

Queensland



**PRIMARY INDUSTRIES
LEGISLATION
AMENDMENT ACT (No. 2)
1997**

Act No. 73 of 1997

Queensland



PRIMARY INDUSTRIES LEGISLATION AMENDMENT ACT (No. 2) 1997

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Queensland



**Primary Industries Legislation Amendment
Act (No. 2) 1997**

Act No. 73 of 1997

An Act to amend legislation about primary industries

[Assented to 1 December 1997]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Primary Industries Legislation Amendment Act (No. 2) 1997*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF DAIRY INDUSTRY ACT 1993

Act amended in pt 2

3. This part amends the *Dairy Industry Act 1993*.

Amendment of s 45 (Offences related to licences)

4. Section 45(2), after ‘a processor’—

insert—

‘of market milk’.

PART 3—REPEAL OF DEER FARMING ACT 1985

Repeal

5. The *Deer Farming Act 1985* is repealed.

PART 4—AMENDMENT OF EXOTIC DISEASES IN ANIMALS ACT 1981

Act amended in pt 4

6. This part amends the *Exotic Diseases in Animals Act 1981*.

Amendment of s 5 (Interpretation)

7.(1) Section 5, heading—

omit, insert—

‘Definitions’.

(2) Section 5, definitions “**control zone**”, “**infected zone**” and “**quarantine zone**”—

omit.

(3) Section 5—

insert—

“**control area**” means an area notified as a control area under section 18.

“**infected premises**” means an area placed in quarantine under section 9.

“**restricted area**” means an area notified as a restricted area under section 10.’.

Amendment of pt 2, div 2, heading (Quarantine zone)

8. Part 2, division 2, heading—

omit, insert—

‘Division 2—Infected premises’.

Amendment of s 9 (Quarantine zone)

9.(1) Section 9, heading—

omit, insert—

‘Infected premises’.

(2) Section 9(3)(a) to (d), ‘a quarantine zone’—

omit, insert—

‘infected premises’.

Amendment of pt 2, div 3, heading (Infected zone)

10. Part 2, division 3, heading—

omit, insert—

‘Division 3—Restricted area’.

Amendment of s 10 (Notification of infected zone)

11.(1) Section 10, heading, ‘infected zone’—

omit, insert—

‘restricted area’.

(2) Section 10(1), ‘an infected zone’—

omit, insert—

‘a restricted area’.

(3) Section 10(3), ‘zone’—
omit, insert—
‘area’.

Amendment of s 11 (Effect of notification)

12. Section 11(1)(a) to (c), ‘an infected zone’—
omit, insert—
‘a restricted area’.

Amendment of s 12 (Powers of inspectors in order to eradicate and prevent spread of exotic disease)

13.(1) Section 12(1)(a)(i) and (ii) and (b), ‘an infected zone’—
omit, insert—
‘a restricted area’.

(2) Section 12(2), ‘infected zone’—
omit, insert—
‘restricted area’.

Amendment of s 13 (Unauthorised movement of animals etc.)

14. Section 13(1), ‘an infected zone’—
omit, insert—
‘a restricted area’.

Amendment of s 14 (Entry and exit places)

15.(1) Section 14(1), ‘an infected zone’—
omit, insert—
‘a restricted area’.

(2) Section 14(1) and (2)(a) and (b), ‘zone’—
omit, insert—
‘area’.

(3) Section 14(2)(b), ‘infected zone’—
omit, insert—
‘restricted area’.

Amendment of s 15 (Check points)

16.(1) Section 15(1), ‘an infected zone’—
omit, insert—
‘a restricted area’.

(2) Section 15(1), ‘infected zone’—
omit, insert—
‘restricted area’.

Amendment of pt 2, div 5, heading (Control zone)

17. Part 2, division 5, heading—
omit, insert—

‘Division 5—Control area’.

Amendment of s 18 (Notification of control zone)

18.(1) Section 18, heading, ‘zone’—
omit, insert—
‘area’.

(2) Section 18(1) and (3), ‘zone’—
omit, insert—
‘area’.

Amendment of s 19 (Powers of chief inspector and inspectors)

19. Section 19(1) and (1A), ‘zone’—

omit, insert—

‘area’.

Amendment of s 21 (Powers of inspectors to stop, enter and search vehicles etc.)

20. Section 21(1) and (4), ‘quarantine zone, infected zone, standstill zone or control zone’—

omit, insert—

‘infected premises, restricted area, standstill zone or control area’.

Replacement of s 30 (Claims for compensation)

21. Section 30—

omit, insert—

‘Claims for compensation

‘30.(1) An owner may apply to the chief executive for an assessment of compensation within 90 days after the destruction of the animal or property or the death of the animal.

‘(2) The amount of compensation payable is—

(a) for an animal—

(i) if the destroyed or dead animal was affected with an exotic disease—the animal’s market value immediately before it was affected; or

(ii) if the destroyed animal was not affected with an exotic disease—the animal’s market value immediately before it was destroyed; or

(b) for property—the property’s market value immediately before it was destroyed.

‘(3) If, when the quarantine ends under section 9(1B), the market value of the animal or property is more than the amount of compensation paid under an application under subsection (1), the owner may apply for additional compensation, within 30 days after the quarantine ends.

‘(4) The amount of additional compensation payable is the difference between the amount of compensation paid under the application under subsection (1) and the market value of the animal or property immediately after the quarantine is revoked.

‘(5) Despite any other Act, the State is not liable to pay compensation under the other Act for an animal or property for which compensation has been, or may be, paid under this Act.

‘(6) In this section—

“market value”—

- (a) means the market value of the animal or property calculated on a sale with delivery—
 - (i) if the animal or property was ordered to be destroyed—at the place where the animal or property is when ordered to be destroyed; or
 - (ii) if no order was made—at the place where the animal died; but
- (b) does not include an allowance for loss of profit, loss caused by breach of contract or award, loss of production or any other consequential loss.’.

Omission of s 32 (Basis of compensation)

22. Section 32—

omit.

Insertion of new pt 5

23. After section 47—

insert—

‘PART 5—TRANSITIONAL PROVISIONS

‘Transitional provision for *Primary Industries Legislation Amendment Act (No. 2) 1997*

‘48.(1) An area that was a control zone immediately before the commencement of this section is taken to be a control area.

‘(2) An area that was an infected zone immediately before the commencement of this section is taken to be a restricted area.

‘(3) An area that was a quarantine zone immediately before the commencement of this section is taken to be infected premises.’.

Amendment of sch 2 (Subject matter for regulations)

24.(1) Schedule 2, sections 7 and 11, ‘quarantine zone, infected zone, standstill zone or control zone’—

omit, insert—

‘infected premises, restricted area, standstill zone or control area’.

(2) Schedule 2, section 7, ‘such zone’—

omit, insert—

‘the premises, area or zone’.

(3) Schedule 2, section 9, ‘quarantine zones, infected zones, standstill zones, control zones’—

omit, insert—

‘infected premises, restricted areas, standstill zones, control areas’.

PART 5—AMENDMENT OF FISHERIES ACT 1994

Act amended in pt 5

25. This part amends the *Fisheries Act 1994*.

Amendment of s 4 (Definitions)

26. Section 4—

insert—

‘ “**VMS equipment**” means equipment used as part of a system that monitors the position and operation of a vessel.’.

Amendment of s 36 (What management plan may deal with)

27. Section 36, example 5, at the end—

insert—

‘which may include, for example, a requirement to install, maintain and use VMS equipment’.

Insertion of new s 38A

28. After section 38—

insert—

‘Management plan to protect things that are not fish

‘**38A.** A management plan may be made to protect things that are not fish.

Example—

A management plan may regulate taking or possessing fish in an area to protect dugong in the area.’.

Insertion of new s 45A

29. After section 45—

insert—

‘Declaration to protect things that are not fish

‘45A. A declaration under this division may be made to protect things that are not fish.

Example—

A declaration may regulate taking or possessing fish in an area to protect dugong in the area.’.

Amendment of s 46 (Emergency fisheries declarations)

30. Section 46(9)—

omit, insert—

‘(9) The following sections of the *Statutory Instruments Act 1992* apply to an emergency fisheries declaration as if it were subordinate legislation—

- (a) section 49 (Subordinate legislation must be tabled);
- (b) section 50 (Disallowance);
- (c) section 51 (Limited saving of operation of subordinate legislation that ceases to have effect).’.

Amendment of s 61 (Conditions imposed on issue or renewal)

31. Section 61(1)—

insert—

- ‘(d)** a condition requiring the holder to install, maintain and use VMS equipment.’.

Amendment of s 184 (Evidentiary provisions)

32. Section 184—

insert—

‘(5) A certificate purporting to be signed by a person mentioned in subsection (3) stating that, at a stated time on a stated day, the person, using equipment prescribed under a regulation, located a signal coming from the VMS equipment for a stated boat at a stated place is evidence that the boat was at the place at the time.

‘(6) In this section—

“VMS equipment for a stated boat” means the VMS equipment required by an authority to be carried on the stated boat.’.

PART 6—AMENDMENT OF FRUIT MARKETING ORGANISATION ACT 1923

Act amended in pt 6

33. This part amends the *Fruit Marketing Organisation Act 1923*.

Amendment of s 9 (Constitution of committee of direction)

34.(1) Section 9(2) and (3)—

omit.

(2) Section 9(3A), ‘likewise’—

omit.

(3) Section 9(3B), from ‘said director’ to ‘the consumers’—

omit.

Amendment of s 11 (Sectional group committees)

35.(1) Section 11(1), definition “the Stanthorpe fruit and vegetable area”—

omit.

(2) Section 11(1A)(a)—

omit.

(3) Section 11(1A)(b), from ‘(b) for fruit’ to ‘vegetable area—’—

omit.

(4) Section 11(1A)(b)(i) to (vi)—

renumber as section 11(1A)(a) to (f).

(5) Section 11(2) to (2C)—

omit.

Insertion of new ss 19 and 20

36. After section 18—

insert—

‘Dissolution of deciduous group committee

‘**19.(1)** The deciduous group committee is dissolved and the period of office of its members ends.

‘**(2)** A person is not entitled to be paid compensation because the person’s period of office ends under subsection (1).

‘**(3)** This section expires 1 year after it commences.

‘Vesting of assets, rights and liabilities of deciduous group committee

‘**20.(1)** On a date prescribed under a regulation, the assets, rights and liabilities of the deciduous group committee vest in the following committees in the proportions prescribed under a regulation—

- (a) the tomato group committee;
- (b) the heavy produce group committee;
- (c) the other fruits group committee;
- (d) the vegetable group committee.

‘**(2)** This section expires 1 year after it commences.’

PART 7—AMENDMENT OF GRAIN INDUSTRY (RESTRUCTURING) ACT 1991

Act amended in pt 7

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

Amendment of s 3 (Definitions)

38. Section 3, definition “expiry date”—

omit, insert—

‘“expiry date” means 30 June 1999.’.

PART 8—AMENDMENT OF PRIMARY PRODUCERS’ ORGANISATION AND MARKETING ACT 1926

Act amended in pt 8

39. This part amends the *Primary Producers’ Organisation and Marketing Act 1926*.

Amendment of s 12 (Boards not to be concerned in party politics)

40. Section 12(5), from ‘exercise’ to ‘.’—

omit.

Amendment of s 30 (Cane to be a commodity)

41.(1) Section 30(5A)—

omit.

(2) Section 30(5B), ‘remaining’—

omit.

(3) Section 30(5C)—

insert—

‘(f) provide that a person elected as a member of the mill suppliers’ committee for a prescribed mill is taken also to be a member of the district cane growers’ executive for the mill.’.

(4) Section 30—

insert—

‘(5F) In addition to the elected members, the elected representatives on the district cane grower’s executive for the mill are members of the committee by virtue of office.’.

Insertion of new pt 10

42. After section 56—

insert—

‘PART 10—TRANSITIONAL

‘Transitional provision for Act No. 59 of 1996

‘57. Despite the repeal of section 30(9) by the *Primary Industries Legislation Amendment Act (No. 2) 1996*, section 69¹ the Queensland Dairyfarmers’ Organisation and the Queensland Pork Producers’ Organisation continue to exist.

¹ The *Primary Industries Legislation Amendment Act (No. 2) 1996*, section 69 (Amendment of s 30 (Cane to be a commodity)).

‘Transitional provision for *Fisheries Act 1994*

‘58.(1) To remove any doubt, from the commencement of the expired section 233² of the *Fisheries Act 1994*, a reference in the *Queensland Commercial Fishermen’s Organisation Regulation 1989* to—

- (a) a Master Fisherman’s Licence, or a Master Fisherman’s Licence issued under the former Act, is taken to be a reference to—
 - (i) a master fisherman’s licence issued under the former Act³ continued in force as an authority or renewed under the *Fisheries Act 1994*;⁴ or
 - (ii) a commercial fisher licence issued under the *Fisheries Act 1994*;⁵ or
- (b) a Queensland Commercial Fishing Vessel Licence, or a Queensland Commercial Fishing Vessel Licence (endorsed as a primary vessel with one or more fishery entitlements) issued under the former Act, is taken to be a reference to—
 - (i) a commercial fishing vessel licence issued under the former Act⁶ continued in force as an authority or renewed under the *Fisheries Act 1994* with 1 or more fishery symbols written on it; or
 - (ii) a primary commercial fishing boat licence, or a tender commercial fishing boat licence, issued under the *Fisheries Act 1994* with 1 or more fishery symbols written on it.

² *Fisheries Act 1994*, expired section 233 (Existing licences etc.). Section 233 commenced on 27 January 1995 and expired on 27 July 1995. The section continued, amongst other things, a licence in force under the former Act as an authority under the *Fisheries Act 1994*.

³ See the *Fishing Industry Organisation and Marketing Regulation 1991*, section 7 (Master Fisherman’s licence).

⁴ See the *Fisheries Act 1994*, expired section 233 (Existing licences etc.).

⁵ For licences issued under the *Fisheries Act 1994*, see the *Fisheries Regulation 1995* section 31 (Licences Authority may issue).

⁶ See the *Fishing Industry Organisation and Marketing Regulation 1991*, section 9 (Fishing vessel licences).

‘(2) In subsection (1)—

“**former Act**” means the *Fishing Industry Organisation and Marketing Act 1982*.’.

PART 9—AMENDMENT OF TOBACCO INDUSTRY (RESTRUCTURING) ACT 1996

Act amended in pt 9

43. This part amends the *Tobacco Industry (Restructuring) Act 1996*.

Amendment of s 23 (Expiry of Act)

44. Section 23(1), ‘1997’—

omit, insert—

‘1998’.

PART 10—AMENDMENT OF WHEAT MARKETING (FACILITATION) ACT 1989

Act amended in pt 10

45. This part amends the *Wheat Marketing (Facilitation) Act 1989*.

Amendment of s 3 (Interpretation)

46.(1) Section 3, heading—

omit, insert—

‘Definitions’.

(2) Section 3, definition “**Australian Wheat Board**”, at the end—
insert—

‘and includes a designated company under the Commonwealth Act’.