committee by a person appointed under this paragraph; and
- (c) 4 persons, each of whom is to be appointed as the representative of all the owners of mills situated within a mill region, which region is not otherwise so represented on the committee by a person appointed under this paragraph.

(3) A person appointed under paragraph (b) or (c) of subsection (2) is to be a person recommended for appointment, on the invitation of the Minister, by an organization or organizations the Minister considers are sufficiently representative of the interests of the cane growers or mill owners who are to be represented on the selection committee by the person.

(4) A selection committee is not competent to nominate for appointment as a member of the Corporation any person who is—

- (a) a member of the selection committee; or
- (b) the chairperson, deputy chairperson or chief executive officer

of an organization that recommended the appointment by the Minister to the selection committee of any member of the selection committee.

- (5) The Minister may give the selection committee—
- (a) subject to section 2.6, directions in writing determining the selection criteria to be applied by it in selecting persons for nomination; and
  - (b) such other directions as may be necessary for the purposes of the selection of persons for nomination.

A direction may not require a selection committee to nominate a person specified by the Minister for appointment as a member of the Corporation.

(6) Subject to subsection (7), the Minister is not to recommend to the Governor in Council the appointment of a person as a member of the Corporation unless the person has been nominated by a selection committee pursuant to this section.

(7) If a selection committee refuses or fails to comply with the directions of the Minister relating to the nomination of a person for appointment as a member of the Corporation, the Minister may recommend to the Governor in Council the appointment of any person the Minister is satisfied is qualified to be appointed as a member of the Corporation.

(8) The chairperson of the selection committee is to be paid by the Corporation such fees and allowances as the Governor in Council may determine.

**2.8 Removal of appointed member.** The Governor in Council at any time, upon the recommendation of the Minister, may remove a person from office as an appointed member of the Corporation.

**2.9 Casual vacancies.** (1) The Governor in Council, upon the recommendation of the Minister, may appoint a person to fill a vacancy occurring in the office of an appointed member of the Corporation during the currency of the appointed member's term.

(2) If the member whose office becomes vacant is the chairperson, the person appointed to fill the vacancy is to be appointed as chairperson.

(3) Section 2.7 applies in relation to the appointment of a person to fill a vacancy in the office of an appointed member other than the chairperson.

(4) A person appointed to fill a vacancy in the office of an appointed member is to hold office from a date specified by the Governor in Council until the expiration of the term of the office for which the member whose office fell vacant was appointed.

**2.10 Remuneration.** Appointed members of the Corporation are to be paid by the Corporation such fees and allowances as the Governor in Council may determine.

*Division 2—Corporation's general functions, powers and duties*

**2.11 Functions of Corporation.** The functions of the Corporation are—

- (a) to participate in the development and implementation of policy relating to the management of the Queensland sugar industry; and
- (b) to manage the regulation of the quantity and quality of sugar cane and raw sugar produced in Queensland; and
- (c) to participate and assist in, and where authorized under this Act to do so, determine issues relating to, any matter concerning the size of the Queensland sugar industry, the production and use of sugar industry products and any other matter connected with the Queensland sugar industry; and
- (d) to manage the acquisition of raw sugar by the Corporation and market that raw sugar; and
- (e) to distribute to mill owners the net proceeds resulting from the marketing of raw sugar; and
- (f) to encourage and participate in the promotion, manufacture and marketing of the products of, and any value added product connected with, the sugar industry in Queensland or, if necessary to achieve its objectives, elsewhere; and
- (g) to facilitate the operation of any body established under this Act or, if necessary to achieve its objectives, within or for the sugar industry in Queensland or elsewhere; and
- (h) to mediate in negotiations within the sugar industry in Queensland or, if necessary to achieve its objectives, elsewhere; and
- (i) to act as a representative of the Queensland sugar industry generally; and
- (j) to inquire into any matter concerning the Queensland sugar industry; and
- (k) to assist Local Boards in the discharge of their functions; and
- (l) with the consent of the Tribunal, to assist the Tribunal in the discharge of its functions; and
- (m) to take all such action within the powers conferred upon it by this Act as may be necessary to achieve its objectives; and
- (n) to discharge such other functions consistent with its objectives as it may be authorized to discharge by the Minister or by the regulations.

**2.12 General powers of Corporation.** (1) Subject to this Act, the Corporation may do all things necessary or reasonably required to be done in connexion with, or incidental to, the discharge of its functions.

(2) Without limiting the generality of subsection (1), the Corporation may—

- (a) purchase, sell, and participate in any form of trade or commerce concerning, the products of the sugar industry and any product connected with the sugar industry in Queensland or, with the approval of the Minister, elsewhere; and
- (b) acquire, construct, manage and maintain bulk sugar terminals and other facilities for the processing, storage and handling of the products of the Queensland sugar industry or the sugar industry elsewhere; and
- (c) fund the operation of Local Boards; and
- (d) undertake or fund research into the quality of, and markets for, the products of the Queensland sugar industry or any other matter connected with the industry; and
- (e) seek and accept voluntary contributions from any person to assist it in the discharge of its functions; and
- (f) collect and disseminate information relating to the operation of this Act and the activities of the Queensland sugar industry and related industry; and
- (g) provide public relations and communications programmes and services for the Queensland sugar industry; and
- (h) maintain committees with the function to provide the Corporation with such assistance, advice and reports as the Corporation determines; and
- (i) use or provide the use of its terminals, facilities, or other property for the processing, storage or handling of any product or for any activity for commercial gain; and
- (j) act in the discharge of its functions both in Queensland and elsewhere.

**2.13 Corporation's duty to report concerning distribution of proceeds of vested sugar.** (1) It is the duty of the Corporation, within 2 years of the date of commencement of this section or such greater period as may be approved by the Minister at any time—

- (a) to review the history of the development of the rules and procedures relating to the calculation and distribution to mill owners and cane growers of moneys due to them from out of the proceeds of the sale of sugar vested in the Crown, before, and the Corporation after, the commencement of this Act; and
- (b) to assess the current rules and procedures and investigate alternative rules and procedures for consideration; and
- (c) to assess the current procedures for funding of the Corporation and investigate alternative procedures; and
- (d) to furnish a report to the Minister in relation to those matters.

(2) The Minister may give directions to the Corporation concerning the manner in which it is to perform the duty imposed by subsection (1) including directions—

- (a) to obtain the services of independent consultants; or
- (b) to consult with particular organizations.

(3) The report furnished under subsection (1) need not concern the matters on which the Corporation is required to report to the Minister under section 7.10.

**2.14 Application of various public sector Acts.** The Corporation is—

- (a) a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982-1990* and the *Financial Administration and Audit Act 1977-1990*; and
- (b) a unit of public administration within the meaning of the *Criminal Justice Act 1989-1990* and the *Electoral and Administrative Review Act 1989-1990*; and
- (c) a unit of the public sector within the meaning of the *Public Sector Management Commission Act 1990*.

**2.15 Corporation may require information.** (1) In relation to any matter concerning the discharge of the Corporation's functions referred to in paragraphs (b) to (e) (both inclusive) of section 2.11, the Corporation by written notice may require a person—

- (a) to furnish to the Corporation any information specified in the notice, within a reasonable period and in a reasonable manner specified in the notice; or
- (b) to attend before the Corporation, at a reasonable time and place specified in the notice, and then and there answer questions concerning any matter specified in the notice; or
- (c) to furnish to the Corporation, at a reasonable time and place specified in the notice, any records or copies of records in the person's possession specified in the notice.

A reference to the Corporation includes a reference to a person authorized by the Corporation.

(2) The Corporation or authorized person may require the information or answers to be verified—

- (a) on oath or affirmation; and
- (b) orally or in writing.

For that purpose a member of the Corporation or a person authorized by the Corporation may administer an oath or affirmation.

(3) The oath to be taken or affirmation to be made is an oath or affirmation confirming the truth of the information or answers.

(4) The regulations may prescribe allowances payable by the Corporation to persons required to attend at any place under this section.

(5) A person—

- (a) who refuses or fails to answer a question or to furnish any information, records or a copy of records as required of the person under this section; or
- (b) who in response to a requirement made under this section provides an answer or furnishes information, records or a records copy that is or are false or misleading in a material particular;

commits an offence against this Act.

This subsection does not apply in respect of a refusal or failure to answer a question or furnish any information or records required of a person under subsection (1) that would tend to incriminate the person.

**2.16 Chief executive officer and staff of Corporation.** (1) The Corporation—

- (a) is to employ a chief executive officer; and
- (b) may appoint, employ or engage such persons as members of staff and such consultants, service providers, inspectors and agents as it considers necessary for the discharge of its functions.

(2) The chief executive officer of the Corporation is to perform such duties as the Corporation determines.

(3) The *Public Service Management and Employment Act 1988-1990* does not apply in relation to the appointment, employment or engagement by the Corporation of staff and other persons under this section except in so far as it authorizes the making of arrangements for the performance of duties by an officer of the public service in any other employment.

**2.17 Corporation to consult industry.** (1) The Corporation—

- (a) at least once every three months; and
- (b) whenever the Minister directs it to do so;

is to provide an opportunity to organizations representative of cane growers, mill owners and commercial users of sugar to meet separately or otherwise with representatives of the Corporation to discuss matters affecting the Queensland sugar industry.

(2) For the purposes of this section, the Minister may determine the organizations that generally or in relation to a particular meeting are to be regarded by the Corporation as representative of the cane growers, mill owners or commercial users of sugar.

**2.18 Minister's directions to Corporation.** (1) Subject to subsection (2), the Minister may give written directions to the Corporation concerning the discharge of its functions.

The Corporation is to comply with the directions.

(2) The Minister may only give a direction if—

- (a) the Minister is satisfied that the direction is necessary to ensure that the discharge by the Corporation of its functions does not conflict with major government policies; and
- (b) the Minister has informed the Corporation in writing that a direction is under consideration and given the Corporation an adequate opportunity to discuss with the Minister the need for the direction.

(3) The Minister is to cause a copy of the direction to be laid before the Legislative Assembly within 14 sitting days after giving the direction if the Legislative Assembly is in session, but if not then within 14 sitting days after the commencement of its next session.

(4) This section does not apply with respect to directions the Minister is authorized to give concerning particular matters under another provision of this Act or any other Act.

**2.19 Minister's direction in annual report.** The Corporation is to include in each annual report prepared by it under section 46J of the *Financial Administration and Audit Act 1977-1990*, a report of any direction given to it by the Minister during the financial year for which the report is prepared.

**2.20 Power of delegation.** (1) The Corporation, by instrument in writing, may delegate—

- (a) to the chairperson of the Corporation; or
- (b) to a committee of members of the Corporation; or
- (c) to an officer of the Corporation; or
- (d) to a Local Board;

the discharge of any function conferred upon the Corporation by this Act.

(2) A delegation—

- (a) may be made subject to such terms and limitations as the Corporation thinks fit; and
- (b) may be revoked by the Corporation at any time by instrument in writing; and
- (c) does not prevent the Corporation from continuing to discharge the function delegated.

(3) More than one delegation may be made in relation to a discharge of a function.

(4) If a delegate discharges a function in accordance with the instrument of delegation, the delegate's acts and omissions to act are taken to be those of the Corporation.

(5) This section does not authorize the Corporation to delegate the power conferred upon the Corporation by this section.

**2.21 Guidelines.** (1) The Corporation may make written guidelines—

- (a) with respect to any matter for which provision is made in this Act or any other Act for the operation of the Corporation's guidelines; and
- (b) with respect to any matter relating to the discharge of its functions for which the making of guidelines is necessary or convenient.

(2) A guideline made by the Corporation is not binding on any person except to the extent provision is made in this or any other Act for the application of the guideline.

(3) The Corporation may make guidelines for the purpose of providing standards for contracts relating to the harvesting of sugar cane by mechanical cane harvesters.

**2.22 Certain guidelines to be gazetted and tabled.** (1) Section 28A of the *Acts Interpretation Act 1954-1990* (which requires regulations to be published in the Gazette and laid before the Legislative Assembly as prescribed in the section) applies in relation to the guidelines referred to in subsection (2) as if they were regulations.

(2) The guidelines required to be published in the Gazette and laid before the Legislative Assembly are—

- (a) guidelines regulating the form or provisions of an award in any respect; and
- (b) guidelines stating the matters to which regard will be had by the Corporation in granting an assignment; and
- (c) guidelines stating the form of orders that may be made by Local Boards under Part 9; and
- (d) guidelines stating the methods the Corporation will observe in adjusting mill peaks under section 9.38; and
- (e) guidelines determining the method of calculating raw sugar equivalent for any purpose; and
- (f) guidelines made under section 7.8 (6) setting out the matters the Corporation will take into account in calculating the payments to be made to mill owners for raw sugar delivered to the Corporation; and
- (g) guidelines required by the regulations to be published in the Gazette and laid before the Legislative Assembly.

*Division 3—Sugar cane and sugar cane products examination and testing programmes*

**2.23 Programmes to obtain information.** (1) The Corporation may institute a programme in relation to a sugar cane works with a view to obtaining information concerning—

- (a) sugar cane received; or
- (b) sugar or other products produced;

at the sugar cane works.

(2) To institute a programme, it is necessary for the Corporation to give to the owner of the sugar cane works notice in writing of the programme's provisions.

(3) A programme may be instituted for the purpose of—

- (a) supervising the payment to mill owners, cane growers or other persons of amounts due to them under the scheme for the acquisition of sugar provided for by the Act; or
- (b) ascertaining the amount of any levy or other money payable by the owner of a sugar cane works, cane grower or other person to any body constituted under this Act; or
- (c) for the discharge by the Corporation of any of its functions.

(4) A programme may provide for or with respect to—

- (a) the weighing, examining or testing of sugar cane received at the sugar cane works or the sugar or sugar cane products produced at the sugar cane works for its quantity, quality or any other condition; and
- (b) the appointment by the Corporation or by any other body or person of any person to perform the duty of weighing, examining or testing sugar cane or sugar or sugar cane products under the programme and the qualifications of such a person; and
- (c) the observation and checking of performance of duties by persons referred to in paragraph (b) by other persons appointed under the programme; and
- (d) facilities to be provided and duties to be performed by the owner of the sugar cane works or other persons employed by the owner; and
- (e) directions that may be given by persons authorized under the programme where those directions are reasonably necessary to facilitate the programme; and
- (f) returns to be furnished to the Corporation, or any other body constituted under this Act of information obtained under the programme; and
- (g) monitoring procedures calculated to provide reasonable and regular verification that the provisions of the programme and directions given under the programme are being complied with; and
- (h) matters prescribed by the regulations.

(5) Upon its institution, a programme becomes binding on the persons to whom it applies according to its tenor.

(6) The Corporation, by notice in writing given to the sugar cane works for which a programme is instituted, may vary the provisions of a programme.

(7) A person who fails to comply with the provisions of a programme applying to the person or with directions given pursuant to it commits an offence against this Act.

(8) The regulations may provide for the payment and recovery of costs associated with a programme by the Corporation or by any other person.

**2.24 Request for programme.** (1) A mill suppliers' committee constituted for a mill or the owner of a mill may request the Corporation to institute with respect to the mill a programme under section 2.23.

(2) If the Corporation is satisfied that the request is reasonable, it is to institute the programme as requested.

(3) The costs associated with the operation of the programme instituted at the request of a mill owner or mill suppliers' committee are to be shared equally between the owner of the mill and the mill suppliers' committee constituted for the mill.

(4) Any person incurring costs payable by the owner of a mill or a mill suppliers' committee under subsection (3) may recover the costs by action against the owner or committee by action as for a debt in any court of competent jurisdiction.

(5) This section does not derogate from the power of the Corporation to institute a programme under section 2.23.

*Division 4—Sugar Cane Assignment Register*

**2.25 Sugar Cane Assignment Register.** (1) The Corporation is to maintain a register called the Sugar Cane Assignment Register showing—

- (a) particulars of every assignment including—
  - (i) the names and addresses of persons holding interests in the assignment and the nature of the interest; and
  - (ii) the assignment's area; and
  - (iii) the assignment's presently assigned description; and
  - (iv) the mill to which is assigned the land within the boundaries of the assignment's presently assigned description; and
- (b) particulars of every farm peak, including—
  - (i) the names and addresses of persons holding interests in the farm peak and the nature of the interest; and
  - (ii) the quantity of farm peak; and
  - (iii) the assignment to which the farm peak relates; and
- (c) grants, variations and cancellations of assignments and farm peaks; and
- (d) information prescribed by regulation or determined by the Corporation.

(2) The register is to be kept in such form and manner that the particulars referred to in paragraphs (a) and (b) of subsection (1) may be inspected at the principal office of the Corporation during the ordinary working hours of the office.

(3) Any person may inspect the register upon payment of any fee prescribed by the regulations.

**2.26 Notice of mortgage and other interests.** (1) The mortgagee, lessor or sub-lessor of land assigned to a mill may lodge notice of the mortgage, lease or sublease, in the approved form, with the Corporation upon payment to the Corporation of a fee prescribed by the regulations.

(2) Upon receipt of a notice, the Corporation is to record in the Sugar Cane Assignment Register that the notice has been received and the tenor of the notice.

**2.27 Notice of cessation of interest.** (1) If a person whose interest is recorded in the Sugar Cane Assignment Register under section 2.26 ceases to hold the interest the person is to lodge forthwith notice to that effect with the Corporation.

(2) A person who contravenes subsection (1) commits an offence against this Act.

(3) Upon receipt of a notice, the Corporation is to record in the Sugar Cane Assignment Register that the notice has been received and the tenor of the notice.

**2.28 Entry in register is notice to subsequent dealers in land.** An entry in the Sugar Cane Assignment Register of any particular is sufficient notice of the particular to all persons who subsequently have dealings with respect to an assignment, farm peak or land to which the particular relates.

**2.29 Certificates.** (1) In any proceedings, a certificate purporting to be signed by a person authorized by the Corporation stating any information relating to matters authorized by this Division to be shown on the Sugar Cane Assignment Register is evidence, and in the absence of evidence to the contrary, conclusive evidence, of the matters stated in the certificate.

(2) A certificate referred to in subsection (1) may be issued at any time by the Corporation to any person upon payment to the Corporation of a fee prescribed by the regulations.

**2.30 Register may be maintained as prescribed.** (1) The Governor in Council may make regulations providing for the transfer of the Sugar Cane Assignment Register in whole or in part from the custody of the Corporation to the custody of another body or person.

(2) The power to make the regulations includes power to provide for or with respect to—

- (a) the maintenance of the register in an accurate form and as prescribed; and
- (b) authorizing a body or person to take any action in relation to the register or part of the register in the custody of the body or person in the place of the Corporation; and
- (c) the effectiveness of any action taken by a body or person under paragraph (b), including the effectiveness of any

certificate issued by or on behalf of the body or person in relation to matters appearing on the register.

### PART 3—LOCAL BOARDS

#### *Division 1—Constitution and membership*

**3.1 Establishment of Local Boards.** (1) The Governor in Council, upon the recommendation of the Minister, may constitute Local Boards for the purposes of this Act.

(2) A Local Board may be constituted under this section for one mill or for adjacent mills.

“Adjacent” includes nearby.

**3.2 Objectives of a Local Board.** The principal objectives of a Local Board are—

- (a) to ensure the efficient participation by assignment holders and mill owners within its jurisdiction in the scheme prescribed by this Act for the production, acquisition and marketing of, and payment for, the products of the Queensland sugar industry; and
- (b) to enhance the benefits flowing from the production and milling of sugar cane to the assignment holders and mill owners within its jurisdiction and to the Queensland economy generally.

**3.3 Membership of Local Board.** (1) A Local Board is to consist of 5 members appointed by the Governor in Council, upon the recommendation of the Minister, by notification published in the Gazette, of whom—

- (a) one is to be appointed upon the recommendation of the Minister after consultation with the Corporation; and
  - (b) two are to be appointed upon being nominated by the owner or owners of the mill or mills for which the Local Board is to be constituted; and
  - (c) two are to be appointed upon being nominated by the mill suppliers' committee or committees constituted for the mill or mills referred to in paragraph (b).
- (2) The member referred to in paragraph (a) of subsection (1)—
- (a) is to be appointed as chairperson of the Local Board; and
  - (b) is to be a person whom the Governor in Council upon the recommendation of the Minister is satisfied will act independently in the discharge of the chairperson's functions.
- (3) A member of a Local Board is to be appointed for a term of three years ending on the same date as the term of every other member.
- (4) The Minister may give such directions to the owners of mills and to mill suppliers' committees as are necessary to ensure that the

nominations authorized by paragraphs (b) and (c) of subsection (1) are provided.

The directions may not require the nomination of a person specified by the Minister for appointment as a member of a Local Board.

If a nomination for any office is not provided in accordance with the directions, the Governor in Council may appoint any person to the office.

**3.4 Removal of members.** The Governor in Council may at any time remove a member of a Local Board from office as member.

**3.5 Casual vacancies.** (1) The Governor in Council, upon the recommendation of the Minister, may appoint a person to fill a vacancy occurring in the office of a member of a Local Board during the currency of the member's term.

(2) Provisions of section 3.3 applying in relation to the appointment of the member whose office falls vacant also apply in relation to the appointment of a person to fill the vacancy in the member's office.

(3) A person appointed to fill a vacancy in the office of a member is to hold office from a date specified by the Governor in Council until the expiration of the term of the office for which the member whose office fell vacant was appointed.

**3.6 Deputies of members.** A person who is not a member of a Local Board may be appointed as a deputy of a member—

- (a) in the case of the member who is chairperson—by the Governor in Council, upon the recommendation of the Minister; and
- (b) in the case of a member nominated by a mill owner—by the mill owner; and
- (c) in the case of a member nominated by the mill suppliers' committee—by the committee;

for any meeting or meetings of the Local Board determined by the Governor in Council, mill owner or committee appointing the deputy.

At any meeting so determined, in the absence of the member for whom a deputy has been appointed, the deputy may discharge the functions of the member including, if the member for whom a deputy has been appointed is the chairperson of the Local Board, the functions of chairperson.

**3.7 Remuneration of members.** (1) The chairperson of a Local Board is to be paid by the Corporation such fees and allowances for service as chairperson as the Governor in Council may determine.

(2) A member of a Local Board who is appointed upon the nomination of a mill owner is to be paid by the mill owner such fees and allowances for service as a member as are determined by the mill owner.

(3) A member of a Local Board who is appointed upon the nomination of a mill suppliers' committee is to be paid by the committee such fees and allowances for service as a member as are determined by the committee.

The payment of the fees and allowances is an administrative cost of the committee.

(4) The Crown is not liable to pay to a member of a Local Board fees and allowances for service as a member.

(5) This section applies to a deputy of a member of a Local Board (including its chairperson) as it applies to the member.

*Division 2—Local Board's general functions, powers and duties*

**3.8 Functions of Local Board.** The functions of a Local Board are—

- (a) to make awards; and
- (b) to provide a convenient local forum for mediation or settling of disputes and issues within the Queensland sugar industry; and
- (c) to advise the Corporation concerning any matter relating to the local sugar industry; and
- (d) to take all such action within the powers conferred upon it by this Act as may be necessary to achieve its objectives.

**3.9 General powers of Local Board.** Subject to this Act, a Local Board may do all things necessary or reasonably required to be done in connexion with, or incidental to, the discharge of its functions.

**3.10 Power of chairperson to mediate.** (1) The chairperson of a Local Board may act as mediator in any matter relating to the discharge of the Board's functions if—

- (a) all parties to the matter accept the mediation; and
- (b) the chairperson is satisfied that the mediation is desirable.

(2) The chairperson of a Local Board, subject to the consent of the parties to a mediation being first obtained, may authorize any other person to act in the chairperson's place for a mediation.

(3) A Local Board may fix a reasonable fee for payment by parties to a mediation.

*Division 3—Amalgamation of Local Boards*

**3.11 Application to Minister for amalgamation.** (1) Owners of adjacent mills may make an application to the Minister for the amalgamation of the Local Boards constituted for the mills.

(2) An application pursuant to subsection (1)—

- (a) is to be made by or on behalf of every owner of the mills for which the Local Boards to be amalgamated are constituted; and

(b) is to be in a form approved by the Minister.

The applicants are to provide to the Minister such information concerning the application as the Minister requires.

(3) If the Minister is satisfied—

- (a) that the amalgamation of the Local Boards is desirable in all the circumstances; and
- (b) that the application is likely to be supported generally by assignment holders within the jurisdictions of the Local Boards;

the Minister is to give such directions as are necessary to ascertain the views of the assignment holders by means of a poll.

(4) If the Minister is not satisfied of the matters referred to in paragraphs (a) and (b) of subsection (3), the Minister is to refuse the application by notification in writing given to the applicants.

(5) If not less than 60 per centum of the total number of assignment holders within each jurisdiction of the Local Boards cast votes in the poll in favour of the amalgamation of the Local Boards, the boards are to be amalgamated in accordance with this Act.

**3.12 Poll for amalgamation.** (1) For the purposes of the poll referred to in subsection (3) of section 3.11, the Corporation, in accordance with the Minister's directions, is—

- (a) to compile a list of the names of every person that it believes is entitled to vote in the poll; and
- (b) to make the list available for inspection for at least 21 days by any member of the public for periods of time and at places that the Corporation considers likely to be convenient to persons entitled to vote in the poll.

(2) After considering any objections received by it to the list, the Corporation is—

- (a) to determine the list of persons entitled to vote in the poll; and
- (b) to publish a notification in the Gazette stating the places where and periods of time when the list may be examined for 21 days after the date of the notification.

(3) The notification in the Gazette is taken to be notification to all persons of the Corporation's determination of the list.

(4) A person may not exercise an entitlement to vote in the poll unless the person's name appears in the list determined by the Corporation.

**3.13 Amalgamation.** (1) For the purpose of amalgamating Local Boards (referred to hereinafter as existing Local Boards), the Governor in Council may exercise the powers conferred by Division 1 of this

Part to establish, for all the mills for which those boards were established, one Local Board (hereinafter referred to as the new Local Board).

(2) On and from the date on which the first appointment of the whole number of members of the new Local Board takes effect—

- (a) each of the existing Local Boards ceases to exist and the members cease to hold office; and
- (b) proceedings commenced by or against an existing Local Board or that might have been taken by or against an existing Local Board had it remained in existence may be continued or taken by or against the new Local Board; and
- (c) any reference in any instrument or document to an existing Local Board is taken to be a reference to the new Local Board.

**3.14 Increase in membership for amalgamated Board.** (1) For any term of office of the whole of the members of a Local Board constituted under section 3.13, the Governor in Council may determine that the number of its members to be appointed upon the nomination of the mill owner or mill owners concerned and the mill suppliers' committee or committees concerned is to be greater than 4.

(2) A determination made under subsection (1) is to provide for an equal number of members to be appointed upon the nomination of the mill owner or mill owners concerned and upon the nomination of the mill suppliers' committee or committees concerned.

(3) Except to the extent necessary to take into account the increase in membership, the provisions of Division 1 concerning the appointment of members apply.

*Division 4—Where there is no Local Board*

**3.15 Corporation may act as Local Board.** If there is no Local Board duly constituted under this Act for a mill, the Corporation is taken to be the Local Board for the mill and may discharge all the functions of a Local Board.

**PART 4—SUGAR EXPERIMENT STATIONS BOARD**

*Division 1—Constitution and membership*

**4.1 Preservation of Board.** (1) The body corporate called "The Sugar Experiment Stations Board" established under sections 3A and 3C of the repealed Sugar Experiment Stations Act is hereby preserved, continued in existence and constituted as a body corporate under the name and style of the "Sugar Experiment Stations Board".

(2) Subject to this Act, the Board is capable of—

- (a) suing and being sued; and
- (b) acquiring, holding, dealing with and disposing of real and personal property; and
- (c) doing and suffering all acts and things as bodies corporate may in law do and suffer.

**4.2 Judicial notice of Board's seal.** All courts and persons acting judicially are to take judicial notice of the common seal of the Board and are to presume the common seal affixed to any document to have been duly affixed until the contrary is proved.

**4.3 Objectives of Board.** The principal objectives of the Board are to enhance the productivity of the Queensland sugar industry by—

- (a) increasing the quantity and improving the quality of sugar cane produced by crops grown within the State; and
- (b) improving methods of producing sugar cane products; and
- (c) increasing the number and diversity of sugar cane products.

**4.4 Membership of the Board.** (1) The Board is to consist of 9 members of whom—

- (a) one is to be the Director-General or a person nominated by the Director-General from time to time; and
- (b) one is to be the chief executive officer of the Corporation or a person nominated by the chief executive officer of the Corporation from time to time; and
- (c) one is to be the Director of Sugar Experiment Stations; and
- (d) one is to be a representative of cane growers nominated as prescribed by the regulations; and
- (e) one is to be a representative of sugar mill owners nominated as prescribed by the regulations; and
- (f) 4 are to be persons with special expertise in matters related to the Queensland sugar industry.

(2) Appointed members of the Board are to be appointed by the Governor in Council, upon the recommendation of the Minister, by notification published in the Gazette.

(3) Subject to section 4.6, each appointed member is to be appointed for a term of three years ending on the same date as the term of every other appointed member of the board.

(4) An appointed member of the Board whose term of office has expired is eligible for re-appointment if otherwise qualified.

**4.5 Removal of members.** The Governor in Council at any time may remove an appointed member of the Board from office as such.

**4.6 Casual vacancy.** (1) The Governor in Council, upon the recommendation of the Minister by notification published in the Gazette

may appoint a person to fill a vacancy occurring in the office of an appointed member of the Board during the currency of the member's term.

(2) Provisions of paragraph (d), (e) or (f) of section 4.4 applying in relation to the appointment of an appointed member whose office falls vacant also apply in relation to the appointment of a person to fill the vacancy in the member's office.

(3) A person appointed to fill a vacancy in the office of an appointed member is to hold office from a date specified by the Governor in Council until the expiration of the term of the office for which the member whose office fell vacant was appointed.

**4.7 Chairperson.** (1) The Governor in Council, upon the recommendation of the Minister, may appoint a member of the Board as chairperson of the Board.

(2) The chairperson holds office until—

- (a) the appointment of another member as chairperson; or
- (b) the expiration of the term of the chairperson's appointment as a member, if an appointed member, notwithstanding re-appointment as a member; or
- (c) the chairperson is removed from office as chairperson by the Governor in Council; or
- (d) the office of the chairperson as a member of the Board falls vacant;

whichever event occurs first.

(3) The chairperson of the Board may resign office as chairperson by giving a written resignation to the Minister.

(4) The Governor in Council, upon the recommendation of the Minister, may at any time remove the chairperson from office as such.

**4.8 Deputies of members.** The Governor in Council upon the recommendation of the Minister may appoint a person who is not a member of the Board to be the deputy of a member of the Board for any meeting or meetings determined by the Governor in Council.

At any meeting so determined, in the absence of the member for whom a deputy has been appointed, the deputy may discharge the functions of the member, including, if the member for whom the deputy has been appointed is the chairperson of the Board, the functions of the chairperson.

**4.9 Fees and allowances.** (1) Members of the Board are to be paid by the Board such fees and allowances as the Governor in Council may determine from time to time.

(2) Fees and allowances, other than recoupment of expenses, are not to be paid to an officer of the public service within the meaning of the *Public Service Management and Employment Act 1988-1990* or to

an officer or employee of a body constituted under this Act for attendance at any meeting of the Board held wholly during ordinary office working hours of the officer or employee.

*Division 2—The Board's general functions, powers and duties*

**4.10 Functions of Board.** The functions of the Board are—

- (a) to investigate and evaluate the requirements for research relating to the growing of sugar cane in Queensland; and
- (b) to prevent, control and eradicate pest infestation of sugar cane; and
- (c) to conduct, arrange for, or fund, research concerning any matter related to the production, harvesting, transport or processing of sugar cane or related to the production of sugar cane products; and
- (d) to develop and assist in the development of methods of production, harvesting and processing of sugar cane and of the products of sugar cane; and
- (e) to provide training, advice and information to any person concerning any matter related to the production, harvesting and processing of sugar cane or related to the production of sugar cane products; and
- (f) to manage and maintain the Bureau of Sugar Experiment Stations; and
- (g) to monitor and improve the quality of sugar cane and sugar cane products; and
- (h) to provide a service for the checking and certification of the accuracy of laboratory equipment used in determining the relative quality of sugar for the purposes of payments made under this Act; and
- (i) to preserve and enhance the ability of land to sustain crops of sugar cane; and
- (j) to assist in keeping to a minimum any damage to the environment that may be caused by the activities of the Queensland sugar industry; and
- (k) to assist Productivity Boards in the discharge of their functions; and
- (l) to take all such action within the powers conferred upon it by this Act as may be necessary to achieve its objectives; and
- (m) to discharge such other functions consistent with its objectives as it may be authorized to discharge by the Minister or by the regulations.

**4.11 General powers of Board.** Subject to this Act, the Board may do all things necessary or reasonably required to be done in connexion with, or incidental to, the discharge of its functions.

**4.12 Commercial disposal of research capacity.** The Board may enter contracts, agreements or arrangements with any person on such terms and conditions as it determines for—

- (a) the disposal of the products of its research activities; or
- (b) the provision of its services; or
- (c) the use of its facilities.

**4.13 Board or Director may require information.** (1) In relation to any matter concerning the discharge of the Board's functions referred to in paragraphs (b), (g) and (j) of section 4.10, the Board or the Director, by written notice may require a person—

- (a) to furnish to the Board or the Director any information specified in the notice, within a reasonable period and in a reasonable manner specified in the notice; or
- (b) to attend before the Board or the Director, at a reasonable time and place specified in the notice, and then and there answer questions concerning any matter specified in the notice; or
- (c) to furnish to the Board or to the Director, at a reasonable time and place specified in the notice, any records or copies of records in the person's possession specified in the notice.

A reference to the Board or the Director includes a reference to a person authorized by the Board, or as the case may be, the Director.

(2) The Board, Director or authorized person may require the information or answers to be verified—

- (a) on oath or affirmation; and
- (b) orally or in writing.

For that purpose a member of the Board, the Director or a person authorized by the Board or Director may administer an oath or affirmation.

(3) The oath to be taken or affirmation to be made is an oath or affirmation confirming the truth of the information or answers.

(4) The regulations may prescribe allowances payable by the Board to persons required to attend at any place pursuant to this section.

(5) A person—

- (a) who refuses or fails to answer a question or to furnish any information, records or a copy of records as required of the person under this section; or
- (b) who, in response to a requirement made under this section, provides an answer or furnishes information, records or a copy of records that is or are false or misleading in a material particular,

commits an offence against this Act.

This subsection does not apply in respect of a refusal or failure to answer a question or furnish any information or records required of a person under subsection (1) that would tend to incriminate the person.

**4.14 Committees.** The Board may maintain such committees as the Board thinks fit for the purpose of assisting it in the discharge of its functions.

**4.15 Power of delegation.** (1) The Board, by instrument in writing, may delegate—

- (a) to the chairperson of the Board; or
- (b) to a committee of members of the Board; or
- (c) to the Bureau's Director or a member of the staff of the Bureau; or
- (d) to a Productivity Board;

the discharge of any function conferred upon the Board by this Act.

(2) A delegation—

- (a) may be made subject to such terms and limitations as the Board thinks fit; and
- (b) may be revoked by the Board at any time by instrument in writing; and
- (c) does not prevent the Board from continuing to discharge the function delegated.

(3) More than one delegation may be made in relation to a discharge of a function.

(4) If a delegate discharges a function in accordance with the instrument of delegation, the delegate's acts and omissions to act are taken to be those of the Board.

(5) This section does not authorize the Board to delegate the power conferred upon the Board by this section.

**4.16 Application of various public sector Acts.** The Board is—

- (a) a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982-1990* and the *Financial Administration and Audit Act 1977-1990*; and
- (b) a unit of public administration within the meaning of the *Electoral and Administrative Review Act 1989-1990* and the *Criminal Justice Act 1989-1990*; and
- (c) a unit of the public sector within the meaning of the *Public Sector Management Commission Act 1990*.

#### *Division 3—Organization and funding*

**4.17 Bureau.** For the purposes of discharging its functions, the Board is to maintain an organization called the "Bureau of Sugar Experiment Stations".

**4.18 Director and staff.** (1) The Board—

- (a) is to employ a Director of Sugar Experiment Stations; and
- (b) may appoint, employ or engage such persons as members

of the staff of the Bureau and such consultants, service providers, inspectors and agents as it considers necessary for the discharge of its functions.

(2) The Director is to be the chief executive of the Bureau and, subject to the directions of the Board, to control and manage the Bureau.

(3) The *Public Service Management and Employment Act 1988-1990* does not apply in relation to the appointment or employment or engaging by the Board of staff or other persons under this section except insofar as it authorizes the making of arrangements for the performance of duties of an officer of the public service in any other employment.

**4.19 Sugar Experiment Stations.** (1) The Board may—

- (a) maintain such Sugar Experiment Stations; and
- (b) provide Sugar Experiment Stations maintained by it with such buildings, laboratories, facilities, equipment, property and staff;

as the Board determines are necessary for the discharge of its functions.

(2) A Sugar Experiment Station forms part of the organization of the Bureau.

**4.20 Regulations may levy assessment in relation to sugar cane.** (1) The Governor in Council, by regulations, may levy an assessment in relation to every tonne of sugar cane received at every sugar cane works within Queensland.

(2) The regulations may prescribe—

- (a) the period for which sugar cane received at a sugar cane works is subject to the assessment; and
- (b) the time and manner of payment of the assessment; and
- (c) such matters as may be necessary to enforce the assessment.

(3) The amount of any assessment—

- (a) is to be the same in relation to every tonne of sugar cane to which the assessment applies; and
- (b) is to be no greater than is necessary to fund the discharge by the Board of its functions and to pay or make provision for the costs associated with its continued operation.

(4) Payment of an assessment is to be made to the Board by the owner of the sugar cane works that receives the sugar cane subject to the assessment.

An owner of a sugar cane works who fails to pay an assessment as prescribed commits an offence against this Act.

To the extent that an assessment is not paid, the Board may recover the amount unpaid by action against the owner as for a debt in any court of competent jurisdiction.

(5) An owner of a sugar cane works who makes a payment of an assessment to the Board under subsection (4), is entitled to recover an amount of money equal to half the assessment so paid as a debt from the grower of the sugar cane in relation to which the assessment was made.

For this purpose the owner may deduct this amount from any money due by the owner to the grower for the sugar cane and may recover any unpaid portion of the amount by action against the grower as for a debt in any court of competent jurisdiction.

*Division 4—Control over sugar cane varieties*

**4.21 Approved sugar cane.** (1) The Director, by notification published in the Gazette—

- (a) may approve for growing in an area defined in the notification a variety of sugar cane specified in the notification or cancel the approval of the variety; and
- (b) impose conditions regulating when sugar cane of a variety the subject of a notification under paragraph (a) commences, or ceases, to be approved for growing.

(2) In approving a variety of sugar cane for growing in an area, the Director is to have regard to its—

- (a) agricultural qualities; and
- (b) milling characteristics; and
- (c) resistance to pests; and
- (d) impact upon the environment.

**4.22 Permit to grow sugar cane of non-approved variety.** (1) A person may apply to the Director for a permit authorizing the person to grow sugar cane at a place where and during a period when the variety of sugar cane to which it belongs is not approved for growing pursuant to section 4.21.

(2) An application—

- (a) is to be in a form and to furnish particulars approved by the Board; and
- (b) is to be accompanied by any fee that may be prescribed by the regulations.

(3) The Director or a person authorized by the Director is to consider the application and—

- (a) may grant a permit to the applicant subject to any reasonable conditions; or
- (b) refuse the application by notice in writing given to the applicant stating reasons for the refusal.

**4.23 Offences concerning non-approved sugar cane.** (1) A person who grows non-approved sugar cane commits an offence against this Act.

- (2) A person who is convicted of an offence defined in subsection (1)—
- (a) commits a continuous offence for each day after the day of conviction during which the person grows any part of the sugar cane the subject of the conviction; and
  - (b) is liable to a penalty of 5 penalty units for each day after conviction during which the offence continues; and
  - (c) may be prosecuted from time to time for the continuing offence.
- (3) A person who—
- (a) disposes of non-approved sugar cane to any other person; or
  - (b) delivers non-approved sugar cane to a sugar cane works; or
  - (c) accepts non-approved sugar cane at a sugar cane works;
- or attempts to do so, commits an offence against this Act.

*Division 5—Application of Plant Protection Act 1989*

**4.24 Plant Protection Act.** (1) The *Plant Protection Act 1989* applies in relation to sugar cane as a plant within the meaning of that Act.

(2) For the purpose of applying the *Plant Protection Act 1989* in relation to sugar cane—

- (a) a reference in that Act to the Minister is taken to be a reference to the Minister within the meaning of this Act; and
- (b) a reference in that Act to the Director-General is taken to be a reference to the Director within the meaning of this Act; and
- (c) if, under section 16 of that Act, an inspector takes measures on behalf of a body constituted under this Act, the provisions of sections 17 and 18 of that Act apply as if a reference to the Crown were a reference to the body; and
- (d) if any matter or thing is seized under that Act by an inspector acting on behalf of a body constituted under this Act, sections 25 and 26 of that Act apply as if reference to the Crown were a reference to the body; and
- (e) a reference in section 28 of that Act to the Crown includes a reference to a body constituted under this Act; and
- (f) non-approved sugar cane is taken to be a pest.

**PART 5—CANE PROTECTION AND PRODUCTIVITY BOARDS**

*Division 1—Constitution and membership*

**5.1 Productivity areas.** The Minister, on the recommendation of the Sugar Experiment Stations Board, by notification published in the Gazette, may—

- (a) declare an area or more than one area within the State where sugar cane is grown, to be a sugar cane productivity area; or

- (b) vary the boundaries of a productivity area; or
- (c) abolish a productivity area.

**5.2 Constitution of Productivity Boards.** (1) The Minister, on the recommendation of the Sugar Experiment Stations Board, by notification published in the Gazette, may constitute for a productivity area a Cane Protection and Productivity Board.

(2) A Productivity Board—

- (a) is constituted on and from the day on which the first appointment of the whole number of its members takes effect; and
- (b) is a body corporate having perpetual succession and a common seal; and
- (c) is—
  - (i) capable of suing and being sued; and
  - (ii) acquiring, holding and disposing of property both real and personal; and
  - (iii) doing and suffering all such acts and things as bodies corporate may in law do and suffer.

**5.3 Judicial notice of a Productivity Board's seal.** All courts and persons acting judicially are to take judicial notice of the common seal of a Productivity Board and are to presume the common seal affixed to any document to have been duly affixed until the contrary is proved.

**5.4 Objective of a Productivity Board.** The principal objective of a Productivity Board is to enhance the productivity of the sugar industry by increasing the quantity and improving the quality of sugar cane produced by crops grown in its area.

**5.5 Membership of a Productivity Board.** (1) Subject to the provisions of subsection (2), a Productivity Board is to consist of 6 members of whom—

- (a) three are to be representatives of cane growers elected by the cane growers of the area for which the Productivity Board is constituted in a poll conducted in accordance with the Sugar Experiment Stations Board's directions; and
- (b) two are to be representatives of mill owners nominated in accordance with directions of the Sugar Experiment Stations Board by the owners of the mills of the area for which the Productivity Board is constituted; and
- (c) one is to be an officer of the Bureau of Sugar Experiment Stations nominated by the Sugar Experiment Stations Board.

(2) If, upon petition by cane growers and mill owners, the Minister is satisfied that at least a majority of the cane growers and a majority of the owners of the mills of a productivity area wish to—

- (a) vary the number of representatives of cane growers or mill owners who are members of the Productivity Board constituted for that area; or

- (b) vary the representation of organizations on the Productivity Board constituted for that area so as to include representatives of an organization nominated in the petition;

the Minister is to vary in writing the membership accordingly.

(3) Appointed members of a Productivity Board are to be appointed by the Minister in writing.

(4) Subject to section 5.6, each appointed member is to be appointed for a period of 3 years ending on the same date as the terms of every other appointed member of the Productivity Board.

(5) The member of the Productivity Board referred to in paragraph (c) of subsection (1) may be nominated from time to time.

(6) A variation in the membership of a Productivity Board under subsection (2) is to take effect from the commencement of the next 3 year term of membership following the variation.

(7) An appointed member whose term has expired is eligible for re-appointment.

(8) If a cane growers' representative is not able to be elected for appointment as a member of the Productivity Board because insufficient nominations are received for the poll referred to in paragraph (a) of subsection (1), the Minister may appoint any person to be the representative of cane growers.

(9) If mill owners fail to nominate any representative for appointment to a Productivity Board in accordance with directions of the Sugar Experiment Stations Board, the Minister may appoint any person to be the representative of the mill owners on the Productivity Board.

(10) The members of a Productivity Board may from time to time elect one of their number as chairperson.

**5.6 Casual vacancies.** (1) The Minister may appoint, as prescribed by the regulations, a person to fill a vacancy occurring in the office of an appointed member of a Productivity Board during the currency of the appointed member's term.

(2) A person appointed to fill a vacancy in the office of an appointed member is to hold office from the date specified by the Minister until the expiration of the term of the office for which the member whose office fell vacant was appointed.

**5.7 Fees and allowances of members.** (1) A member of a Productivity Board is to be paid by the Productivity Board such fees and allowances for service as the Governor in Council may determine.

(2) Fees and allowances, other than recoupment of expenses, are not to be paid to an officer of the Bureau for attendance at any meeting of a Productivity Board held wholly during the ordinary working hours of the officer.

**5.8 Polls for election of cane growers' representative.** (1) For the purposes of the poll referred to in paragraph (a) of section 5.5 (1), the Sugar Experiment Stations Board, in accordance with the Minister's direction, is—

- (a) to compile a list of the names of every person who it believes is entitled to vote in the poll; and
- (b) to make the list available for inspection for at least 21 days by any member of the public for periods of time and at places that the Sugar Experiment Stations Board considers likely to be reasonably convenient to persons entitled to vote in the poll.

(2) After considering any objections received by it to the list, the Sugar Experiment Stations Board is—

- (a) to determine the list of persons entitled to vote in the poll; and
- (b) to publish a notification in the Gazette stating the places where and periods of time when the list may be examined for 21 days after the date of notification.

(3) The notification is taken to be notice, on the date of its publication, to all persons of the Board's determination of the list.

(4) A person may not exercise an entitlement to vote in the poll unless the person's name appears in the list determined by the Sugar Experiment Stations Board.

*Division 2—Productivity Board's functions, powers and duties*

**5.9 Functions of Productivity Boards.** The functions of a Productivity Board are—

- (a) to take all necessary steps to prevent, control and eradicate pest infestation of sugar cane grown within its area or any other matter or thing that adversely affects the quantity or quality of crops of sugar cane within its area; and
- (b) to assist and co-operate with the Sugar Experiment Stations Board in research concerning any matter related to the production, harvesting, transport and processing of sugar cane or related to the production of sugar cane products; and
- (c) to provide such advice and assistance as it thinks fit to cane growers within its area concerning any matter related to—
  - (i) the production and harvesting of sugar cane; or
  - (ii) the prevention, control and eradication of pest infestation of sugar cane or any other matter or thing that adversely affects the quantity or quality of crops of sugar cane; or
  - (iii) the business of sugar cane farming; and
- (d) to provide advice and information concerning the

preservation and enhancement of the capacity of land to sustain crops of sugar cane; and

- (e) to assist in keeping to a minimum any damage to the environment that may be caused by activities of the sugar industry within its area; and
- (f) to discharge such functions consistent with its objectives as may be delegated to the Productivity Board to discharge under this Act; and
- (g) to take all such action within the powers conferred upon it by this Act as may be necessary to achieve its objectives.

**5.10 General powers of Productivity Boards.** (1) Subject to this Act, a Productivity Board may do all things necessary or reasonably required to be done in connexion with, or incidental to, the discharge of its functions.

(2) Without limiting the generality of subsection (1), a Productivity Board, in relation to the prevention, control or eradication of the pest infestation of sugar cane crops within its area or any other matter or thing adversely affecting the quantity or quality of sugar cane produced within its area may provide to cane growers—

- (a) baits, chemicals or other materials or equipment; or
- (b) services; or
- (c) subsidies for the provision of baits, chemicals, materials, equipment or services; or
- (d) compensation for any actions taken by or on behalf of the Productivity Board.

**5.11 Power to engage assistance.** (1) A Productivity Board may appoint, employ or engage such persons as members of the staff of the Productivity Board and such consultants, service providers and agents as it considers necessary for the discharge of its functions.

(2) The *Public Service Management and Employment Act 1988-1990* does not apply in relation to the appointment or employment or engaging of persons under this section except insofar as it authorizes the making of arrangements for the performance of duties of an officer of the public service in any other employment.

**5.12 Trade in local requirements.** (1) A Productivity Board, within the area for which it is constituted, may trade in agricultural requirements or carry on any business for the purpose of discharging its functions.

(2) The charges of a Productivity Board for providing any service, matter or thing in the course of carrying on the trade or business referred to in subsection (1) are to be reasonably related to the expenses incurred or to be incurred by it in carrying on trade and business under that subsection.

**5.13 Application of various public sector Acts.** A Productivity Board is—

- (a) a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982-1990* and the *Financial Administration and Audit Act 1977-1990*; and
- (b) a unit of public administration within the meaning of the *Criminal Justice Act 1989-1990* and the *Electoral and Administrative Review Act 1989-1990*; and
- (c) a unit of the public sector within the meaning of the *Public Sector Management Commission Act 1990*.

**5.14 Regulations may levy assessment in relation to sugar cane.** (1) The Governor in Council, by regulations, may levy an assessment in relation to every tonne of sugar cane received at every sugar cane works within the area of a Productivity Board.

- (2) The regulations may prescribe—
  - (a) the period for which sugar cane received at a sugar cane works is subject to the assessment; and
  - (b) the time and manner of payment of the assessment; and
  - (c) such matters as may be necessary to enforce the assessment.
- (3) The amount of any assessment—
  - (a) is to be the same in relation to every tonne of sugar cane to which the assessment applies; and
  - (b) is to be no greater than is necessary to fund the discharge by the Productivity Board of its functions and to pay or make provision for the costs associated with its continued operation.

(4) Payment of an assessment is to be made to the Productivity Board by the owner of the sugar cane works that receives the sugar cane subject to the assessment.

A person who fails to pay an assessment as prescribed by this section commits an offence against this Act.

To the extent that an assessment is not paid, the Productivity Board may recover the amount unpaid by action against the owner as for a debt in any court of competent jurisdiction.

(5) An owner of a sugar cane works who makes a payment of an assessment to the Productivity Board pursuant to subsection (4), is entitled to recover an amount of money equal to half the assessment so paid as a debt from the grower of the sugar cane in relation to which the assessment was made.

For this purpose the owner may deduct this amount from any money due by the owner to the grower for the sugar cane and may recover any unpaid portion of the amount in action against the grower as for a debt in any court of competent jurisdiction.

*Division 3—Dissolution of Productivity Boards*

**5.15 Dissolution.** The Minister, on the recommendation of the Sugar Experiment Stations Board, may by notification published in the Gazette dissolve a Productivity Board on a date defined in the notification.

**5.16 Sugar Experiment Stations Board to take place of dissolved Productivity Board.** (1) On the date when a Productivity Board is dissolved—

- (a) all assets and rights vested in the Productivity Board immediately before that date divest from the Productivity Board and vest in the Sugar Experiment Stations Board; and
- (b) all liabilities and obligations attached to the Productivity Board immediately before that date cease to be the liabilities and obligations of the Productivity Board and become and are the liabilities and obligations of the Sugar Experiment Stations Board.

(2) Any proceedings that, but for the dissolution of the Productivity Board, might have been continued or taken by or against the Productivity Board, on and from the date it is dissolved, may be continued or taken by or against the Sugar Experiment Stations Board.

(3) All matters commenced by a Productivity Board before the date on which it is dissolved may be completed by the Sugar Experiment Stations Board after that date.

(4) Any reference to a Productivity Board dissolved under section 5.15 in any Act, agreement, contract or other instrument or document subsisting immediately before the date on which it is dissolved, on and from that date has effect as if it were a reference to the Sugar Experiment Stations Board.

**5.17 Change to registers.** The Registrar of Titles, the Registrar of Dealings and all other persons charged with keeping any register with respect to dealings with property, upon request made by the Sugar Experiment Stations Board, are to make in the register all endorsements necessary to record the vesting of property in the Sugar Experiment Stations Board under section 5.16.

## PART 6—GENERAL PROVISIONS RELATING TO SUGAR INDUSTRY BODIES

**6.1 Interpretation.** In this Part—

“body” means—

- (a) the Corporation; or
- (b) a Local Board; or
- (c) the Sugar Experiment Stations Board; or

- (d) a Productivity Board;
- “prescribed authority” means—
- (a) in relation to the Corporation, a Local Board or the Sugar Experiment Stations Board—the Governor in Council; and
- (b) in relation to a Productivity Board—the Minister.

**6.2 Disqualifications for appointment.** A person who—

- (a) has attained the age of 70 years, unless the prescribed authority determines otherwise in relation to a particular appointed member; or
- (b) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankrupt or insolvent debtors; or
- (c) is convicted in Queensland of an indictable offence (whether on indictment or summarily) or is convicted elsewhere in respect of an act or omission that, if it occurred in Queensland would constitute an indictable offence; or
- (d) is a patient within the meaning of the *Mental Health Services Act 1974-1990*; or
- (e) commits an offence against this Act;

is not qualified to be or to continue as an appointed member of a body.

**6.3 Vacation of office.** (1) The office of an appointed member of a body becomes vacant if the appointed member—

- (a) dies; or
- (b) resigns office by giving a written resignation to the Minister; or
- (c) is absent without prior leave granted by the body from three consecutive meetings of the body of which due notice has been given; or
- (d) ceases to be qualified to continue as an appointed member; or
- (e) is removed from office as prescribed.
- (2) For the purposes of paragraph (c) of subsection (1)—
- (a) the non-attendance of an appointed member at the time and place appointed for the meeting does not constitute absence from the meeting unless a meeting of the body at which a quorum is present is actually held on that day; and
- (b) the attendance of a member at the time and place appointed for a meeting is taken to constitute presence at a meeting notwithstanding that, by reason of the lack of quorum, a meeting is not actually held on that day.

**6.4 Convening of meetings.** A body is to meet as often as is necessary for the discharge of its functions as determined by the chairperson, or

in the chairperson's absence, by a person appointed as the chairperson's deputy.

**6.5 Quorum.** (1) Subject to subsection (2), a quorum at any meeting of a body is to consist of a majority of the number of members for the time being constituting the body.

(2) In the case of a Local Board, the quorum is to include at least—

(a) one member referred to in paragraph (b) of section 3.3 (1); and

(b) one member referred to in paragraph (c) of section 3.3 (1).

**6.6 Presiding member.** The chairperson, or in the absence of the chairperson and any deputy of the chairperson, a member elected by members present at a meeting, is to preside at any meeting of the body.

**6.7 Voting.** (1) At any meeting of the body, all questions are to be decided by a majority of votes of the members present.

(2) If a member abstains from voting, the member is taken to vote for the negative.

(3) The member presiding at a meeting is to have a vote, and in the event of an equality of votes, a second or casting vote.

**6.8 Meetings of dispersed members.** (1) Notwithstanding any provision of this Act, the chairperson may refer any question requiring consideration by a body to all the members of the body in writing and a decision made by the members in writing is taken to be a decision of the body at a duly constituted meeting of the body.

(2) For the purposes of subsection (1)—

(a) a reference by telegram, telex, facsimile, or similar transmission to members is sufficient reference in writing; and

(b) a reply by telegram, telex, facsimile or similar transmission to a reference is a sufficient decision in writing.

**6.9 General procedure at meetings.** Subject to the provisions of this Act, procedure at meetings of a body is to be determined by the body.

**6.10 Disclosure of interest.** (1) A member of a body who has a direct or indirect pecuniary interest in a matter being considered by the body, as soon as possible after the relevant facts have come to the member's knowledge, is to disclose the nature of the interest at a meeting of the body.

(2) A disclosure under subsection (1) is to be recorded in the minutes of the meeting of the body and the member, unless the Minister or the body otherwise determines—

(a) is not to be present during any deliberation of the body with respect to that matter; and

(b) is not to take any part in any decision of the body with respect to that matter.

(3) For the purposes of the making of a determination by the body under subsection (2) in relation to a member who has made a disclosure under subsection (1), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates—

- (a) is not to be present during any deliberation of the body for the purposes of making the determination; and
- (b) is not to take part in the making by the body of the determination.

(4) A person who contravenes this section commits an offence against this Act.

Penalty: 100 penalty units.

**6.11 Prohibition on political activity.** A body is not—

- (a) to use any of its funds for any purpose in connexion with the politics of any political party or any candidate for political office; or
- (b) to become affiliated in any way with any body, association or organization that has as its object or any of its objects the support of the politics, programme or aims of any political party.

**6.12 Removal of members.** (1) If at any time the prescribed authority of a body is satisfied that the body has contravened section 6.11, the prescribed authority, without any further proceedings being required, may remove all or any of the members of the body from office by notice in writing to any member so removed.

(2) The provisions of this Act authorizing the appointment of a person to be a member of a body upon the occurrence of a vacancy in the office of a member during the currency of the term of that office apply in relation to a vacancy occurring by reason of a removal of a member from office under subsection (1).

## PART 7—ACQUISITION OF SUGAR

### *Division 1—Acquisition and delivery*

**7.1 Interpretation.** In this Part—

“raw sugar equivalent” means the amount of raw sugar that, in accordance with approved calculations, is to be treated as the equivalent of any sugar vested in the Corporation;

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

at mills in Queensland after the commencement of section 7.2 with the exception of—

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

**7.2 Vesting of sugar in Corporation.** (1) Subject to section 7.4, all sugar upon manufacture becomes and is the absolute property of the Corporation free from all mortgages, charges, liens, pledges and trusts.

(2) Property divested from any person because of this section is changed to a right to receive payments in accordance with this Act.

(3) To the extent that a contract, agreement, security or other document, whether made before or after this Act, is contrary to this section, it is of no effect.

**7.3 Delivery to and acceptance by Corporation of sugar.** (1) All sugar vested in the Corporation pursuant to section 7.2 is to be delivered to the Corporation in accordance with this section.

(2) The Corporation may make such determinations and authorize its employees, its agents and other bodies and persons to give such directions as it thinks fit concerning—

- (a) the manner in which sugar vested in it is to be kept prior to delivery to the Corporation; or
- (b) the delivery to the Corporation of sugar vested in it including—
  - (i) the times, places and method of delivery; or
  - (ii) delivery to places or persons that will be treated as delivery to the Corporation; or
  - (iii) any action that will be treated as delivery to the Corporation; or
- (c) the payment by the manufacturer of sugar of costs associated with its delivery to the Corporation; or
- (d) the conditions upon which the Corporation will accept sugar vested in it under this Part; or
- (e) information to be furnished to the Corporation by any person concerned in the delivery to and acceptance by the Corporation of sugar under this Part, and the form and manner in which the information is to be furnished; or
- (f) any other matter for which determinations or directions are necessary to facilitate the discharge by the Corporation of its functions in relation to sugar vested in it.

(3) A person who fails to comply with a direction given under this section commits an offence against this Act.

(4) Without prejudice to any proceedings for an offence under this Act relating to the failure in question, a person who fails to comply

with a direction given under this section is liable to pay to the Corporation the amount of any loss or damage suffered by the Corporation as a consequence of the failure.

The amount may be recovered by the Corporation by action as for a debt in any court of competent jurisdiction.

**7.4 Exemption of approved amount.** (1) Notwithstanding section 7.2, an owner of a mill may retain for local consumption and not deliver to the Corporation a quantity of sugar manufactured at the mill.

(2) The quantity is not to exceed a proportion in no case more than one per centum, determined by the Minister in writing on the recommendation of the Corporation, of the aggregate quantity of the sugar vested in the Corporation by section 7.2.

(3) The sugar so retained is taken to be an exemption from the sugar vested in the Corporation by section 7.2.

(4) The Corporation by notice in writing given to the owner of a mill may impose conditions upon the exemption provided for by subsection (1) including—

- (a) the period for which the exempted quantity is to be calculated; or
- (b) the method of calculating the aggregate quantity of sugar vested in the Corporation during the period for which the exempted quantity is to be calculated; or
- (c) the price for which the exempted quantity may be sold.

(5) The owner of a mill may only sell sugar exempted from delivery to the Corporation by this section—

- (a) to assignment holders and to workers connected with the mill; and
- (b) in quantities not less than a single bag of 30 kilograms at any one time; and
- (c) subject to and in accordance with conditions imposed by the Corporation under subsection (4).

(6) An owner of a mill who sells sugar under this section is to keep a record of each sale noting particulars of the quantity of each sale and the name of the purchaser.

The record is to be kept at the sugar mill in such form and manner that it may be inspected at any time upon reasonable request being made to the owner of the mill by a person authorized to do so by the Corporation.

(7) An owner of a mill who contravenes subsection (5) or (6) commits an offence against this Act.

**7.5 Directions on brand of raw sugar.** (1) The Corporation, for the purpose of facilitating the marketing of sugar vested in it by section 7.2, may give directions in writing to the owner of a mill in relation

to raw sugar produced at the mill requiring the owner to produce a particular brand of raw sugar specified in the directions.

(2) The owner of the mill is to comply with the directions.

(3) If an owner of a mill fails to comply with the directions, the owner is liable to pay to the Corporation the amount of any loss or damage suffered by the Corporation consequent upon the failure to comply with the directions.

The amount may be recovered by the Corporation by action as for a debt in any court of competent jurisdiction.

*Division 2—Payment for sugar*

**7.6 Pools of sugar for which payment is to be calculated and made.**

(1) Payment for sugar vested in the Corporation is to be calculated and made by reference to sugar that is—

(a) the product of sugar cane harvested in each crushing season; and

(b) manufactured in the year of harvest and the next following year;

considered in pools called “No. 1 Sugar Pool”, “No. 2 Sugar Pool” and “penalty sugar”.

(2) Of the raw sugar equivalent of sugar that each sugar mill owner delivers to the Corporation—

(a) included in No. 1 Sugar Pool is—

(i) the raw sugar equivalent of sugar produced from sugar cane grown on adjusted areas of all assignments the lands of which are assigned to the mill, within the mill peak of the mill; and

(ii) the raw sugar equivalent of sugar produced from sugar cane delivered to the mill by the Director; and

(b) included in No. 2 Sugar Pool is the raw sugar equivalent of sugar produced from sugar cane grown on adjusted areas of all assignments the lands of which are assigned to the mill, less the mill peak of the sugar mill; and

(c) included in penalty sugar is the raw sugar equivalent of all other sugar delivered to the Corporation.

(3) If, by arrangement between the owners of mills or of the owner of mills, sugar is manufactured at a mill from sugar cane grown on land assigned to another mill, that sugar for the purposes of this section is taken to be manufactured at the mill to which is assigned the land on which the sugar cane was grown.

**7.7 Corporation’s operating costs.** (1) From out of the proceeds received by it from the sale of sugar vested in it by section 7.2, the Corporation is to make provision for—

(a) all costs of the sale of the sugar; and

(b) all costs of the Corporation in the discharge of its functions; and

(c) payments to accounts established under subsection (2).

(2) The Corporation may maintain such reserve accounts as may be necessary to fund its operation in accordance with accounting principles generally applied in commercial practice.

**7.8 Calculation of price payable to owners of sugar mills.** (1) Whenever the Corporation considers sufficient information is available for the purpose, the Corporation is to calculate the net values per tonne of No. 1 Sugar Pool sugar and No. 2 Sugar Pool sugar.

(2) In calculating the net value per tonne of sugar in No. 1 Sugar Pool and No. 2 Sugar Pool the Corporation is to have regard to—

- (a) the net proceeds from sales of sugar in the pools; and
- (b) all relevant circumstances then affecting and likely to affect the amount of the net proceeds referred to in paragraph (a); and
- (c) in relation to sugar unsold or reserved for stocks, special purposes or later sale—all known factors and possible markets and risks.

(3) The net value per tonne of sugar included in No.1 Sugar Pool calculated by the Corporation in relation to each crushing season from and including the crushing season for 1991 to and including the crushing season for 1996 is to be 12 per centum greater than the net value per tonne of sugar included in No.2 Sugar Pool calculated by the Corporation in relation to each of those crushing seasons.

(4) The net value per tonne of sugar included in No.1 Sugar Pool calculated by the Corporation in relation to each crushing season after the crushing season for 1996 is to bear to the net value per tonne of sugar included in No.2 Sugar Pool calculated by the Corporation in relation to each of those seasons a relativity that is prescribed by the regulations.

(5) After the Corporation has estimated the net values of No.1 Sugar Pool sugar and No.2 Sugar Pool sugar, it is to calculate the payments due to each mill owner by applying guidelines made by it under subsection (6).

(6) The Corporation is to make guidelines in writing setting out matters, limited to—

- (a) the weight of raw sugar delivered by a mill owner to the Corporation; and
- (b) the quality of raw sugar delivered by a mill owner to the Corporation; and
- (c) the costs incurred by a mill owner in complying with directions under section 7.5; and
- (d) other relevant matters affecting the proceeds of sale by the Corporation of raw sugar delivered by a mill owner to the Corporation;

that the Corporation will take into account in calculating the payments due to a mill owner for raw sugar delivered to the Corporation.

(7) The regulations may fix the payments to be made for sugar included in penalty sugar.

**7.9 Payments to sugar mill owners.** (1) The Corporation is to pay to the owners of mills the net value of sugar manufactured by them and vested in the Corporation and calculated under section 7.8 by means of progressive payments made—

- (a) of amounts; and
- (b) at times;

determined by the Corporation subject to this Act.

(2) The Minister may give directions to the Corporation affecting its determinations under this section.

**7.10 Duty of Corporation to report on differential net value of pools.**

(1) It is the duty of the Corporation, within 5 years of the date of the commencement of this section—

- (a) to review the history of the development of the rules relating to the calculation of the differential net values per tonne of sugar included in No.1 Sugar Pool and No.2 Sugar Pool; and
- (b) to assess the current rules and investigate alternative rules for consideration; and
- (c) to furnish a report to the Minister in relation to those matters.

(2) The Minister may give directions to the Corporation concerning the manner in which it is to perform the duty imposed by subsection (1) including directions—

- (a) to obtain the services of independent consultants; and
- (b) to consult with particular organizations.

**7.11 Mill peak.** (1) The mill peak of a mill is the amount of sugar, expressed as raw sugar equivalent, manufactured by the mill owner from sugar cane harvested in any crushing season from lands assigned to the mill and delivered to the mill under this Act for which the mill owner is entitled to be paid from out of the proceeds of the sale of No. 1 Sugar Pool sugar.

(2) The mill peak of each mill—

- (a) at the date of the commencement of this section is the mill peak listed opposite the mill in the Schedule published at page 1072 of the Gazette on 2 March 1991 under the repealed Regulation of Sugar Cane Prices Act; and
- (b) after that date is that mill peak as adjusted from time to time under this Act.

(3) No other sugar mill has mill peak allocated to it.

## PART 8—AWARDS

*Division 1—Awards generally*

**8.1 Making of awards.** (1) Before a date determined in writing by the Corporation in each calendar year, a Local Board is to make an award in accordance with this Act—

- (a) for the crushing season commencing in that year; and
- (b) for the mill for which it is constituted and the lands assigned to the mill.

(2) If a Local Board is constituted for more than one mill it may make one award or more than one award for the mills but not so that any mill has more than one award made for it.

(3) The award is to be signed by the chairperson and lodged for registration with the Corporation on or before the date determined by the Corporation under subsection (1).

(4) When an award is registered with the Corporation, the Corporation is to arrange for the award to be published in the Gazette.

(5) Upon being published in the Gazette, an award made for a mill—

- (a) is to be judicially noticed; and
- (b) subject to Division 2, on and from a date specified in the award, is binding upon—
  - (i) the owner of the mill; and
  - (ii) the assignment holders growing sugar cane upon the lands assigned to the mill; and
  - (iii) any mortgagee, licensee, transferee and any other person having any title to or interest in the mill or lands or the sugar cane on the lands.

(6) A Local Board may vary an award if it considers a variation is necessary to take into account a change in circumstances since the award was made.

The provisions of this section (other than the provision requiring the Local Board to make an award before a date determined by the Corporation) apply to the variation.

The variation may be expressed to take effect retrospectively so as to apply to a part of a crushing season occurring before the Local Board makes the order varying the award.

**8.2 Matters to which award extends.** (1) An award made for a mill is to provide for—

- (a) all matters relating to the harvesting and delivery to the mill by assignment holders of sugar cane grown on lands assigned to the mill; and
- (b) all matters relating to the transport, handling and crushing of the sugar cane by the mill owner; and

- (c) all matters relating to the payment for the sugar cane by the mill owner.

(2) In respect of the matters referred to in subsection (1), an award may provide for penalty payments in terms of money or in terms referable to money, by the mill owner to an assignment holder or by an assignment holder to the mill owner for a breach of the conditions laid down in the award.

Such a provision does not prejudice proceedings for an offence against this Act constituted by the breach of the conditions of the award.

**8.3 Matters relevant to making of award.** A Local Board, in making an award for a mill may take into consideration all or any of the following matters—

- (a) the estimated quantity of sugar cane to be treated at the mill; and
- (b) the estimated commercial cane sugar content of the sugar cane; and
- (c) the cost of production of sugar cane and the cost of manufacture of sugar; and
- (d) the crushing capacity of the mill; and
- (e) the selling price of raw sugar and refined sugar; and
- (f) any local conditions; and
- (g) any prescribed matters; and
- (h) any matters deducible from any or all of these matters.

**8.4 Award to determine crushing times.** An award made for a mill—

- (a) is to fix a date on and after which the owner of the mill is to take delivery of and crush sugar cane; and
- (b) is to provide for the termination of crushing operations by the mill, including at the discretion of the owner of the mill in the event that the supply of sugar cane to the mill falls below a rate specified in the award.

**8.5 Award to regulate price of and payment for sugar cane to assignment holders.** (1) An award made for a mill is to specify—

- (a) a base price to be paid for sugar cane; or
- (b) base prices to be paid for sugar cane of different qualities; accepted by the mill owner according to the content of commercial cane sugar or on such other basis or bases as the Local Board making the award may specify.

(2) An award made for a mill may provide for a relative scheme of payment, that is to say—

- (a) for payment for sugar cane of the average quality of sugar cane accepted by the mill owner during any week or other specified period of time at a price equal to that payable for

sugar cane of the average quality of all sugar cane accepted by the mill owner during the crushing season in question; and

- (b) for the determination of the price to be paid to each assignment holder for the holder's sugar cane accepted by the mill owner during any week or specified period of time according to the relation the quality of that sugar cane bears to the quality of all sugar cane accepted by the mill owner during that week or, as the case may be, other specified period of time.

(3) The base price or base prices for sugar cane specified in the award are to be associated with an estimated selling price of sugar stated in the award.

Provision may be made in the award for the actual price or prices for sugar cane to vary from the base price or base prices as the actual selling price of sugar varies from the estimated price.

(4) An award is to provide a basis for determining the price payable for sugar cane that is the same for every assignment holder bound by the award.

(5) An award is to determine an interim minimum price or interim minimum prices for sugar cane.

The interim minimum price or interim minimum prices are not to exceed 80 per centum of the base price or base prices, as the case may be, unless a higher interim minimum price or interim minimum prices are authorized under the Corporation's guidelines.

(6) Except as hereinafter provided, every award is taken to provide—

- (a) that, except where the mill is in the possession of an Administrator under this Act, the mill owner is to pay to each assignment holder, in respect of the holder's sugar cane accepted in each month of the season, a sum equal to the interim minimum price for the sugar cane under the award; and
- (b) unless the award provides for payment within a lesser period of time—that the payment is to be made within 30 days after the end of the month to which it applies; and
- (c) that if the mill owner fails to make the payment within the specified time, the mill owner commits a breach of the award.

This subsection does not affect a provision in an award prescribing payments for sugar cane at more frequent intervals.

(7) Deductions from the base price payable for sugar cane may be provided for in the award in respect of—

- (a) burnt, frosted, dried-up, diseased, pest infested, decayed, badly topped, trashy, or dirty sugar cane; or

- (b) sugar cane of a variety certified by the Director to have a material milling disability; or
- (c) overloading of trucks; or
- (d) matters prescribed by the regulations.

(8) Notwithstanding the provisions of subsection (7), an award may provide that if the quality or condition of sugar cane does not comply with standards specified in the award, the mill owner may refuse, or may defer acceptance of, the sugar cane.

**8.6 Award to be displayed.** (1) Every owner of a mill is to display a legible copy of every award in force with respect to the mill in some conspicuous place in or near the main office of the mill.

(2) All assignment holders whose lands are assigned to the mill are to have free access, at all reasonable times, to the copy of the award.

(3) A mill owner who fails to comply with this section commits an offence against this Act.

**8.7 Guidelines concerning awards.** The Corporation may make guidelines regulating the form of an award in any respect.

The guidelines are binding on Local Boards.

*Division 2—Applications to Tribunal concerning awards*

**8.8 Corporation may apply to Tribunal on award failure.** (1) If a Local Board in any calendar year—

- (a) fails to make an award before the date determined by the Corporation under section 8.1 for the making of the award; or
- (b) makes or purportedly makes an award that does not comply with this Act;

the Corporation may make an application to the Tribunal for an order under this section.

(2) Notice of the application is to be given by the Corporation to—

- (a) the owner of the mill to which the award relates; and
- (b) the mill suppliers' committee constituted for the mill to which the award relates.

The owner and the committee are entitled to be heard by the Tribunal upon the application.

(3) If upon hearing the application the Tribunal is satisfied of the matters referred to in paragraph (a) or (b) of subsection (1) it may make one or more of the following orders—

- (a) an order cancelling or varying an award that was made or purportedly made; or
- (b) an order remitting any award that was made or purportedly made to the Local Board; or

- (c) an order directing the Local Board to take action specified by the order to remedy a failure to comply with this Act; or
- (d) an order directing the Corporation to make an award in place of the Local Board and to discharge the functions of the Local Board as specified by the order.

(4) Upon application by the Corporation, the Tribunal may make such further orders from time to time for the purposes of this section as it thinks fit.

(5) A Local Board is to comply with any order made by the Tribunal under this section.

(6) If the Tribunal orders the Corporation to make an award in place of a Local Board and to discharge functions of the Local Board, the Corporation is authorized and required to do all things necessary to comply with the order.

(7) An award made or varied under this section may be so made or varied to take effect retrospectively so as to apply to a part of a crushing season occurring before the order making or varying the award is made.

**8.9 Application for review of award.** (1) An application may be made to the Tribunal for a review of any provision of an award by—

- (a) any mill owner; or
  - (b) a mill suppliers' committee constituted with respect to the mill to which the award relates; or
  - (c) the holders of 20 or more assignments the lands of which are assigned to the mill to which the award relates.
- (2) An application is to 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 order varying the award is made; or
  - (c) by such date later than that referred to in paragraph (a) or (b) as the Tribunal may at any time approve.

(3) The Tribunal in the exercise of the jurisdiction conferred on it by Part 12 may order a variation of an award determined by it to take effect retrospectively so as to apply to a part of a crushing season occurring before the order is made.

#### *Division 3—Breaches of award*

**8.10 Proceedings for offence against award.** (1) A person who contravenes an award binding on the person commits an offence against this Act.

(2) Proceedings for the offence are not prejudiced by proceedings concerning the contravention that are taken to enforce the award as a contract.

**8.11 Civil proceedings to enforce award as contract.** (1) An award is taken to be a contract between each assignment holder and the mill owner bound by the award and may be enforced by action in any court of competent jurisdiction.

(2) Proceedings to enforce an award as a contract are not prejudiced by proceedings concerning the contravention that are taken for an offence constituted by the contravention.

**8.12 Mill owner may harvest sugar cane.** (1) If an assignment holder fails to harvest sugar cane from the assignment's land and deliver it to a mill for crushing in accordance with an award, the mill owner may apply to the Local Board constituted for the mill for an order authorizing the mill owner to harvest the sugar cane and deliver it to the mill for crushing.

(2) The mill owner is to give notice of the application to the assignment holder unless the Local Board dispenses with notice.

The assignment holder is entitled to make written submissions to, and be heard by, the Local Board in relation to the application.

(3) If upon considering the application the Local Board is satisfied—

- (a) that the assignment holder has failed to harvest the sugar cane in question and deliver it to the mill in accordance with the award; and
- (b) that in all the circumstances the mill owner should be authorized to harvest the sugar cane and deliver it to the mill for crushing;

it may make, subject to such conditions as it thinks fit, an order authorizing the mill owner to harvest the sugar cane and deliver it to the mill for crushing.

(4) The mill owner may then, with such vehicles and equipment as may be necessary, enter the assignment's land, harvest the sugar cane, deliver it to the mill and crush it.

“Mill owner” includes any person authorized by the mill owner.

(5) The assignment holder is entitled to be paid by the mill owner for the sugar cane in accordance with provisions of the award relating to payment for sugar cane delivered by an assignment holder to the mill owner.

(6) Subject to the Local Board's order, the mill owner is entitled to be paid by the assignment holder the cost of harvesting the sugar cane including incidental costs.

The amount of the costs may be retained by the mill owner from payments due to the assignment holder under subsection (5).

To the extent that the costs are not paid by the assignment holder or retained by the mill owner from payments made to the assignment holder under subsection (5), they may be recovered by the mill owner by action as for a debt against the assignment holder in any court of competent jurisdiction.

*Division 4—Contracts outside award*

**8.13 Mill supply contracts.** (1) This Division applies to a contract or agreement—

- (a) that is made between a mill owner and an assignment holder or group of assignment holders in relation to the supply of sugar cane to the mill by the assignment holder or holders and the payment for the sugar cane by the mill owner; and
- (b) that has the effect of varying, or operating in the place of, a provision of an award, including a provision taken to be contained in the award under this Act.

(2) Such a contract or agreement is referred to in this Division as a mill supply contract.

(3) This Division applies whether a contract or agreement is made before or after the commencement of this section.

**8.14 Procedure for making effective mill supply contract.** (1) A mill supply contract, to the extent that if valid, it would have the effect referred to in paragraph (b) of section 8.13 (1), is of no effect unless—

- (a) a copy of the contract is lodged with the Corporation no later than 30 days after the contract's execution; and
- (b) the Corporation approves the contract.

(2) The Corporation is to approve a mill supply contract lodged with it under subsection (1) unless in its opinion it is unfair and unreasonable.

(3) If the Corporation determines not to approve a mill supply contract lodged with it under subsection (1), it is to give notice in writing to the parties stating its reasons.

**8.15 Exemption of controls or agreement.** The regulations may exempt, or provide for the exemption of, a contract or agreement or class of contract or agreement from the operation of section 8.14.

**8.16 Application of contract to all assignment holders supplying to a mill.** (1) A mill supply contract made between a mill owner and a mill suppliers' committee or other body acting or purporting to act on behalf of all assignment holders supplying sugar cane to the mill is not valid and binding upon all the assignment holders and the mill owner unless and until—

- (a) it is approved in writing by 85 per centum of the assignment holders; and
- (b) lodged with and approved by the Corporation in accordance with section 8.14 (1).

(2) The Corporation is not to approve the mill supply contract unless it is satisfied that the provisions of this section have been complied with.

**8.17 Contracts limited to 3 years.** (1) A mill supply contract is not to continue in effect for a period exceeding 3 years from the date of its execution and is of no effect to the extent that it purports to be effective for a longer period.

(2) The Corporation is not to approve a mill supply contract that purports to be effective for a period exceeding 3 years from the date of its execution.

**8.18 Mill supply contracts for unduly lengthy crushing season.** (1) If a mill suppliers' committee fails in an attempt to negotiate with the owner of the mill for which it is constituted a mill supply contract under which all assignment holders supplying sugar cane to the mill for a crushing season under an award would receive, in the event of unreasonable delay on the part of the mill owner in crushing sugar cane, payments for the sugar cane higher than those payable under the award, the mill suppliers' committee may request the Corporation to assist in the negotiations.

(2) Upon receiving such a request the Corporation is to enter the negotiations and attempt to bring the parties to an agreement.

(3) If negotiations fail, or if, in the opinion of the Corporation, insufficient progress is made in bringing the parties to an agreement, the Corporation may apply to the Tribunal for a variation of the award in relation to the matters that were the subject of the negotiations.

(4) Notice of the application is to be given by the Corporation to—

- (a) the owner of the mill to which the award relates; and
- (b) the mill suppliers' committee constituted for the mill to which the award relates.

The owner and the committee are entitled to be heard by the Tribunal upon the application.

(5) Upon hearing the application the Tribunal may vary the award in such manner as it thinks fit.

The Tribunal may order the variation of the award to take effect retrospectively so as to apply to a part of the crushing season occurring before the order is made.

## PART 9—ASSIGNMENTS AND FARM PEAKS

### *Division 1—Assignments generally*

**9.1 The assignment entitlement.** (1) A cane grower may hold, in accordance with this Act, an entitlement called an assignment.

(2) An assignment confers upon the holder an entitlement, subject to this Act, to deliver to a mill for payment in accordance with this Act sugar cane grown on a number of hectares situated within the boundaries of a description of land assigned to the mill.

(3) In this Act—

- (a) the number of hectares is referred to as the assignment's area; and
- (b) the description of land is referred to as the assignment's presently assigned description; and
- (c) the land is referred to as the assignment's land.

(4) The area of land within the boundaries of an assignment's presently assigned description may be the same area as, or greater than, the assignment's area but not less than the assignment's area.

(5) An assignment may be disposed of, wholly or partially by the holder by way of sale, lease, sub-lease, or other form of transfer in accordance with this Act.

(6) A disposal of an assignment's land does not effect a disposal of the assignment.

**9.2 Assignment holders at commencement.** (1) On the date of the commencement of this section, the holders of assignments are those persons who, immediately before that date, held assignments under the repealed Regulation of Sugar Cane Prices Act.

(2) The interests held by these persons in assignments immediately before the commencement of this section are changed, on the date of the commencement of this section, to the equivalent interests that may be held in assignments under this Act.

(3) The area of the assignment so preserved, on the date of the commencement of this section, is the number of hectares that comprised the land to which the assignment related immediately before that date.

(4) The presently assigned description of the assignment so preserved, on the date of the commencement of this section, is the description of the land to which the assignment related immediately before that date.

*Division 2—Grant by Corporation of assignment*

**9.3 Corporation's general authority over assignments.** (1) The Corporation may grant, vary or cancel assignments but is not competent to exercise its power to do so except in circumstances prescribed by this Act.

(2) For the purpose of exercising the power to grant, vary or cancel assignments the Corporation may—

- (a) assign land to a mill or vary or cancel the assignment of land to a mill; or
- (b) allocate assignment area to an assignment or vary or cancel the allocation of assignment area to an assignment.

(3) The Corporation may impose conditions on the grant or variation of an assignment.

**9.4 Grant of assignment by Corporation.** (1) The Corporation at any time may grant assignments to the extent of—

- (a) the increase in the aggregate of all assignments' areas prescribed by section 9.14; and
- (b) any increase in the aggregate of all assignments' areas determined by it under section 9.15; and
- (c) any assignment's area cancelled by it under section 9.13 or 9.17.

(2) A reference to the grant of an assignment includes a reference to the grant of a variation of an assignment by the allocation of further assignment area to it.

(3) The Corporation may only grant an assignment to the extent of the cancelled area referred to in paragraph (c) of subsection (1)—

- (a) if that assignment's land is assigned to the same mill as the land of the assignment to which the cancelled area related; and
- (b) if the applicant—
  - (i) is not the person who held the assignment to which the cancelled area related; and
  - (ii) is the holder of an existing assignment the land of which is assigned to the mill referred to in paragraph (a); and
- (c) if the Corporation considers the grant desirable because it would enhance the economy of the existing sugar cane farm or farms relating to the applicant's existing assignment.

**9.5 Guidelines for grant of assignment.** (1) The Corporation is to make written guidelines stating—

- (a) the manner and form of application for the grant of an assignment under section 9.4; and
- (b) the matters to which it will have regard in determining an application for the grant of an assignment under section 9.4.

(2) The guidelines, with respect to the aggregate of all assignments' areas referred to in paragraph (a) and (b) of section 9.4 (1) available to be granted in any calendar year—

- (a) are to provide that a prescribed proportion at least is to be offered in the first instance to holders of existing assignments for the purpose of enhancing the economy of existing sugar cane farms; and
- (b) may provide that a proportion not exceeding a prescribed maximum is to be reserved for the establishment of new sugar cane farms.

(3) The guidelines are binding on every applicant for the grant of an assignment and on the Corporation.

*Division 3—Grant and variation of assignments pursuant to authorized transactions*

**9.6 Variations to assignment entitlements.** Entitlements to assignments may be varied by means of the authorized transactions referred to in section 9.7, but a matter authorized by that section to be provided for does not take effect unless and until—

- (a) a Local Board or Local Boards make the order or orders necessary to give effect to the matter; and
- (b) the matter is noted on the Sugar Cane Assignment Register pursuant to the order or orders.

**9.7 Authorized transactions concerning assignments.** (1) An authorized transaction concerning assignments may provide for one or more of the following matters:—

- (a) the transfer of an assignment from an existing holder to another person; or
  - (b) a variation of an assignment's presently assigned description by cancellation of the assignment to a mill of whole or part of the assignment's land or by the assignment of land to a mill for inclusion as whole or part of the assignment's land or both; or
  - (c) a variation of the mill to which is assigned the land within the boundaries of the assignment's presently assigned description by cancellation of the assignment to a mill of the whole of the assignment's land and its assignment to another mill; or
  - (d) a transfer of an assignment's area from one assignment to another by cancellation of the whole or part of the area of one assignment and its allocation to another assignment; or
  - (e) the cancellation of an assignment together with the transfer of its area to another assignment; or
  - (f) the grant of an assignment by the assignment of land to a mill and the transfer to the assignment of whole or part of the area of another assignment for the purpose.
- (2) An authorized transaction may—
- (a) involve the holder of an existing assignment as the only party or involve more than one party where a disposition of assignment is involved; or
  - (b) provide for a matter to take effect for a period limited by time or indefinitely.

**9.8 Orders by Local Board.** (1) A Local Board, upon application by a party or parties to an authorized transaction may make orders in an approved form directing the Corporation—

- (a) to transfer an assignment from an existing holder to another person; or

- (b) to cancel the assignment of land to a mill; or
- (c) to assign land to a mill; or
- (d) to cancel an assignment's area wholly or partly; or
- (e) to allocate to an assignment the whole or part of another assignment's area subject to cancellation under an order referred to in paragraph (d); or
- (f) to cancel an assignment; or
- (g) to grant an assignment.

(2) An order of a Local Board made for the purposes of an authorized transaction only has effect upon an assignment the land of which is assigned to the mill for which the Local Board is constituted.

(3) If an authorized transaction—

- (a) provides for the cancellation of the assignment to a mill of the whole of an assignment's land and its assignment to another mill;

or

- (b) provides for matters having effect in relation to more than one assignment and the lands of those assignments are assigned to different mills;

the orders necessary to give effect to those matters are to be obtained by applications to the Local Boards constituted for those mills.

(4) An order of a Local Board under this section may include conditions restricting or prohibiting the use of part of the land of an assignment for the growing of sugar cane.

(5) The regulations may regulate further the procedures referred to in this section.

**9.9 Applications for Local Board orders.** An application to a Local Board for an order to give effect to an authorized transaction concerning an assignment—

- (a) is to be in the approved form; and
- (b) is to be signed by every party to the authorized transaction to which effect is sought to be given by the order.

**9.10 Limitations upon power of Local Board to issue particular orders.** (1) A Local Board, under section 9.8, may not order the transfer of an assignment from its existing holder to another person unless it is satisfied that the holder of the assignment after the authorized transaction in question takes effect will have an estate or interest in the assignment's land entitling the holder to use it for the purposes of the assignment.

(2) A Local Board, under section 9.8, may not order land to be assigned to the mill for which it is constituted unless it is satisfied—

- (a) that the holder of the assignment for which the land is so assigned, after the authorized transaction in question takes effect, will have an estate or interest in the land entitling

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the assignment holder to use it for the purposes of the assignment; and

- (b) that the land is situated in a location from which sugar cane grown on the land may be efficiently delivered to the mill; and
- (c) that the land may be prepared and utilized for the growing of sugar cane without undue damage to the environment.

(3) A Local Board under section 9.8 may not make any order requiring the establishment or variation of an assignment unless it is satisfied that after the authorized transaction in question takes effect the land of the assignment so established or varied will be capable of producing commercial crops of sugar cane when subjected to correct agricultural practices.

**9.11 Local Board to grant application or give reasons for refusal.**

(1) Subject to subsection (2), a Local Board that receives an application under section 9.9, upon being satisfied that the provisions of this Act have been complied with, is to grant the order or orders sought.

(2) If, for the purpose of giving effect to an authorized transaction, it is necessary for orders under section 9.8 to be obtained from more than one Local Board—

- (a) the decision of each of the Local Boards whether or not to make an order sought is to be by the unanimous decision of all the Local Board's members; and
- (b) each of the Local Boards may exercise a discretion to make or to refuse to make an order sought.

(3) If a Local Board refuses an application, it is to give notice in writing to the applicant specifying the reasons for the refusal.

**9.12 Lodgement with Corporation of Local Board's orders.** Upon lodgement with the Corporation in accordance with the Corporation's guidelines of a notice signed by every party to an authorized transaction of an order or orders of a Local Board or Local Boards sufficient to give effect to the authorized transaction, the Corporation is to note in the Sugar Cane Assignment Register the effect of the authorized transaction in accordance with the order or orders.

The authorized transaction then takes effect and not beforehand.

The noting by the Corporation in the register of the effect of a Local Board's order is taken to be an order by the Corporation giving effect to the Local Board's order.

**9.13 Application to Corporation for transfer of assignment to another mill.** (1) Notwithstanding any other provision of this Act an assignment holder may apply to the Corporation to give effect to the authorized transaction referred to in subsection (2).

(2) The authorized transaction to which this section applies is one in which—

- (a) the only party is the holder of an existing assignment; and
- (b) the transaction provides for—
  - (i) the cancellation of the existing assignment; and
  - (ii) the grant of a new assignment the land of which is to be assigned to a mill other than the mill to which is assigned the existing assignment's land; and
  - (iii) the transfer to the new assignment of the area of the existing assignment.

(3) The Corporation is to consider the application and may grant or refuse it.

(4) The Corporation is not to grant the application unless it is satisfied that after the authorized transaction takes effect—

- (a) the new assignment's land—
  - (i) will be capable of producing commercial crops of sugar cane when subjected to correct agricultural practices; and
  - (ii) will be situated in a location from which sugar cane may be efficiently delivered to the mill to which the land is assigned; and
  - (iii) will be able to be prepared and utilized for the growing of sugar cane without undue damage to the environment; and
- (b) the holder of the new assignment will have an estate or interest in the assignment's land entitling the holder to use it for the purposes of the assignment.

(5) If the Corporation grants the application it is to exercise the powers conferred upon it by section 9.3 to—

- (a) cancel the existing assignment and its area; and
- (b) grant the new assignment and allocate to it an area equal to the number of hectares of the area subject to cancellation under paragraph (a).

(6) The Corporation is to note the effect of its orders in the Sugar Cane Assignment Register.

(7) The Corporation is to apply the existing assignment's area cancelled under paragraph (a) of subsection (5) against future increases of the aggregate of all assignments' areas determined under section 9.14 or 9.15 so as to reduce those increases by the area cancelled.

*Division 4—Annual increase in aggregate of assignment areas*

**9.14 Transitional expansion.** In each calendar year from and including 1991 to and including 1995, the Corporation is to make

available, by granting assignments under section 9.4, assignments' areas to the extent of—

- (a) 2.5 per centum of the aggregate of all assignments' areas in existence at the commencement of the calendar year; or
- (b) such greater proportion of the aggregate of all assignments' areas in existence at the commencement of the calendar year as the Minister may determine in writing after consultation with the Sugar Industry Policy Council;

less reductions required to be made by the Corporation in compliance with subsection (7) of section 9.13 to take into account all cancellations of assignments' areas under subsection (5) (a) of that section not previously so taken into account.

**9.15 Annual determination of increase in the aggregate of assignments' areas.** (1) On or before the 31st January of each calendar year, commencing with 1996, the Corporation is to determine—

- (a) whether or not the aggregate area of all assignments' areas in existence at the commencement of the calendar year should be increased; and
- (b) if it determines that the aggregate area should be increased—the extent of the increase.

(2) Before making a determination, the Corporation is to consult with the Minister and with such other organizations as the Minister directs.

(3) In making its determination, the Corporation is to have regard to all relevant matters including—

- (a) the availability of suitable land; and
- (b) the capacity of mills to crush additional sugar cane; and
- (c) reductions required to be made by the Corporation in compliance with subsection (7) of section 9.13 to take into account all cancellations of assignments' areas under subsection (5) (a) of that section not previously so taken into account.

(4) When a determination is made, the Corporation is to forthwith inform the Minister by notice in writing.

**9.16 Government project land.** (1) For the purpose of enabling the Crown or a Crown instrumentality to sell, lease or otherwise dispose of land together with an assignment, the Minister may give directions to the Corporation—

- (a) requiring it to reserve to the Crown in any calendar year a proportion, to a prescribed maximum, of the increase in assignments' areas prescribed by section 9.14 or determined by the Corporation under section 9.15; and
- (b) requiring it to exercise its powers under Division 2 to ensure that the persons to whom the land is disposed of will be granted an assignment or to ensure that the Crown or a

Crown instrumentality will be able to dispose of an assignment to those persons together with the land.

(2) Directions referred to in paragraph (a) of subsection (1) are to be given—

- (a) in the case of the calendar year 1991—before the expiration of 28 days after the date of the commencement of this section; and
- (b) in the case of the calendar years 1992 to 1995 (both inclusive)—before the 31st January in each year; and
- (c) in the case of each calendar year commencing with 1996—within 28 days after receipt by the Minister of the Corporation's notice under section 9.15 (4).

*Division 5—Cancellation of assignment*

**9.17 Cancellation of assignment.** The Corporation may cancel an assignment or vary an assignment by cancelling part of its area—

- (a) in the event of the holder applying to the Corporation for such a cancellation or variation; or
- (b) upon wilful failure of the holder to grow sugar cane on the assignment's land for delivery to a mill pursuant to the assignment or to grow sugar cane on the land sufficient to exercise fully the entitlement conferred by the assignment; or
- (c) upon failure of the holder to obtain or retain an estate or interest in the assignment's land enabling the holder to grow sugar cane on the land for delivery to a mill pursuant to the assignment or to grow sugar cane on the land sufficient to exercise fully the entitlement conferred by the assignment; or
- (d) upon conviction of the holder of an offence constituted by a contravention of an award consisting of a failure to deliver to a mill sugar cane grown on the assignment's land.

**9.18 Show cause to precede cancellation or variation.** (1) Before the Corporation cancels an assignment or part of an assignment's area under paragraph (b), (c) or (d) of section 9.17, it is to give written notice to the assignment holder calling upon the holder to show cause why the cancellation should not occur.

(2) The notice to show cause is to allow the assignment holder at least 30 days in which to respond.

(3) The Corporation is to consider any written submissions made by the assignment holder and afford the assignment holder a reasonable opportunity to be heard in relation to the matter.

(4) If by the expiration of the period of 30 days or such greater period allowed by the Corporation at any time, the assignment holder has not shown cause or sufficient cause why the assignment should not

be cancelled or varied, the Corporation may proceed to cancel the assignment or part of the assignment's area.

**9.19 Time for disposal may be allowed.** If the Corporation determines that an assignment or part of an assignment's area should be cancelled under section 9.18 (4), it may instead of proceeding immediately to order the cancellation allow the assignment holder a period of time in which to dispose of the assignment or the part of the assignment's area.

*Division 6—Relationship between assignment holders and mill owners*

**9.20 Obligation of assignment holder to dispose of sugar cane to mill to which land assigned.** (1) An assignment holder is not to dispose of the sugar cane grown by the holder on the assignment's land except by delivery to the mill to which the land is assigned.

(2) This section does not apply—

- (a) if the business of manufacturing sugar from sugar cane is not being carried on at the mill; or
- (b) in relation to sugar cane referred to in section 9.21.

(3) A person who disposes of sugar cane in contravention of this section commits an offence against this Act.

**9.21 Sugar cane not required to be delivered by assignment holder.** Section 9.20 does not apply in relation to—

- (a) sugar cane that is infested with a pest; or
- (b) sugar cane that has present in or on it the residue of a chemical in an amount exceeding the maximum residue limit of the chemical prescribed for sugar cane under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* or sugar cane that has been exposed to or has present on or in it a chemical as prescribed by the regulations under this Act; or
- (c) sugar cane that the assignment holder on reasonable grounds considers is unfit for harvest and delivery because of damage, low commercial cane sugar content or other defect; or
- (d) sugar cane that is disposed of after the assignment holder has already had accepted at a mill or mills the greater of either—
  - (i) the quantity of sugar cane that represents the farm peak held by the assignment holder in relation to the assignment; or
  - (ii) the quantity of sugar cane harvested from the adjusted area of the assignment; or
- (e) sugar cane that is delivered to a mill other than the mill to which is assigned the land on which the sugar cane is grown with the written consent of the owner of the lastmentioned mill; or

- (f) sugar cane retained by an assignment holder, or disposed of by an assignment holder to a cane grower, for the purpose of providing plants for new crops of sugar cane.

**9.22 Obligation of mill owner to accept sugar cane.** (1) Sugar cane grown by an assignment holder on the assignment's land upon delivery to the mill to which the land is assigned is to be accepted by the owner of the mill in accordance with the relevant award.

(2) This section does not apply—

- (a) if the owner of the mill has been exempted under this Act from the obligation of carrying on the business of manufacturing sugar from sugar cane at the mill and has ceased to carry on that business pursuant to that exemption; or  
 (b) in relation to sugar cane referred to in section 9.23.

(3) A mill owner who refuses or fails to accept sugar cane in contravention of this section commits an offence against this Act.

**9.23 Sugar cane not required to be accepted by mill.** Section 9.22 does not apply in relation to—

- (a) sugar cane that is infested with a pest; or  
 (b) sugar cane that has present in or on it the residue of a chemical in an amount that exceeds the maximum residue limit of the chemical prescribed for sugar cane under the *Chemical Usage (Agricultural and Veterinary) Control Act 1988* or sugar cane that has been exposed to or has present on or in it a chemical as prescribed by the regulations; or  
 (c) sugar cane that contains less than 7 per centum of commercial cane sugar; or  
 (d) sugar cane of a quality or condition that entitles the mill owner to defer or refuse to accept it under the relevant award; or  
 (e) sugar cane that is delivered to the mill in question after the assignment holder has already had accepted at the mill or mills the greater of either—  
 (i) the quantity of sugar cane that represents the farm peak held by the assignment holder in relation to the assignment; or  
 (ii) the quantity of sugar cane harvested from the adjusted area of the assignment; or  
 (f) sugar cane grown in contravention of any condition imposed under this Act with respect to the assignment in question.

**9.24 Delivery and acceptance of sugar cane.** (1) Sugar cane is delivered to a mill for the purposes of this Act if it is delivered or tendered for delivery in accordance with the relevant award.

(2) Acceptance of sugar cane by a mill owner for the purposes of this Act comprises—

- (a) the handling of sugar cane from the point of delivery to the mill; and
- (b) its crushing; and
- (c) the acceptance of liability for its payment in accordance with the relevant award.

(3) No action taken with respect to sugar cane prior to a determination by the mill owner that it is or is not acceptable in accordance with section 9.22 and 9.23 of this Act constitutes acceptance of the sugar cane.

(4) Reference in this Act to delivery to a mill or acceptance by a mill owner of sugar cane includes a reference to the delivery to a mill or acceptance by a mill owner of sugar cane delivered on behalf of the mill owner.

**9.25 Mill owner may enter upon assigned lands.** (1) A mill owner, with such vehicles and equipment as may be necessary and after giving reasonable notice in writing to the occupier, may enter upon land assigned to the mill for the purpose of—

- (a) ascertaining the boundaries of the land assigned to the mill; or
- (b) ascertaining whether sugar cane delivered to the mill has been, or sugar cane proposed to be delivered to the mill will be, harvested—
  - (i) from land assigned to the mill; or
  - (ii) from the adjusted area of the assignment to which the land relates; or
  - (iii) in accordance with any conditions imposed under this Act with respect to the assignment in question; or
- (c) estimating yields of sugar cane.

(2) Upon entering the land, the mill owner may—

- (a) make such measurements, observations or estimates; and
- (b) take such samples of sugar cane;

as may be necessary for the purposes for which entry was made.

(3) A person who obstructs a mill owner in the exercise of powers under this section commits an offence against this Act.

(4) In this section a reference to a mill owner includes a reference to the mill owner's employees and agents acting under the mill owner's authority.

**9.26 Agreed assignment plan is evidence.** In any proceedings, a plan of land in the approved form acknowledged in writing as correct within the limit of their knowledge by the holder of an assignment and

the owner of the mill to which is assigned the assignment's land, showing—

- (a) the boundaries of the assignment's presently assigned description; or
- (b) the land being used or proposed to be used by the holder for the growing of sugar cane for harvesting and delivery to the mill pursuant to the assignment;

as at a date or during a period of time specified in the plan is prima facie evidence of the matters contained in the plan.

**9.27 Submission of plan to Local Board. (1) If—**

- (a) an assignment holder is not satisfied of the accuracy of a plan referred to in section 9.26 submitted by a mill owner to the assignment holder for an acknowledgment of its accuracy; or
- (b) a mill owner is not satisfied of the accuracy of a plan referred to in section 9.26 submitted by an assignment holder to the mill owner for an acknowledgment of its accuracy;

the assignment holder or mill owner not so satisfied may submit to the Local Board constituted for the mill an alternative plan in the approved form.

(2) The Local Board, if satisfied that the plan is correct, is to certify to that effect.

(3) If not satisfied, the Local Board may—

- (a) reject the plan; or
- (b) certify a plan amended by it.

(4) The certificate of the Local Board is to be under the hand of the chairperson.

(5) A plan certified by a Local Board under this section may be filed by the assignment holder or mill owner in the office of the Corporation, and be produced in any proceeding.

(6) In any proceedings, a plan certified by a Local Board under this section is prima facie evidence of the matters contained in the plan.

**9.28 Local Board may construe and interpret plans of assignments in dispute. (1) Where a dispute arises—**

- (a) between an owner of a mill and an assignment holder; or
- (b) between assignment holders;

concerning the accuracy or interpretation of a plan referred to in section 9.26, whether or not the plan has been certified by a Local Board under section 9.27, the Local Board constituted for the mill to which is assigned the land shown on the plan has jurisdiction to determine the

accuracy or interpretation of the plan for the purpose of resolving the dispute.

(2) A Local Board may exercise this jurisdiction of its own motion or upon reference of the dispute to it by any party.

*Division 7—Farm peaks generally*

**9.29 Farm peak as property.** (1) An assignment holder may hold in accordance with this Act an entitlement called a farm peak.

(2) A farm peak confers upon the assignment holder an entitlement, subject to this Act, to deliver to a mill pursuant to the assignment a quantity of sugar cane harvested from the assignment's land in any crushing season for the manufacture of sugar within the mill peak of the sugar mill.

(3) Farm peak may be disposed of, wholly or partially, by the holder by way of sale, lease, sub-lease, letting, or other form of transfer in accordance with this Act.

(4) A disposal of an assignment to which farm peak relates does not effect a disposal of the farm peak.

**9.30 Holders at commencement.** (1) On the date of the commencement of this section, the holders of farm peaks are those persons who, immediately before that date, held farm peaks under the repealed Regulation of Sugar Cane Prices Act.

(2) The interests held by those persons in farm peaks immediately before the date of commencement of this section are changed, on that date, to the equivalent interests that may be held in farm peaks under this Act.

*Division 8—Variation of entitlement to farm peak pursuant to authorized transactions*

**9.31 Variation of farm peak entitlement.** Entitlements to farm peak may be varied by means of the authorized transactions referred to in section 9.32, but a matter provided for by such a transaction does not take effect unless and until—

- (a) a Local Board or Local Boards make the order or orders necessary to give effect to the matter; and
- (b) the matter is noted on the Sugar Cane Assignment Register.

**9.32 Authorized transactions concerning farm peak.** (1) An authorized transaction concerning farm peak may provide for one or more of the following matters:—

- (a) a transfer of farm peak from an existing holder to another person; or
- (b) a transfer of farm peak from one assignment to another by cancellation of the whole or part of the farm peak relating to one assignment and its allocation to another assignment.

- (2) An authorized transaction may—
- (a) involve the holder of an existing farm peak as the only party or involve more than one party where a disposition of farm peak is involved; or
  - (b) provide for a matter to take effect for a period limited by time or indefinitely.

**9.33 Orders by Local Board.** (1) A Local Board, upon application by a party or parties to an authorized transaction, may make orders in an approved form directing the Corporation—

- (a) to transfer farm peak existing in relation to an assignment from an existing holder to another person; or
- (b) to cancel, wholly or partly, farm peak existing in relation to an assignment; or
- (c) to allocate to an assignment the whole or part of farm peak relating to another assignment that is subject to cancellation pursuant to an order referred to in paragraph (b).

(2) An order of a Local Board made for the purpose of an authorized transaction only has effect in relation to farm peak to the extent of its effect upon farm peak existing in relation to an assignment the land of which is assigned to the mill for which the Local Board is constituted.

(3) If the matters provided for by an authorized transaction have effect upon the farm peak existing in relation to more than one assignment, and the lands of those assignments are assigned to different mills, the orders necessary to give effect to those matters are to be obtained by applications to the Local Boards constituted for those mills.

(4) The regulations may further regulate the procedure referred to in this section.

**9.34 Application for Local Board orders.** An application to a Local Board for an order to give effect to an authorized transaction concerning farm peak—

- (a) is to be in the approved form; and
- (b) is to be signed by every party to the authorized transaction to which effect is sought to be given by the order.

**9.35 Limitation upon power of Local Board to issue particular orders.** A Local Board, under section 9.33, may not order the transfer of farm peak from its existing holder to another person unless it is satisfied that the holder of the farm peak after the authorized transaction in question takes effect will be the holder of the assignment in relation to which the farm peak will then exist.

**9.36 Local Board to grant application.** (1) Subject to subsection (2), a Local Board that receives an application under section 9.34, upon being satisfied that the provisions of this Act have been complied with, is to grant the order or orders sought.

(2) If, for the purpose of giving effect to an authorized transaction, it is necessary for orders under section 9.33 to be obtained from more than one Local Board—

- (a) the decision of each of the Local Boards whether or not to make an order sought is to be by the unanimous decision of all the Local Board's members; and
- (b) each of the Local Boards may exercise a discretion to make or to refuse to make the order sought.

(3) If a Local Board refuses an application, it is to give notice in writing to the applicant specifying the reasons for the refusal.

**9.37 Lodgement with Corporation of Local Board's orders.** Upon lodgement with the Corporation in accordance with the Corporation's guidelines of a notice signed by every party to an authorized transaction of an order or orders of a Local Board or Local Boards sufficient to give effect to the authorized transaction, the Corporation is to note in the Sugar Cane Assignment Register the effect of the authorized transactions in accordance with the order or orders.

The authorized transaction then takes effect and not beforehand.

**9.38 Adjustment of mill peaks.** (1) From time to time the Corporation is to adjust the mill peak of a mill so as to take into account variations in the quantity of sugar cane the owner of the mill is required to accept for the manufacture of sugar within the mill peak of the mill consequent upon variations to entitlements to farm peaks.

(2) The Corporation is to make guidelines stating the methods that it will observe in calculating the adjustments required to be made to the mill peaks of mills under subsection (1).

The guidelines are binding on the Corporation.

(3) Before adjusting the mill peak of a mill the Corporation is to give notice of the proposed adjustment to the owner of the mill affording the owner a reasonable opportunity to make written submissions and to be heard in relation to the matter.

(4) After considering any submissions that may be made by the owner of a mill, the Corporation may adjust the mill peak of the mill by notice in writing given to the owner.

*Division 9—Protection of mortgagees and lessors generally*

**9.39 Statutory declaration verifying protection of interests of third parties.** (1) In every case where an application is made—

- (a) to a Local Board for an order directing the Corporation to take action referred to in subsection (2); or
- (b) to the Corporation to take action referred to in subsection (2);

the application is to be endorsed with or accompanied by the statutory declaration referred to in subsection (3) made under the *Oaths Act 1867-1989* by the holder of the assignment with respect to which the action is to be taken.

In every case the statutory declaration is to state that the person making the declaration is the holder of that assignment.

(2) The statutory declaration referred to in subsection (3) is required in relation to—

- (a) the transfer of an assignment from an existing holder to another person; and
- (b) the cancellation of the assignment of land to a mill; and
- (c) the assignment of land to a mill for the purpose of an authorized transaction that has the effect of increasing the total extent of an assignment's land; and
- (d) the cancellation of an assignment's area, wholly or partly; and
- (e) the cancellation, wholly or partly, of any farm peak existing in relation to an assignment.

(3) The statutory declaration is to state in relation to—

- (a) in the case of cancellation of the assignment of land to a mill—that land; or
- (b) in any other case—the land of the assignment with respect to which the action is to be taken;

the following, that is to say—

- (c) that the land is not subject to any mortgage or lease or sublease; or
- (d) if the land is so subject to any mortgage or lease or sublease—that either the deponent has obtained the written consent of every mortgagee, lessor or sub-lessor of the land to the action or in lieu of any such consent, the deponent has obtained the dispensation of the chairperson of the Tribunal.

(4) If the statutory declaration is false in any material particular the provisions of this section are taken not to have been complied with.

**9.40 Dispensation from obtaining consent of mortgagee, lessor or sub-lessor.** (1) If a mortgagee, lessor or sub-lessor of land referred to in section 9.39 (3) refuses or fails to give to an assignment holder the written consent referred to in paragraph (d) of that subsection, the assignment holder may apply to the chairperson of the Tribunal for dispensation from obtaining the consent.

(2) The mortgagee, lessor or sub-lessor is to be given notice of the application by the assignment holder and is entitled to be heard by the chairperson in relation to the application.

(3) The chairperson of the Tribunal, upon being satisfied by the assignment holder that the consent is being unreasonably withheld, may grant to the assignment holder dispensation from obtaining the consent.

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PART 10—GENERAL PROVISIONS RELATING TO  
MANAGEMENT OF SUGAR HARVEST

*Division 1—Adjusted area of assignments*

**10.1 Corporation to determine adjusted area.** (1) On or before the 31st March in each calendar year, the Corporation is to determine—

(a) for all assignments; and

(b) for the crushing season commencing in the calendar year; a maximum area, expressed as a proportion greater than, lesser than, or equal to 100 per centum of the area of an assignment, from which sugar cane may be harvested for delivery to mills for payment in accordance with this Act.

(2) The same proportion is to be determined for all assignments.

(3) The maximum area so determined is not to be greater than 100 per centum of the area of an assignment unless the Minister, after consultation with the Sugar Industry Policy Council, approves in writing.

(4) The maximum area so determined is in this Act referred to as the adjusted area of an assignment.

**10.2 Variation of determination.** The Corporation may at any time vary its determination under section 10.1 so as to increase the area of assignments from which sugar cane may be harvested for delivery to mills for payment in accordance with this Act.

**10.3 Consultation.** Before making or varying a determination under this Division the Corporation is to consult with organizations referred to in section 2.17 as directed by the Minister.

*Division 2—Redirection of sugar cane*

**10.4 Corporation may redirect sugar cane.** The Corporation, upon an application made to it under this Division, may order that in relation to a particular period sugar cane specified by it grown on land assigned to a mill is to be delivered to, and accepted for crushing by, another mill.

**10.5 Applicants.** An application may be made by—

(a) the owner of the mill to which is assigned the land on which the sugar cane in question is grown; or

(b) the mill suppliers' committee for the mill referred to in paragraph (a); or

(c) the owner of the mill to which sugar is to be delivered in accordance with the order sought.

**10.6 Commencement of application.** An application is to be commenced by notice in writing lodged with the Corporation in accordance with guidelines made by the Corporation.

**10.7 Notification of interested persons.** (1) The Corporation is to give notice in writing of the applications to persons appearing to the

Corporation to have a sufficient interest in the matter affording those persons a reasonable opportunity to make written submissions and to be heard in relation to the application.

Notification published in the Gazette is sufficient notice to all persons.

(2) The Corporation is not to determine an application until after it has considered any submissions that may be made consequent upon the giving of the notice referred to in subsection (1).

**10.8 Order to be reasonable and not cause economic detriment.** The Corporation is not to grant an application under this section unless it is satisfied that—

- (a) the order sought is reasonable; and
- (b) the directions given, and conditions imposed by the Corporation in relation to the order, are such as will provide sufficient protection to individual assignment holders from economic detriment arising as a result of the order.

**10.9 Variations and conditions.** (1) If the Corporation grants an application under this Division it is to make the order sought with such variations as it thinks fit and may impose such conditions as it thinks fit.

(2) Notification published in the Gazette of a determination by the Corporation to grant an application under this Division or of any determination by the Corporation made for the purpose of granting the application is taken to be notice, on the date of its publication, to all persons of the determination.

(3) If the Corporation refuses to grant an application under the Division it is to give notice in writing to the applicant stating the reasons for the refusal.

**10.10 Directions.** (1) For the purpose of facilitating an order requiring the delivery of sugar cane grown on an assignment's land to a mill other than the mill to which the land is assigned, the Corporation may give directions—

- (a) varying awards made in relation to the mills; or
- (b) determining the extent to which the assignment holder may claim in relation to the mill to which the sugar cane is to be delivered any farm peak held with respect to the assignment; or
- (c) varying the mill peaks of both mills to take into account any farm peak that may be claimed in relation to the mill to which the sugar cane is to be delivered by virtue of the order; or
- (d) concerning any prescribed matter or any matter on which directions are required to ensure the sensible operation of this Act in relation to the order.

(2) The directions of the Corporation have effect according to their tenor.

*Division 3—Obligation of mill owner to manufacture sugar*

**10.11 General obligations.** (1) The owner of a mill is to carry on the business of manufacturing sugar from the sugar cane grown on lands assigned to the mill.

(2) Carrying on the business of manufacturing sugar includes—

- (a) maintaining the mill; and
- (b) preparing for the acceptance and crushing of sugar cane; and
- (c) accepting and crushing sugar cane;

in a reasonable and proper manner and in accordance with this Act.

**10.12 Exemption from obligation to manufacture sugar.** (1) The owner of a mill may apply to the Corporation for an exemption from the obligations imposed by section 10.11.

(2) An application is to be made on or before the last day of December next preceding the period to which the exemption is to relate or on such later date as the Corporation may at any time allow.

(3) The Corporation is to consider the application and either grant or refuse it.

(4) If the Corporation is satisfied that the exemption sought is reasonable in the circumstances, it is to grant the exemption for such period and subject to such conditions as it thinks fit.

The Corporation is to arrange for the publication in the Gazette of notification of the determination to grant the exemption.

The notification is taken to be notice to all persons of the determination on the date the notification is published in the Gazette.

(5) If the Corporation refuses the application it is to notify the owner of the mill in writing, stating its reasons.

**10.13 Declaration of failure to mill.** (1) If the Corporation is satisfied that the owner of a mill—

- (a) has failed to carry on the business of manufacturing sugar in accordance with the obligations imposed by section 10.11; and
- (b) has not been granted an exemption in relation to the failure under section 10.12;

it may recommend to the Minister that a declaration to that effect be published in the Gazette.

(2) The Minister upon the recommendation of the Corporation may publish that declaration in the Gazette.

(3) The Corporation may make a recommendation under subsection (1) on its own motion or on application by a mill suppliers' committee constituted with respect to the mill in question.

**10.14 Show cause to precede declaration.** (1) Before the Corporation makes a recommendation under section 10.13 (1), it is to give written notice to the mill owner calling upon the mill owner to show cause why the recommendation should not be made.

(2) The notice to show cause is to allow the mill owner at least 30 days in which to respond.

(3) The Corporation is to consider any written submissions made by the mill owner and afford the mill owner a reasonable opportunity to be heard in relation to the matter.

(4) If by the expiration of the period of 30 days or such greater period allowed by the Corporation at any time, the mill owner has not shown cause or sufficient cause why the recommendation should not be made, the Corporation may proceed to make the recommendation.

(5) In making the recommendation, the Corporation is to forward to the Minister an account of any submissions made to the Corporation by the mill owner.

**10.15 Appointment of Administrator.** The Minister may appoint an Administrator to administer the affairs of a mill in relation to which a declaration has been published in the Gazette under section 10.13.

**10.16 Power of Administrator.** (1) An Administrator appointed to administer the affairs of a mill may—

- (a) enter any place at any time and take possession of the mill and all property used, occupied or held by or on behalf of the owner in connexion with the business of the mill; and
- (b) carry on the business of the mill; and
- (c) make use of the property taken into possession and exercise all the rights of the owner in relation to the business of the mill.

“Property” means real or personal property of every description and includes any estate, interest or profit whether present or future, vested or contingent, arising out of or incident to real or personal property.

(2) The owner of the mill and the owner's employees and agents upon demand are to forthwith deliver possession of the mill and property referred to in subsection (1) and facilitate the exercise by the Administrator of the powers conferred by subsection (1).

**10.17 Obstruction of Administrator.** (1) A person who obstructs an Administrator in the exercise of the powers conferred by section 10.16 commits an offence against this Act.

(2) A person obstructs an Administrator if the person fails to comply with section 10.16 (2) or in any other way obstructs or attempts to obstruct the Administrator.

**10.18 Compensation for seized property.** (1) All property taken and used by an Administrator is to be taken and used on just terms.

(2) The owner of the property is entitled to be paid by the Administrator a reasonable amount for any loss or damage suffered by reason of the taking and using of the property.

(3) In assessing the compensation due allowance is to be made for any loss or damage due to disturbance of any business of the owner of the property, whether carried on in Queensland or elsewhere, or to severance of any property.

(4) The amount of the compensation is to be determined by the Corporation.

**10.19 Appeal against compensation determination.** (1) An owner of property aggrieved by the Corporation's determination of the amount of compensation payable to the owner under section 10.18 may appeal to the Supreme Court within 21 days of the determination.

(2) The appeal is to be by way of fresh determination on the merits.

(3) The Supreme Court or a judge thereof has jurisdiction to hear and determine the appeal by way of rehearing and to—

(a) confirm or vary the determination; or

(b) make such other orders as are just and reasonable.

**10.20 Accounting.** (1) An Administrator who carries on the business of a mill under this section, is—

(a) to keep an account of all income and expenditure of and in connexion with the mill or any property while it remains in the Administrator's possession; and

(b) to cause the account to be audited from time to time by the Auditor-General or in accordance with the directions of the Auditor-General.

(2) Expenditure is to include all expenses relating to—

(a) taking possession of the mill and any property including all compensation payable under section 10.18; and

(b) the carrying on of the business of the mill; and

(c) the keeping of the account and the carrying out of its audit.

(3) As soon as is reasonably practicable after the termination of any crushing season the Administrator is to certify to the Corporation and declare the state of the account and the amount of the profit or loss, as the case may be.

(4) If there is a profit, the Administrator is to pay the amount of the profit to the mill owner.

(5) If there is a loss, the Corporation is to pay the amount of the loss to the Administrator.

**10.21 Liability of mill owner not affected.** No declaration under section 10.13 and no action purporting to have been taken under this Division by the Minister or the Administrator, relieves the mill owner from liability for any penalty or damages in any civil or other proceedings to which the mill owner would be liable by reason of any failure referred to in section 10.13.

## PART 11—EASEMENTS AND PERMITS TO USE LAND

**11.1 Easements.** An easement for tramway, road, or other like purposes may be granted under this Part, whether or not the easement is annexed to or used and enjoyed together with any other land.

**11.2 Grant of easement.** (1) An easement referred to in section 11.1 may be granted to a mill owner—

(a) by the holder of land affected by the easement; or

(b) by the Corporation upon the application of the mill owner.

The easement may be granted subject to conditions.

(2) An easement so granted may be varied in the same manner as an easement may be granted.

The provisions of this Part applying to a grant also apply, with necessary adaptations, to a variation.

**11.3 Service of copy of application.** (1) A mill owner who has made an application under paragraph (b) of section 11.2 is to serve a copy of that application on every person who, to the mill owner's knowledge, is entitled to claim compensation.

(2) The Corporation may direct a mill owner to serve a copy of the application on any other person who, in the opinion of the Corporation, may have an interest in the application, and the mill owner is to serve a copy on that other person.

(3) Every person served with a copy of the application is entitled to make written submissions to and be heard by the Corporation in relation to the application.

**11.4 Grant by holder of land.** (1) For the grant by the holder of land to a mill owner of an easement under this Part to take effect, a notice is to be lodged with the Corporation.

(2) The notice is to be—

(a) in the approved form; and

(b) signed by the mill owner and the land holder; and

(c) accompanied by any fee that may be prescribed by the regulations.

(3) Upon receipt of the notice, the Corporation is to note particulars of the easement in the Register of Easements.

The easement then takes effect and not beforehand.

(4) Nothing in this Part derogates from the right of any person to transfer to the owner of a mill an easement over any land other than by the procedure provided by this Part.

**11.5 Grant by Corporation.** (1) Where the Corporation grants an easement under section 11.2, the Corporation is to note the easement in the Register of Easements.

(2) The easement then takes effect and not beforehand.

**11.6 Compensation.** (1) Where the Corporation grants an easement under section 11.2, any person who, if the mill owner in question were empowered to take and took the easement as a constructing authority under the *Acquisition of Land Act 1967-1988*, would be entitled to claim compensation, may claim compensation in respect of the easement.

(2) For the purposes of the claim for compensation, the provisions of Part IV of the *Acquisition of Land Act 1967-1988* apply as if a reference to a constructing authority were a reference to the mill owner.

**11.7 Register of Easements.** (1) The Corporation is to maintain a register called the Register of Easements in which it is to record particulars of easements granted under this Part in the order of the granting.

The Corporation is to assign to each easement, upon registration, a consecutive number.

(2) If an easement is relinquished, both the mill owner and the land-holder concerned are to lodge notice to that effect immediately with the Corporation.

Upon receipt of a notice under this subsection, the Corporation is to record in the register that the notice has been received and the tenor of the notice.

(3) Particulars recorded under subsection (1) are to include—

- (a) the number of the easement; and
- (b) the date of registration; and
- (c) the name of the mill owner and the mill; and
- (d) the names and the addresses of the holders of the lands upon or in respect of which the easement has been granted; and
- (e) the description of the lands affected; and
- (f) such other particulars as may be prescribed.

(4) The registration of an easement is taken to be sufficient notice to all persons of its existence.

The *Real Property Act 1861-1990* is to be read subject to this subsection.

(5) The register is to be kept in such form and manner that it may be inspected at the principal office of the Corporation during the ordinary working hours of the office.

(6) Any person may inspect the register upon payment of any fee that may be prescribed by the regulations.

**11.8 Certificates.** (1) In any proceedings, a certificate purporting to be signed by a person authorized by the Corporation stating any information relating to matters authorized by this Part to be shown on the Register of Easements is evidence, and in the absence of evidence to the contrary, conclusive evidence, of the matters stated in the certificate.

(2) A certificate referred to in subsection (1) may be issued at any time by the Corporation to any person upon payment to the Corporation of any fee that may be prescribed by the regulations.

**11.9 Continuation of existing easement rights.** (1) Every easement preserved under section 84 of the repealed Regulation of Sugar Cane Prices Act continues under this Act for such period of time as the tramline referred to in that section is required or used by a mill owner for the carriage of sugar cane, and the sole and exclusive ownership of every bridge referred to in that section continues to be vested in the mill owner.

(2) Notwithstanding subsection (1), the mill owner may apply to the Corporation under paragraph (b) of section 11.2 (1) to grant the easement in accordance with this Part.

(3) If the Corporation is satisfied that the easement exists, it may grant the easement in accordance with this Part.

(4) Compensation is not payable in respect of an easement so granted.

(5) An easement preserved under subsection (1) ceases to exist if it has not been registered on the Register of Easements on or before the 30 June 1996.

**11.10 Notation of easement on other registers.** (1) The Registrar of Titles or other person charged with keeping a register of title to land that is the subject of an easement granted under this Part, upon notice by the mill owner to whom the easement is granted, is to enter in the register a note warning of the existence of the easement on the Register of Easements.

The note is not taken to be registration of the easement on the register kept by the Registrar of Titles or other person to whom notice is given.

(2) If the easement is relinquished, the mill owner is to lodge a notice of that fact with the Registrar of Titles or other person to whom notice of the easement was previously given under subsection (1).

(3) A mill owner who fails to comply with subsection (2) commits an offence against this Act.

**11.11 Construction of cattle-grids etc.** (1) On application by the owner of land—

(a) on which there is a tramline or road constructed under section 11.12 or under the corresponding provision of the repealed Regulation of Sugar Cane Prices Act or pursuant to an easement preserved by this Part; or

(b) adjacent to a tramline or road referred to in paragraph (a); the Corporation may order the mill owner concerned to construct and maintain at or near the boundaries of the land such cattle grids, structures or other facilities as are reasonably necessary, in the opinion of the Corporation, to prevent livestock from straying over the tramline or road from the land of one owner onto the land of another.

“Owner” includes an occupier.

(2) A mill owner who fails to comply with an order of the Corporation under this section commits an offence against this Act.

**11.12 Construction etc. of tramlines.** (1) For the purposes of harvesting sugar cane or delivery to a mill of sugar cane, a mill owner or any person authorized by the mill owner, may—

(a) construct, maintain, alter and use a tramway or road, and carry out any other necessary works—

(i) upon any land the property of the mill owner or over which the mill owner holds an easement or other interest under this Act or otherwise, for tramway, road or other like purposes; or

(ii) subject to the provisions of section 35 (24) of the *Local Government Act 1936-1990*, upon any road in respect of which that mill owner holds a permit under that section; or

(iii) subject to the provisions of the *Main Roads Act 1920-1990*, upon any declared road in respect of which that mill owner holds an authority under section 21 (2) of that Act; and

- (b) use on the tramway or road such vehicles or rolling stock and other machinery and equipment as the mill owner considers necessary.

(2) A person who obstructs a mill owner or any person authorized by a mill owner in the exercise of the authority conferred by subsection (1) commits an offence against this Act.

(3) Upon the commencement of section 7.12 of the *Transport Infrastructure (Roads) Act 1991* a reference in subparagraph (iii) of subsection (1) (a)—

- (a) to the *Main Roads Act 1920-1990* is taken to include a reference to the *Transport Infrastructure (Roads) Act 1991*; and
- (b) to section 21 (2) of the *Main Roads Act 1920-1990* is taken to include a reference to section 7.12 of the *Transport Infrastructure (Roads) Act 1991*.

**11.13 Permits to pass over land.** (1) The Corporation, upon such terms and conditions as the Corporation may determine, may grant to a mill owner or a cane grower a permit to use the land of any person, for the purpose of harvesting sugar cane or the delivery of sugar cane to a mill.

(2) A permit may be varied or rescinded by the Corporation.

(3) A permit is sufficient authorization to the person to whom it is granted and any person acting on the person's behalf to use the land of any other person in accordance with the terms of the permit.

(4) A copy of every permit is to be kept by the Corporation and may be inspected at the principal office of the Corporation during the ordinary working hours of the office upon payment of a fee prescribed by the regulations.

**11.14 Appeal to Land Court or Tribunal.** (1) A land-holder or a mill owner aggrieved by a determination of the Corporation to grant or not to grant an easement or permit to pass over land may apply for a review of the determination to—

- (a) the Tribunal; or
- (b) at the election of an aggrieved land-holder—the Land Court.

(2) If a mill owner applies to the Tribunal under subsection (1) for a review of a determination of the Corporation, before the Tribunal hears and determines the application the land-holder whose land would be affected by the grant of the easement or, as the case may be, permit to pass over land, may apply to the chairperson of the Tribunal for the transfer of the proceedings to the Land Court.

If such an application is made the chairperson is to make such orders as are necessary to transfer the proceedings to the Land Court.

The orders have effect according to their tenor.

(3) The Land Court has jurisdiction to hear and determine an application by way of fresh determination on the merits and may—

- (a) confirm the determination of the Corporation; or
- (b) set the determination aside and remit the matter to the Corporation with such directions as it thinks fit.

## PART 12—SUGAR INDUSTRY TRIBUNAL

**12.1 Sugar Industry Tribunal.** (1) A tribunal is to be constituted called the Sugar Industry Tribunal.

(2) The Tribunal is to consist of 3 members appointed by the Governor in Council by notification published in the Gazette, of whom—

- (a) one is to be a legal practitioner who is to be appointed as the chairperson; and
- (b) one is to be a person, nominated by the Minister, who is to be well versed in matters relating to the sugar industry and who does not have any pecuniary interest, direct or indirect in the production, manufacture or marketing of sugar cane or sugar cane products; and
- (c) one is to be a person, nominated by the Minister, who has special qualifications considered by the Minister to be relevant and appropriate to the Tribunal's functions.

(3) A member of the Tribunal is to hold office from the date the member's appointment takes effect for a term of 3 years ending on the same date as the term of each of the other members.

(4) A member of the Tribunal whose term of office has expired is eligible for reappointment if otherwise qualified.

**12.2 Disqualification.** A person who—

- (a) is a member of the Legislative Assembly or of any House of the Parliament of the Commonwealth or of another State or any Territory of the Commonwealth; or
- (b) has attained the age of 70 years; or
- (c) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankrupt or insolvent debtors; or
- (d) has been convicted in Queensland of an indictable offence (whether on indictment or summarily) or convicted elsewhere in respect of an act or omission that, if it occurred in Queensland, would constitute an indictable offence; or
- (e) is a patient within the meaning of the *Mental Health Services Act 1974-1990*;

is not qualified to be or to continue as a member of the Tribunal.

**12.3 Vacation of office.** The office of a member of the Tribunal becomes vacant if the member—

- (a) dies; or
- (b) ceases to be or is not qualified to be a member; or
- (c) resigns office by giving a written resignation to the Minister; or
- (d) is absent without prior leave granted by the chairperson, from 3 consecutive sittings of the Tribunal of which due notice has been given; or
- (e) is removed from office as a member by the Governor in Council.

**12.4 Acting members.** (1) If any member of the Tribunal is temporarily unable to perform the duties of office, the Governor in Council, by notification published in the Gazette, may appoint another person to temporarily act in the office of that member.

(2) A person appointed to act in the office of a member of the Tribunal—

- (a) is to satisfy the requirements of the paragraph of section 12.1 (2) under which the member was appointed; and
- (b) while the person so acts, is to have all the powers, authorities and jurisdiction of a member of the Tribunal, including, if the person is appointed to act in the chairperson's office, those of the chairperson.

**12.5 Casual vacancies.** (1) The Governor in Council may by notification published in the Gazette, appoint a person to fill a vacancy occurring in the office of a member of the Tribunal during the currency of the member's term.

(2) A person appointed to fill a vacancy referred to in subsection (1)—

- (a) is to satisfy the requirements of the paragraph of section 12.1 (2) under which the member whose office fell vacant was appointed; and
- (b) is to have all the powers, authorities and jurisdiction of a member of the Tribunal, including, if the person is appointed to fill a vacancy in the chairperson's office, those of the chairperson; and
- (c) is to hold office from a date specified by the Governor in Council until the expiration of the term of the office for which the member whose office fell vacant was appointed.

**12.6 Remuneration of members.** (1) Members of the Tribunal are to be paid such fees and allowances as the Governor in Council may determine from time to time.

(2) Fees and allowances, other than recoupment of expenses, are not to be paid to an officer of the public service within the meaning of

the *Public Service Management and Employment Act 1988-1990* for performing duties as a member of the Tribunal during the ordinary office working hours of the officer.

**12.7 Secretary and staff.** (1) The Tribunal may appoint and employ, or arrange for the provision of, a secretary and such other staff as is necessary for the proper discharge of the Tribunal's functions.

(2) The *Public Service Management and Employment Act 1988-1990* does not apply in relation to the appointment or employment by the Tribunal of staff and other persons pursuant to this section except in so far as it authorizes the making of arrangements for the performance of duties by an officer of the public service in any other employment.

(3) Arrangements may be made by the Tribunal with the Corporation for employees of the Corporation to perform duties for the Tribunal.

**12.8 Accounts and finance.** (1) Records of all sums received or paid by or on the Tribunal's behalf and of the purposes for which such sums were received or paid are to be kept by the Corporation in accordance with arrangements made between the Corporation and the chairperson.

(2) The Corporation is to defray from its funds all costs (including fees, allowances and expenses) properly incurred in respect of the discharge by the Tribunal of its functions.

**12.9 Proceedings of Tribunal.** (1) The Tribunal is to sit at such times and at such places as the chairperson appoints.

(2) The Tribunal is taken to be duly constituted and may exercise its jurisdiction if at least 2 of its members, including the chairperson, are present.

(3) If more than two members are present, the decision of the Tribunal, in the event of disagreement among its members, is to be that of the majority of its members.

(4) If only two members are present, the decision of the Tribunal, in the event of disagreement between the members, is to be that of the chairperson.

(5) A person may appear before the Tribunal in person or represented by a legal practitioner or by agent duly appointed in writing.

(6) Subject to subsection (7), the Tribunal may inform itself on any matter in such manner as it thinks fit and is not bound by rules or practice as to evidence.

(7) Proceedings before the Tribunal are to be instituted and conducted—

- (a) in accordance with the principles of natural justice; and
- (b) as prescribed or, where this Act makes no or insufficient provision, in accordance with the directions of the chairperson given generally or in a particular case.

**12.10 Jurisdiction of Tribunal.** (1) Jurisdiction is conferred on the Tribunal to hear and determine every application made to it in accordance with this Act.

In the exercise of its jurisdiction, the Tribunal is to act independently, impartially and fairly.

(2) The Tribunal is not competent to make any order as to costs except against a person who is found by it to have instituted a frivolous or vexatious application.

**12.11 Review of determination.** An application may be made to the Tribunal for review of the following determinations:—

- (a) a determination of a poll list made by the Corporation under section 3.12 or made by the Sugar Experiment Stations Board under section 5.8; or
- (b) a determination made by the Corporation refusing to register any matter on a register kept by the Corporation under this Act; or
- (c) subject to section 8.9, a determination made by a Local Board of the provisions of an award; or
- (d) a determination made by the Corporation under section 8.14 not to approve a contract or agreement; or
- (e) a determination made by a Local Board to grant or refuse an application to it under Division 3 or 8 of Part 9, except a determination required to be made by unanimous decision of the members of the Board; or
- (f) a determination made by the Corporation under section 9.18 (4) to cancel an assignment or part of an assignment area; or
- (g) a determination made by a Local Board under section 9.28 (1); or
- (h) a determination made by the Corporation adjusting the mill peak of a mill under section 9.38 (4); or
- (i) a determination made by the Corporation under Division 2 of Part 10;
- (j) a determination made by the Corporation to grant or refuse an application under section 10.12; or
- (k) a determination made by the Corporation under Part 11.

**12.12 Procedure.** (1) Subject to this Act, an application for review of a determination is to be instituted before the expiration of 21 days after the date on which the aggrieved person receives notice of the determination under this Act or by such later date as the Tribunal may at any time allow.

(2) Institution of an application is to be by lodgement in the office of the Tribunal of a notice of the application in the prescribed form accompanied by any fee that may be prescribed by the regulations.

(3) The grounds of an application are to be clearly and briefly set out in the notice of appeal.

(4) An applicant may withdraw an application by notice in writing lodged in the office of the Tribunal.

**12.13 Decision on review.** (1) A review by the Tribunal of a determination by the Corporation or a Local Board is to be by fresh determination on the merits.

(2) Upon reviewing a determination the Tribunal may—

- (a) affirm the determination; or
- (b) remit the matter to the Corporation or, as the case may be, the Local Board for reconsideration having regard to the matters specified by the Tribunal; or
- (c) set aside the determination; or
- (d) substitute its own determination for that reviewed, which substituted determination is to take effect as if it were that of the Corporation or, as the case may be, the Local Board; or
- (e) vary as it thinks fit the determination which determination as varied is to take effect as if it were that of the Corporation or, as the case may be, the Local Board.

(3) A determination made by the Tribunal upon an application is to be given effect by all persons concerned.

**12.14 Preliminary hearing.** (1) In relation to an application made to the Tribunal, the chairperson may, at the chairperson's discretion, and on such terms as the chairperson thinks fit, require the parties to the application to attend at a preliminary hearing.

The preliminary hearing may be conducted by the Tribunal or by the chairperson sitting alone.

(2) Upon a preliminary hearing, the Tribunal or, if the chairperson conducts the preliminary hearing, the chairperson may—

- (a) order notice of the application to be given by a party to the application to any person; or
- (b) make such orders relating to procedure in the conduct of the application as are necessary or desirable; or
- (c) require the parties to the application to permit discovery or to file pleadings; or
- (d) strike out an application if the Tribunal or, as the case may be, the chairperson considers it to be frivolous or vexatious; or
- (e) in the case of an application for a review remit the matter to the body whose determination is the subject of the application for further consideration.

(3) Subsection (2) is not taken to limit the power of the chairperson to regulate the proceedings of the Tribunal.

(4) Subsections (5) to (7) (both inclusive) of section 12.9 apply to a preliminary hearing.

**12.15 Application by mill suppliers' committee.** (1) An application authorized by this Act instituted or made to the Tribunal by a mill suppliers' committee is to be made for and on behalf of the assignment holders supplying sugar cane to the mill.

(2) The notice of application and all other documents in the matter are to be signed by the chairperson and the secretary of the mill suppliers' committee.

(3) The notice of application is to be accompanied by a statement setting out—

- (a) the date of the meeting at which the decision was made to make the application; and
- (b) the resolution by which that decision was made.

**12.16 Power to summon witnesses.** The chairperson, or a person authorized in writing by the chairperson, may summon a person to appear at a hearing of the Tribunal at a time and place specified in the summons to give evidence and produce any records specified in the summons.

**12.17 Failure of witness to attend.** A person served with a summons to appear as a witness at a hearing of the Tribunal, who without reasonable excuse—

- (a) fails to attend as required by the summons; or
- (b) fails to appear from time to time in the course of the hearing as required by the chairperson;

commits an offence against this Act.

**12.18 Power to administer oath or affirmation.** The chairperson, or a person authorized by the chairperson, may administer an oath to or take an affirmation of any person appearing as a witness before a hearing of the Tribunal.

**12.19 Refusal to be sworn or to answer questions.** (1) A person appearing as a witness at a hearing of the Tribunal who—

- (a) refuses or fails to be sworn or to make an affirmation; or
- (b) refuses or fails to answer a question that the person is required to answer by the chairperson; or
- (c) refuses or fails to produce records that the person was required to produce by a summons under section 12.16 served on the person;

commits an offence against this Act.

(2) This section does not apply in respect of a refusal or failure to answer a question or produce records that would tend to incriminate the person.

**12.20 Contempt of hearing.** (1) A person who obstructs or improperly influences the conduct of a hearing of the Tribunal, or attempts so to do, commits an offence against this Act.

(2) The chairperson may order to be removed from a hearing any person who obstructs, or improperly influences the conduct of a hearing, or attempts so to do.

For this purpose the chairperson may authorize any person to use such force as is reasonably necessary.

**12.21 Allowances to witnesses.** A witness summoned to appear at a hearing of the Tribunal is entitled to be paid such allowances and expenses—

- (a) as are prescribed by the regulations; or
- (b) as the chairperson determines in the absence of any regulations.

### PART 13—MISCELLANEOUS

**13.1 Records to be kept.** A body constituted under this Act—

- (a) is to keep such records as are necessary for the proper discharge of its functions; and
- (b) is a public authority within the meaning of the *Libraries and Archives Act 1988-1990*.

**13.2 Body may provide for superannuation of employees.** (1) Subject to the approval of the Governor in Council, a body constituted under this Act—

- (a) may maintain or participate in any scheme or arrangement; and
- (b) may amend a scheme or arrangement maintained by it;

that secures superannuation or provident benefits for employees of the body or their dependants.

(2) A body is not competent to continue to participate in a scheme or arrangement such as is referred to in subsection (1) that is amended subsequently to its commencing to participate in it unless the approval of the Governor in Council has been first obtained to its continued participation.

(3) The approval of the Governor in Council, if granted, may be subject to such conditions as the Governor in Council thinks fit, including a condition that the provisions of the scheme or arrangement are to authorize the Auditor-General or a person authorized by the Auditor-General to audit the accounts and records of the financial transactions of the body in respect of the scheme or arrangement.

When the Auditor-General is so authorized, the Auditor-General has with respect to the audit all the powers and authorities conferred upon the Auditor-General by the *Financial Administration and Audit Act 1977-1990*.

**13.3 Validity of proceedings.** An act or proceeding of a body constituted under this Act is not invalidated or in any way prejudiced by reason only that at the time the act was done or proceeding taken there was a vacancy in the membership of the body or a defect in the qualification or appointment of a member.

**13.4 Application fees to be reasonable.** The amount of any fee imposed under this Act as a condition for the acceptance of any application made to, or any notice or document lodged with, any person or body under this Act is to be reasonably related to the expenses incurred, or to be incurred in connexion with the processing of the application or lodgement.

**13.5 Statutory declaration may be required.** (1) A body or person authorized under this Act to determine any application made under this Act may require that information provided in relation to the application is to be in the form of a statutory declaration made under the *Oaths Act 1867-1989*.

(2) The body or person may then refuse to consider any information not provided in the form of the statutory declaration when determining the application.

**13.6 Requirements to furnish.** (1) Where a person records or stores any matter by means of a mechanical, electronic or other device, a duty imposed by this Act to furnish any records containing those matters is taken to include a duty to furnish the matters in written form if that is demanded.

The duty imposed by this subsection to furnish a copy of any records is taken to be a duty to produce a clear reproduction.

(2) Records furnished by any person pursuant to a requirement made under this Act may be retained for so long as it is necessary to do so for the purposes of this Act, but a person otherwise entitled to possession of the records is entitled to be furnished as soon as practicable with a copy of the records certified by the person in possession of them under this Act to be a true copy.

Such a certified copy is admissible in all courts and elsewhere as evidence of the matters contained therein as if it were the original.

(3) A person to whom records or a copy of records are furnished under this Act may take notes or copies of or extracts from the records.

**13.7 Offence to make false statement in application.** A person who, in any application made for the purpose of this Act, makes any false or misleading statement without reasonable excuse commits an offence against this Act.

**13.8 Improper use of information prohibited.** A person who is, or formerly was, a member, officer or employee of a body constituted under this Act is not to make improper use of information acquired by virtue of the person's position as such a member, officer or employee

to gain directly or indirectly, an advantage for any person or to cause detriment to the body.

**13.9 Indemnity.** (1) Every member, employee and agent of a body constituted under this Act is to be indemnified against all actions, proceedings and claims in relation to—

- (a) acts done, or omitted to be done, by the person without negligence under this Act; or
- (b) acts done, or omitted to be done by the person in good faith and without negligence for the purposes of this Act.

(2) If the body is constituted as a body corporate, the member, employee or agent is to be indemnified by the body.

(3) If the body is not constituted as a body corporate, the member, employee or agent is to be indemnified by the Corporation.

**13.10 Proceedings for offences.** Proceedings for an offence against this Act are to be taken in a summary way under the *Justices Act 1886-1990* within 12 months after the offence is committed or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever period is the later to expire upon the complaint of a person authorized by the Minister.

**13.11 General penalty.** Unless a specific penalty is otherwise prescribed, a person who commits an offence against this Act is liable—

- (a) if a body corporate—to a penalty not exceeding 100 penalty units; or
- (b) if a natural person—to a penalty not exceeding 40 penalty units.

**13.12 Appropriation of penalties etc.** (1) Unless otherwise expressly provided by this Act, all penalties, costs and other moneys recovered under this Act pursuant to a complaint for an offence are to be paid into and form part of the funds of the Corporation to be applied to its use for the purposes of this Act.

(2) Moneys recovered pursuant to a complaint for an offence made by a person acting on behalf of the Sugar Experiment Stations Board are to be paid into and form part of the funds of the Board to be applied to its use for the purposes of this Act.

**13.13 Evidence.** (1) For the purposes of proceedings for an offence against this Act—

- (a) the authority of the complainant to make the complaint is to be presumed unless the contrary is proved; and
- (b) a statement in a complaint stating when it was that the commission of the offence came to the knowledge of the complainant is to be prima facie evidence of that fact.

**(2) In any proceedings—**

- (a) a certificate purporting to be signed by a person authorized to do so by a body constituted under this Act stating that any document specified in the certificate is a document lodged with or held by the body, or a copy of the document, is prima facie evidence of the matters stated in the certificate; and
- (b) a certificate purporting to be signed by a person authorized to do so by the Corporation stating the mill peak of a mill at a date or during a period specified in the certificate is prima facie evidence of the matter stated in the certificate; and
- (c) a certificate purporting to be signed by the Director or a person authorized by the Director stating in relation to a date or period of time specified in the certificate and in relation to a place specified in the certificate that sugar cane of a particular variety was non-approved sugar cane, is prima facie evidence of the matters stated in the certificate.

**13.14 Service of documents.** (1) Any document authorized or required by this Act to be given to any person is duly given if—

- (a) it is served personally on the person to whom it is directed or on a person authorized by the person to whom it is directed to accept service; or
- (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives it; or
- (c) it is sent by post, telex, facsimile or similar facility to the place of residence or business of the person to whom it is directed last known to the person who gives it; or
- (d) where a manner of service is prescribed by any other Act or law in relation to a class of person—it is served in that manner.

(2) Where a person gives a document under this section, the person may attend before a justice and depose on oath and in writing endorsed on a copy of the document as to the manner and date of the giving.

Such a deposition, upon production in any proceedings is evidence of the matters stated in the deposition.

**13.15 Regulations.** (1) The Governor in Council may make regulations not inconsistent with this Act with respect to—

- (a) all matters required or permitted by this Act to be prescribed by regulation or to be prescribed and in respect of which no other means of prescription is specified; and
- (b) all matters necessary or expedient to be prescribed for the proper administration of this Act or to achieve the objects and purposes of this Act.

(2) Without limiting the generality of subsection (1), the Governor in Council may make regulations for or with respect to the matters set forth in the Second Schedule.

(3) The power to regulate conferred by this section includes the power to prohibit and provide for offences against this Act constituted by contraventions of the regulations.

(4) Regulations made under this Act—

- (a) may be made to apply generally throughout the State or within a part of the State and may be made to apply generally with respect to any class of person or matter or thing or to apply with such limited application as is indicated or with variations in respect of classes of persons, matters or things; and
- (b) may adopt wholly or partly and specifically or by reference any of the standard rules, codes, specifications or methods as they exist from time to time of the Standards Association of Australia, the British Standards Institute, the National Biological Standards Laboratory, the Standing Committee on Agriculture or any like body identified in the regulations.

(5) Regulations may be made so as to provide for any matter for which the Corporation is authorized to issue a guideline or institute a programme.

To the extent that the regulations are inconsistent with any such guideline or programme, the regulations prevail.

#### PART 14—TRANSITIONAL, SAVING AND CONSEQUENTIAL AMENDMENT

##### *Division 1—Amendment of Plant Protection Act 1989*

**14.1 Citation.** (1) In this Division, the *Plant Protection Act 1989* is referred to as the Principal Act.

(2) The Principal Act as amended by this Division may be cited as the *Plant Protection Act 1989-1991*.

**14.2 Amendment of s. 3. Interpretation.** Section 3 of the Principal Act is amended by—

(a) in subsection (1) omitting from the definition “plant” the words “or sugar cane”;

(b) adding at the end of the section the following subsection:—

“(8) Except as provided by the *Sugar Industry Act 1991* or any other Act, this Act does not apply to sugar cane as a plant within the meaning of this Act.”.

##### *Division 2—Amendment of Harbours Act 1955-1990*

**14.3 Citation.** (1) In this Division, the *Harbours Act 1955-1990* is referred to as the Principal Act.

(2) The Principal Act as amended by this Division may be cited as the *Harbours Act 1955-1991*.

**14.4 Amendment of s. 8. Meaning of terms.** Section 8 of the Principal Act is amended, in subsection (1), by inserting after the definition "Place" the following definition:—

““Queensland Sugar Corporation” means the Queensland Sugar Corporation constituted under the *Sugar Industry Act 1991*.”.

**14.5 Repeal of s. 170. The Sugar Board.** The Principal Act is amended by repealing section 170.

**14.6 Amendment of s. 172. Proposal for provision of facilities for loading sugar in bulk.** Section 172 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the words “The Sugar Board” wherever occurring and in each case substituting the words “the Queensland Sugar Corporation”;

(ii) omitting from paragraph (ii) the words “the two Boards agreeing” and substituting the words “reaching an agreement”;

(b) in subsection (2) omitting from paragraph (iv) the words “The Sugar Board” and substituting the words “the Queensland Sugar Corporation”.

**14.7 Amendment of s. 173. How proposal may be dealt with by Minister.** Section 173 of the Principal Act is amended, in subsection (1), by omitting the words “The Sugar Board” wherever occurring and substituting in each case the words “the Queensland Sugar Corporation”.

**14.8 Amendment of s. 175. Finance etc.** Section 175 of the Principal Act is amended, in subsection (2), by omitting the words “The Sugar Board” wherever occurring and in each case substituting the words “the Queensland Sugar Corporation”.

**14.9 Amendment of s. 176. The Sugar Board to control, operate, etc., facilities for loading sugar in bulk.** Section 176 of the Principal Act is amended by—

(a) in the note appearing in and at the beginning of the section, omitting the words “The Sugar Board” and substituting the words “The Queensland Sugar Corporation”;

(b) omitting the words “The Sugar Board” wherever occurring and in each case substituting the words “the Queensland Sugar Corporation”.

**14.10 Amendment of s. 177. Power of The Sugar Board to appoint officers, etc.** Section 177 of the Principal Act is amended by—

(a) in the note appearing in and at the beginning of the section, omitting the words “The Sugar Board” and substituting the words “the Queensland Sugar Corporation”;

(b) omitting the words “The Sugar Board” wherever occurring and in each case substituting the words “the Queensland Sugar Corporation”;

(c) in subsection (2), omitting the word “Board” where it secondly occurs and substituting the word “Corporation”.

**14.11 Amendment of s. 178. Power of delegation by The Sugar Board.** Section 178 of the Principal Act is amended by—

(a) in the note appearing in and at the beginning of the section omitting the words “The Sugar Board” and substituting the words “the Queensland Sugar Corporation”;

(b) in subsection (1)—

(i) omitting the words “The Sugar Board” where firstly occurring and substituting the words “The Queensland Sugar Corporation”;

(ii) omitting the words “The Sugar Board” where secondly occurring and substituting the words “the Queensland Sugar Corporation”;

(c) in subsection (2)—

(i) omitting the words “The Sugar Board” where firstly and secondly occurring and substituting the words “the Queensland Sugar Corporation”;

(ii) omitting the words “The Sugar Board” where thirdly occurring and substituting the words “The Queensland Sugar Corporation”;

(iii) omitting the words “The Sugar Board” where fourthly occurring and substituting the words “the Queensland Sugar Corporation”;

(d) in subsection (3), omitting the words “The Sugar Board” and substituting the words “The Queensland Sugar Corporation”;

(e) in subsection (4)—

(i) omitting the words “The Sugar Board” where firstly occurring and substituting the words “The Queensland Sugar Corporation”;

(ii) omitting the words “The Sugar Board” where secondly occurring and substituting the words “the Queensland Sugar Corporation”;

(f) in subsection (5), omitting the words “The Sugar Board” and substituting the words “The Queensland Sugar Corporation”;

(g) in subsection (6), omitting the words “The Sugar Board” and substituting the words “the Queensland Sugar Corporation”.

**14.12 Amendment of s. 179. Finance.** Section 179 of the Principal Act is amended by—

(a) omitting the words “The Sugar Board” wherever occurring and in each case substituting the words “the Queensland Sugar Corporation”;

(b) in subsection (1)—

(i) omitting the words “by Her Majesty in right of the State of Queensland from time to time under the authority of *“The Sugar*

*Acquisition Act of 1915*” and substituting the words “by the Queensland Sugar Corporation under the *Sugar Industry Act 1991*”;

(ii) omitting the words “that Board” wherever occurring and in each case substituting the words “that Corporation”;

(c) in subsection (2), omitting all words from and including the words “The Secretary” to and including the words “acquired as aforesaid” and substituting the words “The Queensland Sugar Corporation”.

**14.13 Amendment of s. 180 and transitional. Replacement and Reserve Fund.** (1) Section 180 of the Principal Act is amended by—

(a) in subsection (1), omitting the words “The Sugar Board” and substituting the words “the Queensland Sugar Corporation”;

(b) in subsection (2)—

(i) omitting the words “The Sugar Board” where firstly occurring and substituting the words “The Queensland Sugar Corporation”;

(ii) omitting the words “The Sugar Board” where secondly and thirdly occurring and substituting the words “the Queensland Sugar Corporation” in each case;

(c) in subsection (3), omitting the words “The Sugar Board” wherever occurring and substituting the words “the Queensland Sugar Corporation” in each case;

(d) omitting subsection (4).

(2) On the date of the commencement of subsection (1), all moneys standing to the credit of the Replacement and Reserve Fund referred to in section 180 of the Principal Act and interests accrued or due on those moneys, divest from The Sugar Board and the Crown and vest in the Queensland Sugar Corporation.

(3) The fund maintained by the Queensland Sugar Corporation in the performance of the duty imposed by section 180 of the Principal Act as amended by subsection (1), is taken to be a continuation of the Replacement and Reserve Fund referred to in section 180 of the Principal Act.

**14.14 Amendment of s. 181. Charges for use of facilities for loading sugar in bulk.** Section 181 of the Principal Act is amended by omitting the words “The Sugar Board” and substituting the words “The Queensland Sugar Corporation”.

**14.15 Amendment of s. 182. Harbours Corporation.** Section 182 of the Principal Act is amended, in subsection (1), by omitting from paragraph (iv) the words “The Sugar Board” and substituting the words “the Queensland Sugar Corporation”.

**14.16 Amendment of s. 183A. Additions to or extensions of facilities for loading sugar in bulk.** Section 183A of the Principal Act is amended by—

(a) in subsection (2)—

(i) omitting the words “Sugar Board” where firstly occurring and substituting the words “Queensland Sugar Corporation”;

(ii) omitting the words “therefor, The Sugar Board” and substituting the words “for the harbour, the Queensland Sugar Corporation”;

(b) in subsection (4), omitting the words “The Sugar Board” and substituting the words “The Queensland Sugar Corporation”;

(c) in subsection (5), omitting the words “The Sugar Board” and substituting the words “the Queensland Sugar Corporation”;

(d) in subsection (6)—

(i) omitting all words from and including the words “Her Majesty” to and including the words “*Act of 1915.*” and substituting the words “the Queensland Sugar Corporation under the *Sugar Industry Act 1991.*”;

(ii) omitting all words from and including the words “The Minister for Primary Industries” to and including the word “aforesaid” and substituting the words “The Queensland Sugar Corporation”.

*Division 3—Amendment of Local Government Act 1936-1990*

**14.17 Citation.** (1) In this Part, the *Local Government Act 1936-1990* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be referred to as the *Local Government Act 1936-1991*.

**14.18 Amendment of s. 35. Classification of Roads.** Section 35 of the Principal Act is amended, in paragraph (iii) of subsection (24) by—

(a) omitting the words “*The Regulation of Sugar Cane Prices Acts, 1915 to 1954,*” and substituting the words “the *Sugar Industry Act 1991*”;

(b) omitting the words “Central Sugar Cane Prices Board” and substituting the words “Sugar Industry Tribunal”.

*Division 4—Amendment of Liens on Crops of Sugar Cane Act 1931-1981*

**14.19 Citation.** (1) In this Division, the *Liens on Crops of Sugar Cane Act 1931-1990* is referred to as the Principal Act.

(2) The Principal Act as amended by this Division may be cited as the *Liens on Crops of Sugar Cane Act 1931-1991*.

**14.20 Amendment of s. 8. Power of lienee where lienor neglects to pay off the moneys secured by lien.** Section 8 of the Principal Act is

amended by omitting the words “*The Regulation of Sugar Cane Prices Acts, 1915 to 1931,*” and substituting the words “*the Sugar Industry Act 1991*”.

**14.21 Amendment of s. 9. Application of proceeds of sugar-cane.** Section 9 of the Principal Act is amended, in subsection (1), by omitting the words “subsection one of section twenty-four of *The Regulation of Sugar Cane Prices Acts, 1915 to 1931,*” and substituting the words “section 8.12 of the *Sugar Industry Act 1991*”.

**14.22 Amendment of s. 16. Priority.** Section 16 of the Principal Act is amended, in subsection (2), by—

(a) omitting the words “Cane Pest and Disease Control Board constituted under *The Sugar Experiment Stations Acts, 1900 to 1915,*” and substituting the words “Cane Protection and Productivity Board constituted under the *Sugar Industry Act 1991*”;

(b) omitting the words “cane pests or diseases or both cane pests and diseases within the meaning of those Acts” and substituting the words “any pest within the meaning of that Act”;

(c) omitting the words “cane pests or diseases or both cane pests and diseases within the meaning of *The Sugar Experiment Stations Acts, 1900 to 1951,*” and substituting the words “any pest within the meaning of the *Sugar Industry Act 1991*”.

#### *Division 5—Granting of Transitional Assignments*

**14.23 Grant.** (1) There is hereby granted to the holder from the Crown, at the commencement of this section, of each lot of land the description of which appears in the first column of the Table appearing at the end of this section, an assignment with an area of 80 hectares.

The Plans referred to in the Table are registered in the Department of Lands.

(2) The presently assigned description of the assignment is the description of the lot.

(3) The mill to which is assigned the land within the boundaries of the presently assigned description is the mill referred to in the second column of the Table opposite the presently assigned description.

(4) The Minister may give all such directions as are necessary to give full effect to the assignments granted by this section.

TABLE

| Lot description   | Mill     |
|---|----------|
| Lot 30 on Plan GS801607, Parish of Northcote, County of Gladstone     | Invicta  |
| Lot 42 on Plan GS801610, Parish of Northcote, County of Gladstone     | Invicta  |
| Lot 46 on Plan SB759, Parish of Leichhardt Downs, County of Salisbury | Inkerman |
| Lot 43 on Plan SB769, Parish of Leichhardt Downs, County of Salisbury | Inkerman |
| Lot 49 on Plan SB760, Parish of Leichhardt Downs, County of Salisbury | Inkerman |
| Lot 50 on Plan SB761, Parish of Leichhardt Downs, County of Salisbury | Inkerman |
| Lot 247 on Plan GS1091, Parish of Mulgrave, County of Gladstone       | Invicta  |
| Lot 254 on Plan GS1054, Parish of Mulgrave, County of Gladstone       | Invicta  |
| Lot 255 on Plan GS1054, Parish of Mulgrave, County of Gladstone       | Invicta  |

*Division 6—Transitional matters relating to repealed legislation*

**14.24 Interpretation.** In this Division—

“commencement date” means the date of commencement of section 1.3;

“Sugar Board” means The Sugar Board referred to in section 4A of the repealed Sugar Acquisition Act.

**14.25 Preservation of Central Board for certain purposes.** (1) Notwithstanding the repeal of the repealed Regulation of Sugar Cane Prices Act, the Central Sugar Cane Prices Board as constituted under that Act immediately before the commencement date is preserved and continued in existence until a date appointed by Order in Council under subsection (6).

(2) The jurisdiction of the Central Sugar Cane Prices Board so preserved is limited to hearing and determining—

(a) any matter pending before it immediately before the commencement date; and

(b) any matter referred to it by the Minister.

(3) For the purpose of exercising the jurisdiction conferred by subsection (2)—

- (a) subject to paragraph (c), the provisions of the repealed Regulation of Sugar Cane Prices Act apply as if this Act had not been passed; and
- (b) the Central Board may make such orders as it considers just and reasonable to take into account the transition from the operation of the repealed Regulation of Sugar Cane Prices Act to this Act; and
- (c) the Chairman of the Central Sugar Cane Prices Board is to continue to hold office notwithstanding that he attains the age of 70 years and to that extent the first paragraph of section 19 (1) of the repealed Regulation of Sugar Cane Prices Act does not apply.

(4) The Central Sugar Cane Prices Board in the exercise of the jurisdiction conferred by subsection (2), may instead of hearing and determining a matter refer it to the Tribunal for it to exercise the jurisdiction of the Central Sugar Cane Prices Board in relation to the matter.

The Central Sugar Cane Prices Board may give such directions to the Tribunal as it considers just and reasonable including directions calculated to allow a sensible transition of any matter to the operation of this Act.

If the Central Sugar Cane Prices Board makes such a reference, the Tribunal has and may exercise all necessary jurisdiction to hear and determine the matter in accordance with the Central Sugar Cane Prices Board's directions.

(5) The Governor in Council may exercise the powers conferred by the repealed Regulation of Sugar Cane Prices Act to fill any vacancy occurring in the office of a Chairman or member of the Central Sugar Cane Prices Board as preserved by this section and the provisions of that repealed Act apply for that purpose as if this Act had not been passed.

(6) The Governor in Council, by Order in Council, may appoint a date on and from which the Central Sugar Cane Prices Board is to cease to exist.

On and from the date so appointed the Central Sugar Cane Prices Board ceases to exist and its members cease to hold office.

(7) The Minister may make such arrangements with the Chairman of the Central Sugar Cane Prices Board before the date referred to in subsection (6), and give such directions after that date, as may be necessary for the orderly transfer of the records or other property associated with the operation of the Central Sugar Cane Prices Board to the Corporation.

The records become and are the property of the Corporation upon being so transferred.

**14.26 Selection of first members of Corporation.** For the purposes of the first appointment of the whole number of appointed members of the Corporation, it is hereby declared that a nomination to the Minister of persons to be appointed as members of the Corporation carried out as if section 2.7 were in force but before its commencement is sufficient compliance with subsection (6) of that section to authorize the Minister to recommend to the Governor in Council the appointment of those persons as members of the Corporation.

**14.27 Local Boards.** (1) On the commencement date, each Local Sugar Cane Prices Board constituted under the repealed Regulation of Sugar Cane Prices Act and in existence immediately before the commencement date is taken to be a Local Board constituted under section 3.1.

(2) The chairman and each member of a Local Board preserved by subsection (1) holding office immediately before the commencement date on that date is taken to be the chairperson and a member respectively of the Local Board.

(3) An appointment preserved by subsection (2)—

- (a) in the case of a chairperson of a Local Board—is taken to have been made under paragraph (a) of section 3.3 (1); and
- (b) in the case of a member appointed as a representative of a mill owner—is taken to have been made under paragraph (b) of section 3.3 (1); and
- (c) in the case of a member appointed as a representative of cane growers—is taken to have been made under paragraph (c) of section 3.3 (1).

(4) In relation to each Local Board, all the appointments preserved by subsection (2), subject to the provisions of this Act relating to vacancy of office, are taken to continue until the expiration of the three year term for which the members other than the chairperson were appointed.

(5) A person who, immediately before the commencement date is a deputy of the chairman or of a member of a Local Sugar Cane Prices Board pursuant to an appointment made under the repealed Regulation of Sugar Cane Prices Act, on and from the commencement date is taken to be the deputy of the chairperson or, as the case may be, of the member of the Local Board appointed under section 3.6.

(6) Every award and determination of a Local Sugar Cane Prices Board made under the repealed Regulation of Sugar Cane Prices Act, notwithstanding the repeal of that Act, continues to have effect in accordance with its terms until it ceases to have effect in accordance with its terms.

For this purpose—

- (a) every such award, and any determination of a kind a Local Board is competent to make under this Act, is taken to be an award or, as the case may be, a determination under this Act; and
- (b) any determination other than one referred to in paragraph (a) continues to have effect as if this Act had not been passed.

**14.28 Transitional cane testing programmes.** (1) Until the institution of a programme under section 2.23 with respect to a mill, the provisions of Division VII of Part IV of the repealed Regulation of Sugar Cane Prices Act, notwithstanding its repeal, continue to apply in relation to the mill as if this Act had not been passed.

(2) For the purposes of applying those provisions—

- (a) a person holding any appointment under the provisions immediately before the commencement date, on and from that date, is taken to continue to hold the appointment; and
- (b) a reference to the Central Board is taken to be a reference to the Corporation.

**14.29 Sugar Cane Assignment Register.** (1) The Sugar-Cane Assignment Register kept by the secretary of the Central Sugar Cane Prices Board under section 109 of the repealed Regulation of Sugar Cane Prices Act and in existence immediately before the commencement date, on and from the commencement date is preserved and continued in existence as the Sugar Cane Assignment Register maintained under section 2.25.

(2) The Corporation may give such directions as may be necessary for the transfer of the register to the Corporation and for the maintenance of the register before its transfer to the Corporation.

**14.30 Register of Easements.** (1) The Register of Easements kept by the secretary of the Central Sugar Cane Prices Board under section 83 of the repealed Regulation of Sugar Cane Prices Act and in existence immediately before the commencement date, on and from the commencement date is preserved and continued in existence as the Register of Easements maintained under section 11.7.

(2) The Corporation may give such directions as may be necessary for the transfer of the register to the Corporation and for its maintenance before the transfer to the Corporation.

(3) Easements noted on the register under the repealed Regulation of Sugar Cane Prices Act and not relinquished are taken to have been granted under Part 11 of this Act.

**14.31 Preservation of permits to pass.** An order made by the Central Sugar Cane Prices Board before the commencement date under section

88 of the repealed Regulation of Sugar Cane Prices Act and subsisting immediately before that date, on and from that date is taken to be a permit granted by the Corporation under section 11.13.

**14.32 Contracts and agreements outside Act.** (1) All contracts or agreements filed in the office of the Central Sugar Cane Prices Board under section 60 or 61 of the repealed Regulation of Sugar Cane Prices Act, notwithstanding the passing of this Act, continue to be as binding and effective as if this Act had not been passed.

(2) The Corporation is to keep the contracts or agreements referred to in subsection (1) and for that purpose may give such directions as are necessary for their transfer to the Corporation and maintenance before their transfer to the Corporation.

**14.33 Corporation to take place of Sugar Board.** (1) On the commencement date—

- (a) all assets and rights vested in the Sugar Board immediately before that date divest from the Sugar Board and the Crown and vest in the Corporation; and
- (b) all liabilities and obligations attached to the Sugar Board immediately before that date cease to be the liabilities and obligations of the Sugar Board and become and are the liabilities and obligations of the Corporation.

(2) Any proceedings that, but for the passing of this Act, might have been continued or taken by or against the Sugar Board, on and from the commencement date may be continued or taken by or against the Corporation.

(3) All matters commenced by the Sugar Board before the commencement date may be completed by the Corporation after the commencement date.

(4) Any reference to the Sugar Board in any Act, agreement, contract or other instrument or document subsisting immediately before the commencement date, on and from the commencement date has effect as if it were a reference to the Corporation.

(5) Any person appointed, employed or engaged as a member of the staff of the Sugar Board immediately before the commencement date, on the commencement date is taken to be so appointed, employed or engaged by the Corporation on the same terms and conditions.

**14.34 Continuation of repealed Sugar Acquisition Act for transitional purposes.** For the purposes of finalizing payments to mill owners for sugar vested in the Crown under the repealed Sugar Acquisition Act, the provisions of that Act and any Proclamation under that Act are taken to continue in existence notwithstanding its repeal—

- (a) as if this Act had not been passed; and
- (b) as if a reference in the repealed Sugar Acquisition Act to the Sugar Board were a reference to the Corporation.

**14.35 Sugar Board superannuation arrangements transition.** A scheme or arrangement securing superannuation or provident benefits for employees of the Sugar Board or their dependants which the Sugar Board was maintaining or participating in immediately before the commencement date under section 4AA of the repealed Sugar Acquisition Act is taken, on the commencement date, to be a scheme or arrangement which the Corporation is maintaining or participating under section 13.2.

**14.36 Transitional duties of members of Sugar Board.** (1) Notwithstanding the repeal of the repealed Sugar Acquisition Act, the members of the Sugar Board holding office under that Act immediately before the commencement date are taken to remain in office after that date until they have complied with the obligations imposed under subsection (2).

(2) As soon as practicable after the commencement date, the members of the Sugar Board are to—

- (a) take any action required of them by the Minister or the Corporation for the purposes of the orderly transition from the operation of the repealed Sugar Acquisition Act to this Act; and
- (b) prepare and furnish to the Minister a final annual report of the Sugar Board under Part 11A of the *Financial Administration and Audit Act 1977-1990*.

(3) For the purposes of the completion of the obligations imposed by subsection (2) the Sugar Board is taken to continue to exist.

**14.37 Preservation of Bureau and Stations.** (1) Notwithstanding the repeal of the repealed Sugar Experiment Stations Act—

- (a) the Bureau of Sugar Experiment Stations; and
- (b) any Sugar Experiment Stations;

maintained under that repealed Act immediately before the commencement date, on and from that date are preserved and continued in existence as the Bureau of Sugar Experiment Stations maintained under section 4.17, and as a Sugar Experiment Station maintained under section 4.19, respectively.

(2) Persons appointed, employed or engaged as members of the staff of the bureau or a station immediately before the commencement date, on the commencement date are taken to be so appointed, employed or engaged by the Sugar Experiment Stations Board on the same terms and conditions.

**14.38 Transition to application of Plant Protection Act.** Notwithstanding the provisions of the *Plant Protection Act 1989*—

- (a) any matter or thing that immediately before the commencement date was a cane pest defined and declared by regulations under the repealed Sugar Experiment Stations Act, on and from that date is taken to be a pest within the

meaning of the *Plant Protection Act 1989* until the Governor in Council by Order in Council made under the *Plant Protection Act 1989* (which is hereby authorized to be made under that Act) declares that it is not such a pest; and

- (b) a Proclamation made under section 19 (i) of the repealed Sugar Experiment Stations Act and subsisting immediately before the commencement date, on and from that date is taken to be an Order in Council under section 8 of the *Plant Protection Act 1989*; and
- (c) a Proclamation made under section 19 (ii) of the repealed Sugar Experiment Stations Act and subsisting immediately before the commencement date, on and from that date is taken to be an Order in Council under section 9 of the *Plant Protection Act 1989*; and
- (d) a Sugar Cane Quarantine District under the Schedule to the repealed Sugar Experiment Stations Act or a quarantine area declared under section 28 (1) of that Act in either case subsisting immediately before the commencement date, on and from the commencement date is taken to be a pest quarantine area declared under section 11 (1) of the *Plant Protection Act 1989*.

**14.39 Preservation of cane pest and disease infested area.** A cane pest and disease infested area declared under section 29 (1) of the repealed Sugar Experiment Stations Act and subsisting immediately before the commencement date, on and from the commencement date is taken to be a productivity area under section 5.1.

**14.40 Preservation of Cane Pest and Disease Control Board.** (1) A Cane Pest and Disease Control Board constituted under section 30 (1) of the repealed Sugar Experiment Stations Act and in existence immediately before the commencement date, on and from that date is preserved in existence and taken to be constituted under section 5.2 as a Cane Protection and Productivity Board.

(2) For the purposes of a Cane Pest and Disease Control Board preserved under subsection (1) as a Cane Protection and Productivity Board—

- (a) a member holding office immediately before the commencement date under paragraph (a) of section 30 (2) of the repealed Sugar Experiment Stations Act, on and from that date is taken to be appointed as a member of the Cane Protection and Productivity Board under paragraph (a) of section 5.5 (1); and
- (b) a member holding office immediately before the commencement date under paragraph (b) of section 30 (2) of the repealed Sugar Experiment Stations Act on and from that date is taken to be appointed as a member of the Cane Protection and Productivity Board under paragraph (b) of section 5.5 (1); and

- (c) a member holding office immediately before the commencement date under paragraph (c) of section 30 (2) of the repealed Sugar Experiment Stations Act on and from that date is taken to be nominated as a member of the Cane Protection and Productivity Board under paragraph (c) of section 5.5 (1).

(3) A member preserved in office under paragraph (a) or (b) of subsection (2) holds office until the expiration of the term for which the member was originally appointed, subject to the provisions of this Act concerning vacancy in office.

(4) Any reference to a Cane Pest and Disease Control Board preserved by subsection (1) as a Cane Protection and Productivity Board in any Act, agreement, contract or other instrument or document subsisting immediately before the commencement date, on and from that date has effect as if it were a reference to the Cane Protection and Productivity Board.

**14.41 Cane variety approvals.** Any approval by the Director of Sugar Experiment Stations of any variety of sugar cane for growing in any area under the repealed Sugar Experiment Stations Act and subsisting immediately before the commencement date, on and from that date is taken to be an approval under section 4.21.

**14.42 Superannuation schemes transition.** A scheme or arrangement securing superannuation or provident benefits for employees of the Sugar Experiment Stations Board or a Cane Pest and Disease Control Board or their dependants which the Sugar Experiment Stations Board or a Cane Pest and Disease Control Board was maintaining or participating in immediately before the commencement date under the repealed Sugar Experiment Stations Act is taken, on the commencement date, to be a scheme or arrangement that it is maintaining or participating in under section 13.2.

**14.43 Transitional regulations.** The Governor in Council may make regulations prescribing for or with respect to any matter for which—

- (a) it becomes necessary or convenient to prescribe to facilitate the transition from the operation of the Acts repealed by the First Schedule to the operation of this Act; and  
(b) this Part does not make any or sufficient provision.

**14.44 Acts Interpretation Act preserved.** This Part does not limit the generality of sections 20 and 21 of the *Acts Interpretation Act 1954-1990*.

## THE FIRST SCHEDULE

| Year and Number of Act | Short Title of Act  | Extent of Repeal |
|------------------------|---|------------------|
| 64 Vic. No. 17         | <i>"The Sugar Experiment Stations Act of 1900"</i>                                | The whole        |
| 6 Geo. V No. 2         | <i>"The Sugar Acquisition Act of 1915"</i>  | The whole        |
| 6 Geo. V No. 20        | <i>"The Local Sugar Cane Prices Boards Confirmation Act of 1915"</i>              | The whole        |
| 14 Geo. V No. 27       | <i>"The Sugar Experiment Stations Act Amendment Act of 1923"</i>                  | The whole        |
| 25 Geo. V No. 4        | <i>"The Sugar Experiment Stations Acts Amendment Act of 1934"</i>                 | The whole        |
| 25 Geo. V No. 26       | <i>"The Sugar Experiment Stations Acts Amendment Act of 1934 (No. 2)"</i>         | The whole        |
| 2 Geo. VI No. 12       | <i>"The Sugar Experiment Stations Acts and Other Acts Amendment Act of 1938"</i>  | Part II          |
| 5 Geo. VI No. 16       | <i>"The Sugar Experiment Stations Acts and Other Acts Amendment Act of 1941"</i>  | Part II          |
| 10 Geo. VI No. 51      | <i>"The Sugar Experiment Stations Acts Amendment Act of 1946"</i>                 | The whole        |
| 11 Geo. VI No. 41      | <i>"The Sugar Experiment Stations Acts Amendment Act of 1947"</i>                 | The whole        |
| 12 Geo. VI No. 35      | <i>"The Sugar Experiment Stations Acts and Another Act Amendment Act of 1948"</i> | Part II          |
| 15 Geo. VI No. 10      | <i>"The Sugar Experiment Stations Acts Amendment Act of 1951"</i>                 | The whole        |
| 1 Eliz. II No. 7       | <i>"The Sugar Experiment Stations Acts Amendment Act of 1952"</i>                 | The whole        |
| 3 Eliz. II No. 11      | <i>"The Sugar Experiment Stations Acts Amendment Act of 1954"</i>                 | The whole        |
| 6 Eliz. II No. 31      | <i>"The Sugar Experiment Stations Acts Amendment Act of 1957"</i>                 | The whole        |

| Year and Number of Act | Short Title of Act  | Extent of Repeal  |
|------------------------|---|---|
| 8 Eliz. II No. 65      | <i>"The Sugar Experiment Stations Acts Amendment Act of 1959"</i>       | The whole   |
| 1962 No. 45            | <i>"The Regulation of Sugar Cane Prices Act of 1962"</i>                | The whole   |
| 1965 No. 38            | <i>"The Sugar Experiment Stations Acts Amendment Act of 1965"</i>       | The whole   |
| 1966 No. 6             | <i>"The Sugar Board Act of 1966"</i>                                    | The whole   |
| 1966 No. 19            | <i>"The Regulation of Sugar Cane Prices Acts Amendment Act of 1966"</i> | The whole   |
| 1971 No. 27            | <i>Sugar Experiment Stations Act Amendment Act 1971</i>                 | The whole   |
| 1973 No. 11            | <i>Sugar Experiment Stations Act Amendment Act 1973</i>                 | The whole   |
| 1976 No. 69            | <i>Sugar Experiment Stations Act Amendment Act 1976</i>                 | The whole   |
| 1981 No. 7             | <i>Sugar Experiment Stations Act and Another Act Amendment Act 1981</i> | Part II   |
| 1981 No. 22            | <i>Regulation of Sugar Cane Prices Act Amendment Act 1981</i>           | The whole   |
| 1982 No. 33            | <i>Statutory Bodies Financial Arrangements Act 1982</i>                 | All words from and including the words " <i>The Sugar Board Act of 1966</i> " in the 1st column of the Third Schedule, to the end of the Third Schedule |
| 1982 No. 76            | <i>Sugar Acquisition Act Amendment Act 1982</i>                         | The whole   |
| 1983 No. 23            | <i>Sugar Experiment Stations Act Amendment Act 1983</i>                 | The whole   |
| 1984 No. 84            | <i>Sugar Acquisition Act Amendment Act 1984</i>                         | The whole   |

| Year and Number of Act | Short Title of Act  | Extent of Repeal   |
|------------------------|---|--|
| 1985 No. 84            | <i>City of Brisbane Market Act and Other Acts Amendment Act 1985</i>          | Part VIII  |
| 1986 No. 51            | <i>Regulation of Sugar Cane Prices Act Amendment Act 1986</i>                 | Part II  |
| 1987 No. 15            | <i>Sugar Acquisition Act Amendment Act 1987</i>                               | The whole  |
| 1989 No. 55            | <i>Sugar Acquisition Act Amendment Act 1989</i>                               | The whole  |
| 1989 No. 56            | <i>Regulation of Sugar Cane Prices Act and Another Act Amendment Act 1989</i> | Part II  |
| 1989 No. 103           | <i>Statute Law (Miscellaneous Provisions) Act 1989</i>                        | All words from and including the words "Regulation of Sugar Cane Prices Act" in the 1st column of the Schedule to and including the words "Regulation of Sugar Cane Prices Act and Another Act Amendment Act 1989" in the 3rd column of the Schedule |
| 1990 No. 17            | <i>Sugar Acquisition Act Amendment Act 1990</i>                               | The whole  |
| 1990 No. 18            | <i>Sugar Experiment Stations Act Amendment Act 1990</i>                       | The whole  |

## SECOND SCHEDULE

*Subject matter of regulations*

1. **Functions.** The discharge of any functions, the exercise of any power and the performance of any duty under this Act.
2. **Qualifications and appointments.** The qualifications required before a person may be appointed, engaged or employed pursuant to this Act.
3. **Instruments.** The forms required or authorized in respect of any notice or instrument or other matter under this Act.
4. **Fees etc.** The fees and other amounts payable in respect of any matter provided for by this Act.
5. **Licences, permits, approvals.** Requirements that a licence, permit or another form of approval be obtained from any person in relation to any matter authorized to be regulated.
6. **Exercise of discretion.** Authorizing the exercise of a discretion by any person in relation to any matter being regulated.
7. **Information.** Returns of information required to be given to any person or body where necessary or convenient for the administration of this Act.
8. **Confidentiality.** The preservation of confidentiality in relation to particular classes of information acquired by any person as a member, officer or employee of a body constituted under this Act or as a person concerned in the administration of this Act.
9. **Control over bodies.** The regulation of bodies constituted or established under the Act in the discharge of functions.
10. **Guidelines.** Any matter with respect to which a guideline may be issued by the Corporation.
11. **Programmes.** The form and provisions of a programme instituted under section 2.23.
12. **Awards.** The matters to be included in awards or which may be included in awards generally or in particular awards.
13. **Polls.** The conduct of polls and determination of poll lists.
14. **Transfers.** The transfer of an easement or permit granted under Part 11 from the person to whom it was granted to another and the alteration of the mill with respect to which such an easement or permit is used.