

Queensland



SUGAR INDUSTRY REFORM ACT 2004

Act No. 3 of 2004

Queensland



SUGAR INDUSTRY REFORM ACT 2004

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Queensland



Sugar Industry Reform Act 2004

Act No. 3 of 2004

An Act to amend the *Sugar Industry Act 1999* to implement the commitment by the sugar industry and government to comprehensive reform for the long term future of the sugar industry, and for other purposes

[Assented to 6 May 2004]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Sugar Industry Reform Act 2004*.

2 Commencement

(1) Sections 3, 27 to 29 and 36(1) and (5) of this Act commence on assent.

(2) Sections 9 to 18, 24 and 36(3), (6) and (9) of this Act commence on 1 July 2004.

(3) The remaining provisions of this Act, other than sections 7 and 36(4) and (8), commence on 1 January 2005.

(4) Sections 7 and 36(4) and (8) of this Act commence on 1 January 2006.

PART 2—AMENDMENT OF SUGAR INDUSTRY ACT 1999

3 Act amended in pt 2 and schedule

This part, and the schedule, amends the *Sugar Industry Act 1999*.

4 Replacement of ch 2, hdg

Chapter 2, heading—

omit, insert—

**‘CHAPTER 2—SUPPLY CONTRACTS AND CANE
ACCESS RIGHTS’.**

5 Replacement of ch 2, pt 1 (Cane production areas)

Chapter 2, part 1—

omit, insert—

**‘PART 1—ARRANGEMENTS FOR SUPPLY
CONTRACTS FROM 1 JANUARY 2005 TO
31 DECEMBER 2005**

‘Division 1—Cane supply is governed by supply contracts

‘7 Purpose of pt 1

‘(1) The purpose of this part is to provide an interim system for cane supply and supply contracts in the crushing season for 2005 that will promote sound economic outcomes for the sugar industry and encourage changes necessary to make the industry viable in the long term.

‘(2) The purpose is to be achieved mainly by—

- (a) allowing growers the flexibility to be parties to individual contracts or collective contracts; and
- (b) providing a system of compulsory mediation and arbitration for disputes in negotiating supply contracts; and
- (c) preventing a small group of growers using the compulsory mediation and arbitration system to affect the supply contracts to which a larger group of growers are a party; and
- (d) enabling access, by growers, mill owners and interested third parties, to mediation and arbitration for disputes about the terms of supply contracts.

‘8 Definitions for pt 1

‘In this part—

“bargaining representative”, for a group of growers, means a person with the written authority of each grower who is a member of the group.

“eligible collective” see section 14.

“group of growers” see section 11(1).

“interested third party” means a person with a direct or indirect monetary interest in—

- (a) the supply by growers of cane to a mill; or
- (b) the milling of cane.

Examples—

1. a harvesting contractor who is engaged by a grower or mill owner to harvest cane
2. a producer of ethanol
3. a person who transports cane to a mill

“supply contract” means a written contract between a grower of cane and a mill owner that governs supply by the grower to the mill and the payment to the grower in return.

‘9 Supply contract

‘(1) A grower may supply cane to a mill for a crushing season only if the grower has a supply contract with the mill owner for the season.

‘(2) A supply contract may be for 1 or more than 1 crushing season.

‘(3) However, if a supply contract has been negotiated under the dispute resolution process mentioned in division 2, subdivision 1,¹ the supply contract ends, or is taken to end, on or before 31 December 2005.

‘(4) A supply contract may be either an individual contract or a collective contract.

‘(5) An interested third party may be a party to a supply contract between a mill owner and a grower.

‘(6) Each of the parties to a supply contract must sign the contract.

‘(7) However, if a supply contract has been arbitrated under section 23,² the parties are not required to sign the supply contract.

1 Division 2 (Dispute resolution), subdivision 1 (Negotiating collective contracts)

2 Section 23 (Arbitration)

‘10 Individual contract

‘An individual contract—

- (a) is a supply contract made directly between a grower and a mill owner; and
- (b) may be for all or part of the supply of cane grown by the grower.

‘11 Collective contract

‘(1) A collective contract is a supply contract made between 2 or more growers (a **“group of growers”**) and a mill owner.

‘(2) Each grower in a group of growers must sign the collective contract.

‘(3) A group of growers may appoint a bargaining representative to negotiate a collective contract on behalf of the group.

‘(4) There may be more than 1 collective contract in force at the same time for a mill.

‘(5) A grower may be a party to more than 1 collective contract.

‘12 Variation of supply contract

‘(1) The parties to a supply contract may, in writing, vary the contract.

‘(2) The varied supply contract is taken to be the supply contract for this part.

‘Division 2—Dispute resolution***‘Subdivision 1—Negotiating collective contracts*****‘13 Application of sdiv 1**

‘This subdivision applies if—

- (a) a dispute arises during negotiations for a collective contract between an eligible collective and a mill owner who are the proposed parties to the collective contract; and

- (b) the eligible collective or mill owner wishes the dispute to be referred to mediation.

‘14 Meaning of “eligible collective”

‘An **“eligible collective”**, for a mill, means a group consisting of growers who sign an intention to contract under section 19 to supply to the mill in the crushing season for 2005 at least 75% of the average production of cane that was supplied to the mill in the crushing seasons for 2000 to 2004.

‘15 Scope of dispute resolution process

‘The proposed parties can not use the dispute resolution process under this subdivision to attempt to resolve disputes about—

- (a) applying a formula, commonly known as ‘the cane price formula’, to distribute between a mill owner and growers the payments mentioned in section 100(3)³ in relation to the sugar vested in QSL; or
- (b) exemptions under chapter 3, part 2;⁴ or
- (c) whether a person is a supplier.

‘16 Dispute resolution process

‘The dispute resolution process under this subdivision that must be followed for resolving a dispute is a 2 stage process that involves—

- (a) mediation of the dispute; and
- (b) if the commissioner is satisfied the dispute has not been resolved by mediation—arbitration of the dispute.

3 Section 100 (Vesting of sugar in QSL)

4 Chapter 3 (Marketing), part 2 (Exemptions from vesting in QSL)

‘17 When other grower may join dispute resolution process

‘A grower who did not supply cane to the mill in the crushing season for 2004 may, for the dispute resolution processes under this subdivision, act as a member of the eligible collective only if the mill owner agrees.

‘18 No final offer arbitration

‘(1) The parties can not use final offer arbitration or a process substantially the same as final offer arbitration.

‘(2) The parties to a dispute use “**final offer arbitration**” if, at the end of mediation—

- (a) each party to the mediation gives a written offer (a “**final offer**”) for resolving all issues to—
 - (i) the mediator appointed for the mediation; and
 - (ii) each other party to the dispute; and
- (b) the final offer states the basis on which the party is prepared to settle all issues that have not been agreed; and
- (c) an arbitrator appointed to resolve the dispute can make a decision only by choosing 1 of the offers; and
- (d) if only 1 final offer has been made—the arbitrator may accept the offer as the arbitrator’s decision.

‘19 Before dispute resolution process

‘Before an eligible collective for a mill or a mill owner can ask the commissioner to refer to mediation a dispute about a proposed collective contract, the eligible collective and the mill owner must enter into an intention to contract that complies with section 20.

‘20 Intention to contract

‘(1) For section 19, an intention to contract must state the amount of cane each member of the eligible collective for a mill intends to supply to the mill in the crushing season for 2005.

‘(2) A member of an eligible collective may be a party to more than 1 intention to contract.

‘(3) However, the total amount of cane that the member states the member intends to supply to all mills must not be greater than the amount of cane the member produces in the crushing season for 2005.

‘(4) Each member of the eligible collective and the mill owner must sign the intention to contract.

‘(5) The intention to contract must be lodged with the commissioner by the day prescribed under a regulation.

‘21 Effect of dispute resolution process

‘(1) If the commissioner is satisfied the dispute has been resolved by mediation under section 22, the eligible collective and the mill owner must, as soon as practicable after mediation ends, enter into a collective contract.

‘(2) If the dispute has been arbitrated under section 23, the parties to the intention to contract are bound by the collective contract made under arbitration.

‘22 Mediation

‘(1) A party to the dispute may ask the commissioner to refer the dispute to mediation.

‘(2) If the commissioner refers the dispute to mediation, the mediation must be conducted by—

- (a) a person agreed to by the parties; or
- (b) if the parties can not agree on a mediator—the commissioner or a person appointed by the commissioner.

‘(3) However, the commissioner may appoint a mediator only if the person has the qualifications or experience the commissioner considers appropriate to mediate the dispute.

‘(4) The parties must pay the mediator the costs of mediation in the proportions decided by the mediator.

‘(5) An amount of unpaid costs is a debt payable to the mediator.

‘(6) Nothing in this section affects any rights or remedies to which a party to the dispute may be entitled.

‘23 Arbitration

‘(1) If the commissioner is satisfied the dispute has not, under section 22, been resolved by mediation, the commissioner must refer the dispute to an arbitrator.

‘(2) The arbitrator must be—

- (a) a person agreed to by the parties; or
- (b) if the parties can not agree on an arbitrator—the commissioner or a person appointed by the commissioner.

‘(3) However, the commissioner may appoint an arbitrator only if the person has the qualifications or experience the commissioner considers appropriate to arbitrate the dispute.

‘(4) The *Commercial Arbitration Act 1990* applies to the arbitration.

‘(5) However, the arbitrator—

- (a) can not be ordered to pay the costs, or part of the costs, of the arbitration; and
- (b) may recover from the parties the costs of arbitration in the proportions decided by the arbitrator.

‘(6) An amount of unpaid costs is a debt payable to the arbitrator.

‘Subdivision 2—Existing supply contracts

‘24 Application of sdiv 2

‘This subdivision applies if a dispute arises between any or all of the parties to a supply contract about its terms.

‘25 Parties must use dispute resolution process stated in supply contract

‘(1) A supply contract must state a process for dispute resolution.

‘(2) Subject to section 26, the process may apply—

- (a) sections 22 and 23;⁵ or

5 Sections 22 (Mediation) and 23 (Arbitration)

(b) another stated dispute resolution process.

‘(3) The parties must attempt to resolve the dispute by using the process.’

‘26 No final offer arbitration

‘(1) The parties can not use final offer arbitration or a process substantially the same as final offer arbitration.

‘(2) In this section—

“**final offer arbitration**” has the meaning given under section 18(2).⁶

‘Division 3—Expiry and savings provisions

‘27 Expiry of pt 1

‘This part expires on 31 December 2005.’

‘28 Saving of operation of pt 1

‘This part is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A,⁷ applies.’.

6 Omission of ch 2, pt 2 (Cane supply and processing agreements)

Chapter 2, part 2—

omit.

7 Insertion of new ch 2, pt 2

Chapter 2—

insert—

⁶ Section 18 (No final offer arbitration)

⁷ *Acts Interpretation Act 1954*, section 20A (Repeal does not end saving, transitional or validating effect etc.)

‘PART 2—ARRANGEMENTS FOR SUPPLY CONTRACTS FROM 1 JANUARY 2006

‘Division 1—Cane supply is governed by supply contracts

‘29 Purpose of pt 2

‘The purpose of this part is to ensure the supply by growers of cane to a mill and the payment to growers in return are governed by written contracts (each a **“supply contract”**) between growers and mill owners.

‘30 Definitions for pt 2

‘In this part—

“bargaining representative”, for a group of growers, means a person with the written authority of each grower who is a member of the group.

“group of growers” see section 33(1).

“interested third party” means a person with a direct or indirect monetary interest in—

- (a) the supply by growers of cane to a mill; or
- (b) the milling of cane.

Examples—

1. a harvesting contractor who is engaged by a grower or mill owner to harvest cane
2. a producer of ethanol
3. a person who transports cane to a mill

“supply contract” see section 29.

‘31 Supply contract

‘(1) A grower may supply cane to a mill for a crushing season only if the grower has a supply contract with the mill owner for the season.

‘(2) A supply contract may be for 1 or more than 1 crushing season.

‘(3) A supply contract may be either an individual contract or a collective contract.

‘(4) An interested third party may be a party to a supply contract between a mill owner and a grower.

‘(5) Each of the parties to a supply contract must sign the contract.

‘32 Individual contract

‘An individual contract—

- (a) is a supply contract made directly between a grower and a mill owner; and
- (b) may be for all or part of the supply of cane grown by the grower.

‘33 Collective contract

‘(1) A collective contract is a supply contract made between 2 or more growers (a “**group of growers**”) and a mill owner.

‘(2) Each grower in a group of growers must sign the collective contract.

‘(3) A group of growers may appoint a bargaining representative to negotiate a collective contract on behalf of the group.

‘(4) There may be more than 1 collective contract in force at the same time for a mill.

‘(5) A grower may be a party to more than 1 collective contract.

‘34 Parties must use dispute resolution process stated in supply contract

‘(1) A supply contract must state a process for dispute resolution.

‘(2) Subject to section 37, the process may apply—

- (a) sections 38 and 39; or
- (b) another stated dispute resolution process.

‘(3) The parties must attempt to resolve the dispute by using the process.

‘35 Variation of supply contract

‘(1) The parties to a supply contract may, in writing, vary the contract.

‘(2) The varied supply contract is taken to be the supply contract for this part.

‘Division 2—Dispute resolution

‘36 Application of div 2

‘This division applies if a dispute arises between any or all of the parties to a supply contract about its terms.

‘37 No final offer arbitration

‘(1) The parties can not use final offer arbitration or a process substantially the same as final offer arbitration.

‘(2) The parties to a dispute use “**final offer arbitration**” if, at the end of mediation—

- (a) each party to the mediation gives a written offer (a “**final offer**”) for resolving all issues to—
 - (i) the mediator appointed for the mediation; and
 - (ii) each other party to the dispute; and
- (b) the final offer states the basis on which the party is prepared to settle all issues that have not been agreed; and
- (c) an arbitrator appointed to resolve the dispute can make a decision only by choosing 1 of the offers; and
- (d) if only 1 final offer has been made—the arbitrator may accept the offer as the arbitrator’s decision.

‘38 Mediation

‘(1) A party to the supply contract may ask the commissioner to refer the dispute to mediation.

‘(2) If the commissioner refers the dispute to mediation, the mediation must be conducted by—

- (a) a person agreed to by the parties; or
- (b) if the parties can not agree on a mediator—the commissioner or a person appointed by the commissioner.

‘(3) However, the commissioner may appoint a mediator only if the person has the qualifications or experience the commissioner considers appropriate to mediate the dispute.

‘(4) The parties must pay the mediator the costs of mediation in the proportions decided by the mediator.

‘(5) An amount of unpaid costs is a debt payable to the mediator.

‘(6) Nothing in this section affects any rights or remedies to which a party to the dispute may be entitled.

‘39 Arbitration

‘(1) If the commissioner certifies that the dispute has not, under section 38, been resolved by mediation, the commissioner may refer the dispute to an arbitrator.

‘(2) However, the commissioner may refer the dispute to arbitration only if agreed to by the parties.

‘(3) The arbitrator must be—

- (a) a person agreed to by the parties; or
- (b) if the parties can not agree on an arbitrator—the commissioner or a person appointed by the commissioner.

‘(4) However, the commissioner may appoint an arbitrator only if the person has the qualifications or experience the commissioner considers appropriate to arbitrate the dispute.

‘(5) The *Commercial Arbitration Act 1990* applies to the arbitration.

‘(6) However, the arbitrator—

- (a) can not be ordered to pay the costs, or part of the costs, of the arbitration; and
- (b) may recover from the parties the costs of arbitration in the proportions decided by the arbitrator.

‘(7) An amount of unpaid costs is a debt payable to the arbitrator.’.

8 Omission of ch 2, pt 5 (Mills)

Chapter 2, part 5—

omit.

9 Insertion of new ch 3, pt 1, hdg

Chapter 3, before section 100—

insert—

‘PART 1—MARKETING OF SUGAR VESTED IN QSL’.**10 Amendment of s 100 (Vesting of sugar in QSL)**

(1) Section 100—

insert—

‘(1A) However, the sugar does not become the property of QSL if the authority grants, under part 2, an exemption for the sugar.⁸’.

(2) Section 100(1A) to (3)—

renumber as section 100(2) to (4).

11 Amendment of s 102 (Schemes for payment)

(1) Section 102(8)—

omit, insert—

‘(8) For a payment scheme to take effect—

(a) QSL must give notice of it to relevant mill owners; and

(b) the relevant mill owners must give notice of it to relevant growers.

(2) Section 102(9), ‘supply agreement’—

omit, insert—

‘supply contract’.

(3) Section 102(10)—

omit.

⁸ See however sections 107Q(3) (Consequences), 107R(5)(b) (Annual return) and 107S(4)(b) (Authority may seek further documents or information).

12 Amendment of s 103 (Production of brands of raw sugar)

Section 103(7), 'QSL must inform the mill suppliers' committee'—

omit, insert—

'The mill owner must inform the relevant growers'.

13 Amendment of s 105 (Sugar quality standards)

Section 105(4)—

omit, insert—

'(4) For a standard to take effect—

(a) QSL must give notice of it to the mill owner; and

(b) the mill owner must give notice of it to the relevant growers.'

14 Amendment of s 107 (Exemption of sugar for local consumption)

(1) Section 107(1), '("exempt sugar")'—

omit, insert—

'("local consumption exempt sugar")'.

(2) Section 107, 'exempt sugar'—

omit, insert—

'local consumption exempt sugar'.

(3) Section 107(2), 'Exempt sugar'—

omit, insert—

'Local consumption exempt sugar'.

15 Insertion of new ch 3, pt 2

After section 107—

insert—

‘PART 2—EXEMPTIONS FROM VESTING IN QSL

‘Division 1—Preliminary

‘107A Definitions for pt 2

‘In this part—

“amendment”, of an exemption, means an amendment of the following details stated in the exemption certificate—

- (a) the exemption’s on-user; or
- (b) the exemption’s exempt use of the sugar.

“annual return” means an annual return given under section 107R.

“applicant”, for an exemption or amendment of an exemption, means a supplier who applies for the exemption or amendment of the exemption.

“exemption” means a grant from the authority to exempt the sugar manufactured from a supplier’s sugar cane from becoming, under section 100, the property of QSL.

“exemption application” means an application for an exemption.

“exemption certificate” means a certificate given under section 107L(1).

“exemption certificate details” see section 107M(2).

“exemption conditions” see section 107J.

“exempt sugar”, for an exemption, means sugar for which the exemption has been granted.

“exempt use” see section 107B.

“late exemption application” see section 107E(4).

“on-user” means a person who has a contract, arrangement or understanding with an applicant for the use of the applicant’s sugar for an exempt use.

“periodic estimate” see section 107C(2).

“periodic estimate day” see section 107C(3).

“use”, for exempt sugar, does not include storing the sugar other than incidentally to another use that is an exempt use.

‘107B Meaning of “exempt use”

‘An **“exempt use”**, for sugar, means sugar that is intended to have any of the following uses—

- (a) to be used for the manufacture of an alternative product;

Example of an alternative product—

ethanol

- (b) to be exported in bags (but not bulk);
- (c) a use similar to a use mentioned in paragraphs (a) and (b).

‘Division 2—Periodic estimates**‘107C Information given to authority**

‘(1) This section applies, in each year, to a supplier who applies, or intends to apply, or holds an exemption for the year’s crushing season.

‘(2) The supplier must give the authority the following information (a **“periodic estimate”**)—

- (a) an estimate of the supplier’s total production of sugar for the year’s crushing season;
- (b) an estimate of the amount of the sugar mentioned in paragraph (a) for which the supplier intends to make an exemption application.

‘(3) The periodic estimate must be given to the authority on or before each of the following days for the year (a **“periodic estimate day”**)—

- (a) 31 March;
- (b) 31 May;
- (c) 31 July.

‘(4) If the supplier does not give the authority each periodic estimate for the year, the supplier must not be granted an exemption for the year’s crushing season.

‘107D Information authority gives QSL

‘(1) The authority must, within 7 days after each periodic estimate day, give QSL the following information—

- (a) the name of the supplier;
- (b) an estimate of the amount of the supplier’s sugar that will, under section 100,⁹ become the property of QSL.

‘(2) The authority must not give QSL any periodic estimate given to the authority under section 107C.

‘Division 3—Obtaining exemption certificate***‘Subdivision 1—Exemption applications*****‘107E Applying for exemption**

‘(1) A supplier may make an exemption application to the authority.

‘(2) The application must be made—

- (a) within a year’s crushing season; and
- (b) on or before 16 September in the year.

‘(3) However, an exemption application may, for a year’s crushing season, be made after 16 September in the year only if the application—

- (a) is made within the year’s crushing season; and
- (b) is an application for which the maximum amount of sugar to be exempted is 5 000 tonnes.

‘(4) An exemption application made under subsection (3) is called a **“late exemption application”**.

‘107F Requirements for application

‘An exemption application must—

- (a) state the following—

9 Section 100 (Vesting of sugar in QSL)

- (i) the applicant's name and address;
 - (ii) the period of the exemption;
 - (iii) the proposed use of the sugar;
 - (iv) the amount of sugar to be exempted; and
- (b) be accompanied by—
- (i) evidence that the applicant is the supplier of the sugar to be exempted; and
 - (ii) the reasonable fee fixed by the authority for deciding the application that is no more than its actual costs of deciding the application; and
 - (iii) for a late exemption application—a document to show the applicant's contract, arrangement or understanding with the on-user.

'107G Authority may seek further documents or information

'(1) This section applies if a supplier makes a late exemption application.

'(2) The authority may, after the application has been made, give the applicant a notice requiring the applicant—

- (a) to give the authority a stated document or information relevant to the application; or
- (b) to verify the correctness of the document or information by statutory declaration.

'(3) However, the notice may be given only within 15 business days after the authority receives the application.

'(4) The application is taken to be withdrawn if, within the stated period in the notice, the applicant does not comply with a requirement under subsection (2).

‘Subdivision 2—Deciding exemption application

‘107H Decision on exemption application

‘(1) Subject to section 107C(4),¹⁰ the authority must, within 7 days after the last of the following events to happen, consider and decide either to grant, grant on conditions¹¹ or refuse each exemption application—

- (a) the making of the application;
- (b) if the authority has, under section 107G, required the applicant to give a document or information—the giving of the required document or information.

‘(2) If the authority does not make a decision within 7 days after the event stated in subsection (1) happens—

- (a) the exemption application is taken to be granted 7 days after the event happens; and
- (b) the authority must, under section 107L,¹² give the applicant a signed exemption certificate.

‘107I Criteria for decision

‘(1) Subject to section 107C(4), the authority must grant an exemption application if satisfied—

- (a) the applicant is the supplier of the sugar to be exempted; and
- (b) the proposed use of the sugar to be exempted under the application is an exempt use.

‘(2) If the authority is not satisfied as mentioned in subsection (1), it must refuse the application.

‘107J Exemption conditions

‘The authority may, in granting a late exemption application, impose conditions on the exemption the authority considers necessary or desirable

10 Section 107C (Information given to authority)

11 See section 107J (Exemption conditions)

12 Section 107L (Grant of exemption application)

to ensure the exempt sugar under the application is used only for an exempt use (“**exemption conditions**”).

‘107K Period of exemption

‘(1) An exemption application may be granted for 1 or more than 1 crushing season.

‘(2) If the authority decides to grant an exemption application, the exemption remains in force for the period—

- (a) commencing on the day when the authority makes its decision; and
- (b) ending on the last day of the period of the exemption.

‘Subdivision 3—Action after decision on exemption application

‘107L Grant of exemption application

‘(1) If an exemption application is granted, the authority must as soon as practicable give the applicant a signed exemption certificate.

‘(2) The exemption certificate must state the following—

- (a) the applicant’s name and address;
- (b) the period of the exemption;
- (c) the amount of sugar exempted.

‘(3) However, if the exemption application granted is a late exemption application, the exemption certificate must also state—

- (a) the on-user’s name and address; and
- (b) any other information the authority considers appropriate.

‘107M Exempt use on copy of exemption certificate

‘(1) The authority must—

- (a) keep a copy of the exemption certificate; and
- (b) state on the copy—
 - (i) the exempt use of the sugar; and

(ii) any other information the authority considers appropriate.

‘(2) The information recorded, under section 107L, on the exemption certificate and, under this section, on the copy of the certificate is the applicant’s **“exemption certificate details”**.

‘107N Information authority gives QSL

‘(1) The authority must, for each supplier granted an exemption application for a year’s crushing season, give QSL the following information—

- (a) the name of the supplier;
- (b) the amount of the supplier’s sugar that will, under section 100, become the property of QSL.

‘(2) The information mentioned in subsection (1) must be given—

- (a) on or before 30 September in the year; or
- (b) for a late exemption application—within 2 weeks after the exemption application is made; or
- (c) if the authority requires, under section 107G(2),¹³ the supplier to give the authority a stated document or information—after the supplier gives the authority the document or information.

‘107O Notice of refusal of exemption application

‘The authority must, as soon as practicable after making a decision as follows about an exemption application, give the applicant an information notice about the decision—

- (a) a decision to refuse the application;
- (b) a decision to impose an exemption condition.

13 Section 107G (Authority may seek further documents or information)

‘Division 4—Procedure for amendment of exemption**‘107P Application for amendment of exemption**

‘(1) A supplier may at any time apply to the authority for an amendment of the supplier’s exemption.

‘(2) The application for amendment must—

- (a) state each of the following—
 - (i) the applicant’s name and address;
 - (ii) if the proposed use of the sugar (the **“new use”**) is different from the exempt use stated on the applicant’s exemption certificate—the new use;
 - (iii) if the period of exemption for which the applicant is applying (the **“new period of exemption”**) is different from the period of exemption stated on the applicant’s exemption certificate—the new period of exemption; and
- (b) be accompanied by the reasonable fee fixed by the authority for deciding the application that is no more than its actual costs of deciding the application.

‘(3) However, if the supplier’s exemption was for a late exemption application, the application for amendment must also—

- (a) if the on-user (the **“new on-user”**) is different from the on-user stated on the applicant’s exemption certificate—state the new on-user’s name and address; and
- (b) be accompanied by—
 - (i) if there is a new on-user—a document to show the applicant’s contract, arrangement or understanding with the new on-user; and
 - (ii) if there is a new proposed use—a document to show the new proposed use.

‘(4) Sections sections 107G to 107M and 107O apply to the application for an amendment of the exemption as if it were an exemption application, subject to the following—

- (a) section 107G(1) applies as if ‘a late exemption application’ were replaced by ‘an application for amendment to the supplier’s

exemption and the exemption was for a late exemption application’;

- (b) section 107J applies as if ‘a late exemption application’ were replaced by ‘an application for amendment to the supplier’s exemption if the exemption was for a late exemption application’;
- (c) section 107L(3) applies as if ‘exemption application granted is a late exemption application’ were replaced by ‘an application for amendment to the supplier’s exemption is granted and the exemption was for a late exemption application’.

‘(5) If the applicant is granted an amendment of the applicant’s exemption—

- (a) the exemption the applicant held before the granting of the amendment of the exemption lapses; and
- (b) the exemption that is amended under this section is taken to be the exemption for this part.

‘Division 5—Consequences of improper use of exempt sugar by exemption holder or on-user

‘107Q Consequences

‘(1) This section applies to a person who is a holder of an exemption or an on-user for an exemption if the person uses the exemption’s exempt sugar other than—

- (a) for the exempt use stated for the sugar in the exemption; or
- (b) if the person has a contract with QSL for the use of the sugar—for the use decided by QSL.

‘(2) The exemption is taken never to have had any effect.

‘(3) Without limiting subsection (2), section 100(1)¹⁴ applies as if the exemption had never been granted.¹⁵

‘Division 6—Annual returns

‘107R Annual return

‘(1) This section applies to a supplier who is the holder of an exemption.

‘(2) The supplier must, on or before 31 January in the year after each year’s crushing season for which the supplier holds the exemption, give the authority an annual return that complies with subsection (3), unless the supplier has a reasonable excuse.

Maximum penalty—3 000 penalty units.

‘(3) An annual return must include the following information and documents about the exemption’s exempt sugar—

- (a) if any of the sugar has been used for an exempt use—the amount of sugar used; and
- (b) if any of the sugar is in storage—the amount of sugar in storage; and
- (c) evidence that the sugar was used for the exempt use or is in storage.

Maximum penalty—3 000 penalty units.

‘(4) However, if the supplier has been granted a late exemption application, the supplier is not required to give the authority an annual return for the exemption’s exempt sugar.

‘(5) If the supplier does not comply with subsection (2)—

- (a) the exemption is taken never to have had any effect; and
- (b) without limiting paragraph (a), section 100(1)¹⁶ applies as if the exemption had never been granted.

14 Section 100 (Vesting of sugar in QSL)

15 See also section 107V (Improper use of exempt sugar)

16 Section 100 (Vesting of sugar in QSL)

‘107S Authority may seek further documents or information

‘(1) The authority may, after a supplier’s annual return has been given, give the supplier a notice requiring the supplier—

- (a) to give the authority a stated document or information relevant to the annual return; or
- (b) to verify the correctness of the document or information by statutory declaration.

‘(2) However, the notice may, for the year’s crushing season for which the supplier holds the exemption, be given only within 15 business days after 31 January in the following year.

‘(3) The supplier must, within 15 business days after the authority gives the notice, comply with the notice, unless the supplier has a reasonable excuse.

Maximum penalty—3 000 penalty units.

‘(4) If the supplier does not comply with subsection (3)—

- (a) the exemption is taken never to have had any effect; and
- (b) without limiting paragraph (a), section 100(1)¹⁷ applies as if the exemption had never been granted.

‘Division 7—Application of Freedom of Information Act 1992**‘107T Exempt matter**

‘A document held, under this part, by the authority in connection with the following is exempt matter under the *Freedom of Information Act 1992*—

- (a) the giving of periodic estimates;
- (b) the making or granting of exemption applications;
- (c) the giving of annual returns.

17 Section 100 (Vesting of sugar in QSL)

Division 8—Prohibited conduct**‘107U False or misleading application**

‘(1) A person must not make an application as follows containing information the person knows is false or misleading in a material particular—

- (a) an exemption application;
- (b) an application for amendment of an exemption.

Maximum penalty—3 000 penalty units.

‘(2) Section 252¹⁸ does not apply to an application mentioned in subsection (1).

‘107V Improper use of exempt sugar

‘A person must not use exempt sugar under an exemption for a use other than each of the following—

- (a) for the exempt use stated for the sugar in the exemption;
- (b) if the person has a contract with QSL for the use of the exempt sugar under the exemption—for the use decided by QSL.

Maximum penalty—3 000 penalty units.

‘107W False or misleading periodic estimate and annual return

‘(1) A person must not give the authority a periodic estimate or annual return containing information the person knows is false or misleading in a material particular.

Maximum penalty—3 000 penalty units.

‘(2) Section 252¹⁹ does not apply to a periodic estimate or annual return mentioned in subsection (1).

18 Section 252 (Offence to make false statement in application or submission)

19 Section 252 (Offence to make false statement in application or submission)

‘107X Executive officers must ensure corporation complies with div 8

‘(1) The executive officers of a corporation must ensure the corporation complies with this division.

‘(2) If a corporation commits an offence against a provision of this division, each of its executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

‘(3) Evidence that the corporation has been convicted of an offence against a provision of this division is evidence that each of its executive officers committed the offence of failing to ensure the corporation complies with the provision.

‘(4) However, it is a defence for an executive officer to prove that—

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

‘(5) It is also a defence in a proceeding against an executive officer for the officer to prove information that tended to incriminate the corporation was obtained under a direction or requirement under this part.’.

16 Amendment of s 128 (Membership)

Section 128(2), before ‘commodity’—

insert—

‘the application of competition principles,’.

17 Amendment of s 135 (Functions of authority)

Section 135(2), from ‘has’—

omit, insert—

‘has—

- (a) the function provided for under division 4; and

- (b) the function of granting exemptions and giving exemption certificates.’.

18 Amendment of s 138 (Authority’s budget)

(1) Section 138(4), after ‘QSL’—

insert—

‘and from fees and charges collected from matters associated with the granting of exemptions’.

(2) Section 138—

insert—

‘(6) The Minister may vary the budget as requested, either with or without amendment.’.

19 Omission of ch 4, pt 6 (Cane production boards)

Chapter 4, part 6—

omit.

20 Omission of ch 4, pt 9 (Negotiating teams)

Chapter 4, part 9—

omit.

21 Amendment of s 223 (Functions of commissioner)

(1) Section 223(b) to (e)—

omit, insert—

‘(b) to accept each intention to contract lodged with the commissioner under section 20(5);²⁰’.

(2) Section 223(f) to (i)—

renumber as section 223(c) to (f).

20 Section 20 (Intention to contract)

22 Amendment of s 223A (Powers of commissioner)

Section 223A(b)—

omit, insert—

‘(b) acquire, hold, dispose of and deal with property, including, for example, assets transferred to the commissioner under chapter 10;²¹’.

23 Amendment of s 234 (Appeal to Magistrates Court)

(1) Section 234(1)(a)—

omit, insert—

‘(a) a person whose application to register any matter on a register kept by the commissioner has been refused by the commissioner;’.

(2) Section 234(1)(b) to (e)—

omit.

(3) Section 234(1)(g)—

renumber as section 234(1)(b).

24 Insertion of new s 234A

After section 234—

insert—

‘234A Appeal to District Court—exemption application

‘(1) This section applies to a decision by the authority under section 107H.²²

‘(2) The applicant may appeal to the District Court (the “**court**”).

‘(3) The appeal is started by—

(a) giving a notice of appeal stating the grounds to the clerk of the court; and

21 See sections 388 (Automatic dissolution) and 410 (Transfer to commissioner).

22 Section 107H (Decision on exemption application)

(b) giving a copy of the notice to the authority.

‘(4) An appeal must be started within 28 days after the appellant is given notice of the authority’s decision under section 107O.²³

‘(5) In deciding the appeal, the court—

- (a) is unaffected by the appealed decision; and
- (b) is not bound by the rules of evidence; and
- (c) must observe natural justice.

‘(6) In deciding the appeal, the court may confirm the appealed decision or set the appealed decision aside and make another decision.

‘(7) If the court makes another decision, the decision, other than for this section, is taken to be the decision of the respondent.’

25 Replacement of ss 237–242

Sections 237 to 242—

omit, insert—

‘237 Collective contracts

‘(1) This section applies for the making or variation of a collective contract between a group of growers and a mill owner who are within the same region to the extent the collective contract is made or varied for giving effect to a settlement about—

- (a) the acceptance and crushing of cane by a mill at a time fixed under the collective contact; and
- (b) the terms on which payments are to be made by a mill owner for cane to be supplied to a mill by a grower under the collective contact.

‘(2) For subsection (1)—

- (a) a region may overlap with another region; and
- (b) a group of growers and a mill owner are “**within the same region**” if the land on which each grower’s cane is grown is in the same region as the land on which the mill is situated.

23 Section 107O (Notice of refusal of exemption application)

‘(3) The following things are specifically authorised for the competition legislation—

- (a) the making of the collective contract;
- (b) the variation of the collective contract;
- (c) the acceptance and crushing of cane by a mill at a time fixed under the collective contract;
- (d) the payment of a price for cane by a mill owner to a grower under the collective contract;
- (e) the receipt of a price for cane by a grower from a mill owner under the collective contract;
- (f) a financial incentive scheme of premiums, discounts and allowances relating to cane and sugar quality or to anything that may affect cane and sugar quality having regard to best practice under the collective contract.

‘(4) In this section—

“**region**” means a part of the State that is prescribed under a regulation.

“**settlement**” means a contract, arrangement or understanding made or arrived at between any or all of the following—

- (a) a group of growers;
- (b) a mill owner;
- (c) an interested third party.’.

26 Omission of s 248 (General provisions about show cause proceedings)

Section 248—

omit.

27 Omission of ch 10, pts 1 and 2

Chapter 10, parts 1 and 2—

omit.

28 Replacement of ch 10, pt 3, hdg

Chapter 10, part 3, heading—

omit, insert—

**‘PART 1—TRANSITIONAL PROVISIONS FOR SUGAR
INDUSTRY AND OTHER LEGISLATION AMENDMENT
ACT 2003’.**

29 Insertion of new ch 10, pt 2

Chapter 10, after part 1—

insert—

**‘PART 2—TRANSITIONAL PROVISIONS FOR SUGAR
INDUSTRY REFORM ACT 2004**

‘Division 1—Preliminary

‘373 Definitions for pt 2

‘In this part—

“amending Act” means the *Sugar Industry Reform Act 2004*.

“unamended Act” means this Act as in force immediately before the date of assent for the amending Act.

‘Division 2—Dissolution of cane production boards

‘Subdivision 1—Preliminary

‘374 Definitions for div 2

‘In this division—

“assets”, of a board, means all assets of the board, or of members of the board held by them as members of the board, immediately before the board’s transfer day.

“board” means a cane production board under the unamended Act.

“**liabilities**”, of a board, means all liabilities of the board, or of members of the board incurred by them as members of the board, immediately before the board’s transfer day.

“**receiving entity**” see section 377.

“**transfer day**”, for a board, means—

- (a) 1 January 2005 if—
 - (i) the board does not, before 1 January 2005, give the Minister a notice under section 379;²⁴ or
 - (ii) the Minister approves, on or before 1 January 2005, a proposed transfer for the board; or
 - (iii) the Minister has refused, on or before 1 January 2005, to approve each proposed transfer for the board; or
- (b) if the Minister approves, or refuses to approve, after 1 January 2005, the transfer for the board—the day the Minister approves, or refuses to approve, the transfer.

‘Subdivision 2—Voluntary dissolution

‘375 Application to transfers from more than 1 board

‘(1) This subdivision applies to a transfer of assets and liabilities of boards from more than 1 board to a single receiving entity on the transfer day for the boards in the same way it applies to a transfer from a single board to a receiving entity.

‘(2) For subsection (1), each provision of subdivision 2 is applied separately to each board.

‘376 Decision to transfer to person

‘A board may, before 1 January 2005, decide to dissolve itself and transfer its assets and liabilities to a person.

24 Section 379 (Notice of decision about receiving entity)

‘377 Things that must be decided for the transfer

‘Under section 376, the board must decide the person to which it will transfer its assets and liabilities (the “**receiving entity**”).

‘378 Deciding the receiving entity

‘A board may decide a person will be its receiving entity only if—

- (a) the receiving entity has, by notice to the board signed by an authorised person for the entity, agreed to be the receiving entity; and
- (b) the relevant mill owner and a majority of the growers who supply cane to the relevant mill agree with the proposed transfer.

‘379 Notice of decision about receiving entity

‘(1) The board must give the Minister notice of its decision under section 376.

‘(2) The notice must state the following—

- (a) the day the decision was made;
- (b) the receiving entity’s name.

‘(3) The notice must be accompanied by—

- (a) a copy of the notice mentioned in section 378(a); and
- (b) evidence that the relevant mill owner and a majority of the growers who supply cane to the relevant mill agree with the proposed transfer.

‘380 Minister’s decision

‘(1) The Minister must consider the notice and may require information from the board.

‘(2) If the Minister considers that all requirements of this Act have been complied with for the transfer, the Minister must, by notice given to the board, approve the transfer for the board.

‘(3) If the Minister does not consider that all the requirements for the transfer have been complied with, the Minister must, by notice given to the board, refuse to approve the transfer and state the reasons for the refusal.

‘381 Transfer and dissolution

‘(1) This section applies if the Minister approves the transfer of a board.

‘(2) On the transfer day for the board—

- (a) the board’s assets and liabilities are transferred to, and become the assets and liabilities of, the receiving entity; and
- (b) the board is dissolved.

‘382 Exemption for cooperatives

‘If a receiving entity is a cooperative, the *Cooperatives Act 1997*, section 268²⁵ does not apply to the transfer of the board’s assets and liabilities to the receiving entity.

‘383 Registration of transferred assets

‘(1) A certificate signed by an authorised person for a receiving entity is evidence of an asset having become an asset of the receiving entity on the board’s transfer day if the certificate—

- (a) identifies the asset; and
- (b) states the asset was, immediately before the transfer day, an asset of the board; and
- (c) states that, under this division, the asset became an asset of the receiving entity on the transfer day.

‘(2) If the certificate is given to an entity with registration functions under a law of the State for assets of that kind under a law of the State, the entity must do the following as if the certificate were an appropriate instrument of transfer of the asset—

- (a) register the matter in the same way as transactions for assets of that kind;
- (b) deal with, and give effect to, the certificate.

Example of an entity with registration functions—

- the registrar of titles

25 *Cooperatives Act 1997*, section 268 (Acquisition and disposal of assets)

‘(3) A transfer of the asset to the receiving entity may be registered or given effect to under the law of another State or the Commonwealth if—

- (a) the certificate is given to an entity with registration functions for assets of that kind under the other State’s or the Commonwealth’s law; and
- (b) the entity is permitted by law to do so.

‘384 References to board

‘A reference to a board in an Act or document existing before its dissolution has effect, from its dissolution, as if it were a reference to the receiving entity, if the context permits.

‘385 Continuity of proceedings and matters

‘(1) A proceeding that, if a board were not dissolved, might have been started or continued by or against the board may, from the dissolution, be started or continued by or against the receiving entity.

‘(2) All matters started by a board before its dissolution may be completed by the receiving entity after the board’s dissolution.

‘386 Employees

‘(1) A person’s employment by a board immediately before the board’s transfer day is, on the transfer day, taken to be lawfully terminated under the Industrial Relations Act.

‘(2) The receiving entity and the employee may agree the employee is, on the transfer day, to be employed by the receiving entity.

‘(3) If an agreement is made under subsection (2), subsections (4) to (7) apply.

‘(4) Subsection (2) does not—

- (a) constitute a redundancy or retrenchment of the person’s employment by the board; or
- (b) entitle the person to a benefit or payment merely because the person is no longer employed by the board; or
- (c) interrupt the person’s continuity of service.

‘(5) For the Industrial Relations Act, the person’s period of employment with the board is taken to be an equivalent period of employment with the replacement corporation.

‘(6) Subject to the Industrial Relations Act, the person has the same employment rights against the replacement corporation that the person had against the board immediately before the transfer day.

‘(7) If an industrial instrument under the Industrial Relations Act bound the person and the board immediately before the transfer day, it binds the person and the replacement corporation.

‘(8) If an agreement is not made under subsection (2)—

- (a) the person has, under the Industrial Relations Act, the rights given to an employee whose employment has been lawfully terminated under that Act; and
- (b) the rights given to the person may be exercised against the receiving entity as if the receiving entity had been the employer who terminated the person’s employment.

‘387 Members cease holding office

‘(1) Each person who, immediately before a board’s transfer day, was a member of the board goes out of office on the transfer day.

‘(2) No compensation is payable to a person because of subsection (1).

‘*Subdivision 3—Involuntary dissolution*

‘388 Automatic dissolution

‘(1) This section applies if—

- (a) a board does not, before 1 January 2005, give the Minister a notice under section 379;²⁶ or
- (b) the Minister refuses, under section 380(3),²⁷ to approve the transfer for the board.

‘(2) On the transfer day for the board—

26 Section 379 (Notice of decision about receiving entity)

27 Section 380 (Minister’s decision)

- (a) the board's assets and liabilities are transferred to the commissioner; and
- (b) the board is dissolved.

'389 Continuity of proceedings and matters

'(1) A proceeding that, if a board were not dissolved, might have been started or continued by or against the board may, from the dissolution, be started or continued by or against the commissioner.

'(2) All matters started by a board before its dissolution may be completed by the commissioner after the board's dissolution.

'390 Employees

'(1) A person's employment by a board immediately before the board's transfer day is, on the transfer day, taken to be lawfully terminated under the Industrial Relations Act.

'(2) The person has the rights given to an employee whose employment has been lawfully terminated under that Act.

'(3) The rights given to the person may be exercised against the commissioner as if the commissioner had been the employer who terminated the person's employment.

'391 Members cease holding office

'(1) Each person who, immediately before a board's transfer day, was a member of the board goes out of office on the transfer day.

'(2) No compensation is payable to a person because of subsection (1).'

30 Insertion of new ch 10, pt 2, div 3

Chapter 10, part 2—

insert—

‘Division 3—Abolition of cane production areas

‘392 Definition for div 3

‘In this division—

“commencement” means the day the amending Act, section 30, commences.

‘393 Abolition of existing cane production areas

‘(1) This section applies to a cane production area under the unamended Act in existence under this Act immediately before the commencement.

‘(2) On the commencement, the cane production area is abolished.

‘(3) No compensation is payable to the holder of the cane production area because of subsection (2).

‘394 Undecided applications taken to have lapsed

‘(1) This section applies if—

- (a) a person applied before the commencement under the unamended Act, chapter 2, part 1, division 2, for a grant, variation or cancellation of a cane production area; and
- (b) on the commencement, the application had not been decided.

‘(2) On the commencement, the application is taken to have lapsed.

‘(3) No compensation is payable to an applicant because of subsection (2).

‘395 End of processes relating to cane production areas

‘(1) This section applies if a horizontal expansion or productivity increase process under the unamended Act has started but has not ended before the commencement.

‘(2) On the commencement—

- (a) the process ends; and
- (b) any application relating to the process that has not been decided is taken to have lapsed.

‘(3) No compensation is payable to an applicant because of subsection (2).

‘396 Existing instrument, agreement, understanding and undertaking

‘(1) This section applies to a reference in an instrument to a grower who is identified by the grower’s cane production area if the instrument is, on the commencement, capable of being made by the grower.

Example of an instrument under which a grower may be identified by the grower’s cane production area—

- BSES Services Agreement
- PBR Licence Agreement

‘(2) On the commencement—

- (a) the reference is taken to be a reference to the grower; and
- (b) the instrument gives rise to the same rights and liabilities as would have arisen if the unamended Act were not amended by the amending Act.

‘(4) In this section—

“**instrument**” includes an oral agreement, understanding or undertaking.’.

31 Insertion of new ch 10, pt 2, div 4

Chapter 10, part 2—

insert—

‘Division 4—Supply agreements

‘397 Definition for div 4

‘In this division—

“**commencement**” means the day the amending Act, section 31, commences.

‘398 Termination of existing supply agreements

‘(1) This section applies to a supply agreement in existence immediately before the commencement.

‘(2) The agreement is terminated from the commencement.

‘(3) No compensation is payable to a party to the agreement because of subsection (2).

‘(4) To remove any doubt, subsection (2) does not affect any liability incurred under the agreement before the commencement.

‘(5) In this section—

“**supply agreement**” means a supply agreement made under the unamended Act, chapter 2, part 2.²⁸

‘399 Undecided applications taken to have lapsed

‘(1) This section applies if—

- (a) a person applied before the commencement, under the unamended Act, section 45,²⁹ for a variation of a collective agreement; and
- (b) on the commencement, the application had not been decided.

‘(2) On the commencement, the application is taken to have lapsed.

‘(3) No compensation is payable to an applicant because of subsection (2).

‘(4) In this section—

“**collective agreement**” means a collective agreement under the unamended Act, section 41.³⁰

32 Insertion of new ch 10, pt 2, div 5

Chapter 10, part 2—

insert—

28 Chapter 2 (Production, supply and milling), part 2 (Cane supply and processing agreements)

29 Section 45 (Variation of collective agreement)

30 Section 41 (Collective agreement—nature)

‘Division 5—Mill suppliers’ committees***‘Subdivision 1—Preliminary*****‘400 Definition for div 5**

‘In this division—

“commencement” means the day the amending Act, section 32, commences.

“mill suppliers’ committee” means a mill suppliers’ committee defined under the unamended Act, schedule.³¹

‘Subdivision 2—Incorporated mill suppliers’ committees**‘401 No effect on corporate status**

‘(1) This section applies to a mill suppliers’ committee that, immediately before the commencement, is a corporation.

‘(2) To remove any doubt, it is declared that the repeal of former provisions of this Act relating to mill suppliers’ committees does not affect the committee’s corporate status.

‘Subdivision 3—Transfer of assets and liabilities of unincorporated mill suppliers’ committees to replacement corporation**‘402 Application of sdiv 3**

‘This subdivision applies to a mill suppliers’ committee that, immediately before the commencement, is not a corporation.

‘403 Definitions for sdiv 3

‘In this subdivision—

31 Schedule (Dictionary)

“**assets**”, of a mill suppliers’ committee, means all assets of the committee, or of members of the committee held by them as members of the committee, immediately before the transfer day.

“**eligible grower**” means a person who, immediately before the transfer day, is, under the definition of the term “grower” under the repealed *Primary Producers’ Organisation and Marketing Act 1926*, section 30,³² a grower for the mill or mills a mill suppliers’ committee represents.

“**liabilities**”, of a mill suppliers’ committee, means all liabilities of the committee, or of members of the committee incurred by them as members of the committee, immediately before the transfer day.

“**PIBR Act**” means the *Primary Industry Bodies Reform Act 1999*.

“**replacement corporation**”, for a mill suppliers’ committee, see section 404.

“**replacement corporation trust**”, for a replacement corporation, means the trust established under the PIBR Act, section 44.³³

“**transfer day**” means 1 January 2005.

‘404 Transfer of mill suppliers’ committee’s assets and liabilities

‘Subject to section 405, a mill suppliers’ committee’s assets and liabilities are transferred to the following corporation (its “**replacement corporation**”) on the transfer day and become assets and liabilities of the replacement corporation—

- (a) generally—the corporation appointed under the PIBR Act, section 41,³⁴ as the replacement corporation for the former Queensland Cane Growers’ Organisation;
- (b) if under the PIBR Act, section 46(1)(a),³⁵ another corporation has replaced the corporation mentioned in paragraph (a) as trustee of the replacement corporation trust—the other corporation;

32 The repealed *Primary Producers’ Organisation and Marketing Act 1926*, section 30 (Cane to be a commodity)

33 PIBR Act, section 44 (Purpose trust for eligible growers)

34 PIBR Act, section 41 (Transfer of producer body’s assets and liabilities)

35 PIBR Act, section 46 (Change of trustee or termination of trust)

- (c) if under the PIBR Act, section 46(1)(b), the replacement corporation trust has been terminated—the corporation to which the former trust property of the trust has been transferred under that paragraph.

‘405 Purpose trust for eligible growers

‘(1) This section applies only if the replacement corporation trust for a replacement corporation had not been terminated under the PIBR Act, section 46(1)(b), before the transfer day.

‘(2) The assets (the **“trust property”**) transferred to the replacement corporation under section 404 are taken to be held by it under the replacement corporation trust.

‘(3) The trust property is taken to be the trust property of the replacement corporation trust.

‘(4) The PIBR Act, section 48,³⁶ applies to the assets as if the transfer day were the replacement corporation transfer day.

‘(5) The PIBR Act, section 45,³⁷ applies to the liabilities transferred under section 404 as if the transfer day were the replacement corporation transfer day.

‘(6) In this section—

“replacement corporation transfer day” means the transfer day under the PIBR Act, section 10(3).³⁸

‘406 Exemption for cooperatives

‘If the replacement corporation for a mill suppliers’ committee is a cooperative, the *Cooperatives Act 1997*, section 268,³⁹ does not apply to the transfer of a mill suppliers’ committee’s assets and liabilities to the replacement corporation.

36 PIBR Act, section 48 (Registration of transferred assets)

37 PIBR Act, section 45 (Reimbursement for transferred liabilities)

38 PIBR Act, section 10 (Meaning of “transfer day”)

39 *Cooperatives Act 1997*, section 268 (Acquisition and disposal of assets)

‘407 Employees

‘(1) A person’s employment by a mill suppliers’ committee immediately before the commencement is, on the commencement, taken to be lawfully terminated under the Industrial Relations Act.

‘(2) The person has the rights given to an employee whose employment has been lawfully terminated under that Act.

‘(3) The rights given to the person may be exercised against the replacement corporation as if the replacement corporation had been the employer who terminated the person’s employment.

‘408 Members cease holding office

‘(1) Each person who, immediately before the commencement, was a member of a mill suppliers’ committee goes out of office on the commencement.

‘(2) No compensation is payable to a person because of subsection (1).’.

33 Insertion of new ch 10, pt 2, div 6

Chapter 10, part 2—

insert—

‘Division 6—Abolition of negotiating teams**‘409 Definitions for div 6**

‘In this division—

“**assets**”, of a negotiating team, means all assets of the negotiating team, or of members of the negotiating team held by them as members of the negotiating team, immediately before the commencement.

“**commencement**” means the day the amending Act, section 33, commences.

“**negotiating team**” means a negotiating team established under the unamended Act and in existence immediately before the commencement.

“**liabilities**”, of a negotiating team, means all liabilities of the negotiating team, or of members of the negotiating team incurred by them as

members of the negotiating team, immediately before the commencement.

‘410 Transfer to commissioner

‘On the commencement, a negotiating team’s assets and liabilities are transferred to, and become the assets and liabilities of, the commissioner.

‘411 Abolition

‘On the commencement, each negotiating team is abolished.

‘412 Continuity of proceedings and matters

‘(1) A proceeding that, before the commencement, might have been started or continued by or against a negotiating team may, after the commencement, be started or continued by or against the commissioner.

‘(2) All matters started by a negotiating team before the commencement may be completed by the commissioner after the commencement.

‘413 Employees

‘(1) A person’s employment by a negotiating team immediately before the commencement is, on the commencement, taken to be lawfully terminated under the Industrial Relations Act.

‘(2) The person has the rights given to an employee whose employment has been lawfully terminated under that Act.

‘(3) The rights given to the person may be exercised against the commissioner as if the commissioner had been the employer who terminated the person’s employment.

‘414 Members cease holding office

‘(1) Each person who, immediately before the commencement, was a member of a negotiating team goes out of office on the commencement.

‘(2) No compensation is payable to a person because of subsection (1).’.

34 Insertion of new ch 10, pt 2, div 7

Chapter 10, part 2—

insert—

‘Division 7—Appeals**‘415 Definitions for div 7**

‘In this division—

“**board**” means a cane production board established under the unamended Act, section 161.⁴⁰

“**commencement**” means the day the amending Act, section 34, commences.

‘416 Appeal to Magistrates Court against board’s decision

‘(1) This section applies to a person mentioned in the unamended Act, section 234(1)(a) to (e),⁴¹ who may appeal to a Magistrates Court against the decision, mentioned in relation to the person, of a board.

‘(2) If—

- (a) the person has appealed to a Magistrates Court under the unamended Act, section 234, against the decision; and
- (b) the appeal has not been decided before the commencement;

on the commencement, the appeal lapses.

‘(3) No order for costs may be made for the appeal.

‘(4) If—

- (a) the person could have appealed to a Magistrates Court under the unamended Act, section 234, against the decision; and
- (b) the person has not appealed before the commencement;

from the commencement, the unamended Act, section 234, does not apply to the decision.

⁴⁰ Section 161 (Establishment of a cane production board)

⁴¹ Section 234 (Appeal to Magistrates Court)

‘417 Appeal to District Court against Magistrates Court’s decision

‘(1) This section applies to a person mentioned in the unamended Act, section 234(1)(a) to (e), who—

- (a) has appealed to a Magistrates Court against the decision, mentioned in relation to the person, of a board; and
- (b) is dissatisfied with the decision of the Magistrates Court (the **“court decision”**).

‘(2) If—

- (a) the person has appealed to the District Court under the unamended Act, section 234(8), against the court decision; and
- (b) the appeal has not been decided before the commencement;

on the commencement, the appeal lapses.

‘(3) No order for costs may be made for the appeal.

‘(4) If—

- (a) the person could have appealed to the District Court under the unamended Act, section 234(8), against the court decision; and
- (b) the person has not appealed before the commencement;

from the commencement, the unamended Act, section 234(8), does not apply to the court decision.’.

35 Insertion of new ch 10, pt 2, div 8

Chapter 10, part 2—

insert—

‘Division 8—Injunctions

‘418 Definitions for div 8

‘In this division—

“commencement” means the day the amending Act, section 35, commences.

“court” means the Supreme Court.

“injunction” includes an interim injunction.

“repealed provision” means a provision of the unamended Act, chapter 2, part 1, 2 or 5.⁴²

“undesirable conduct”, for a person, means the person has engaged, is engaging, or is proposing to engage, in conduct that is, was, or would be, any of the following—

- (a) a contravention of a repealed provision;
- (b) attempting to contravene a repealed provision;
- (c) aiding, abetting, counselling or procuring a person to contravene a repealed provision;
- (d) inducing or attempting to induce (whether by threats, promises or otherwise) a person to contravene a repealed provision;
- (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of a repealed provision;
- (f) conspiring with others to contravene a repealed provision.

‘419 Undecided applications taken to have lapsed

‘(1) This section applies if an interested entity applied before the commencement under the unamended Act, section 247,⁴³ to the court for an injunction—

- (a) either—
 - (i) restraining a person from engaging in undesirable conduct; or
 - (ii) requiring a person to do anything the person is required to do under a repealed provision; and
- (b) on the commencement, the application had not been decided.

‘(2) On the commencement, the application is taken to have lapsed.

‘(3) No order for costs may be made for the application.

42 Chapter 2 (Production, supply and milling), part 1 (Cane production areas), 2 (Cane supply and processing agreements) or 5 (Mills)

43 Section 247 (Injunctions)

‘420 Injunctions of no effect after commencement

‘(1) This section applies if the court has, on the application of an interested entity, granted an injunction, under the unamended Act, section 247—

- (a) restraining a person from engaging in undesirable conduct and, if the court considered it desirable to do so, requiring the person to do anything; or
- (b) requiring a person to do anything the person is required to do under a repealed provision.

‘(2) The injunction is of no effect after the commencement.’.

36 Amendment of schedule (Dictionary)

(1) Schedule, definitions “Competition Code”, “competition legislation”, “register of easements”, “Sugar Cane Assignment Register”, “Sugar Industry Tribunal”, “transitional assignment”, “transitional easement” and “transitional permit”—

omit.

(2) Schedule, definitions “adjacent”, “cane analysis program”, “cane quality program”, “cane production area”, “cane production board”, “cane productivity”, “cane supply and processing agreement”, “closed mill”, “closed mill cane”, “collective agreement”, “commercial cane sugar”, “consent process”, “crushing capacity”, “current cane production area”, “current cane production board”, “current mill”, “eligible person”, “expansion”, “grant of unallocated hectares”, “grower”, “guidelines”, “harvesting equity committee”, “horizontal expansion”, “horizontal expansion process”, “land included in a cane production area”, “mill”, “mill suppliers’ committee”, “negotiating team”, “number of hectares included in a cane production area”, “penalty sugar”, “productivity increase”, “productivity increase process”, “Queensland Sugar Corporation”, “receiving cane production board”, “receiving mill”, “regulation process”, “repealed Act”, “settlement”, “STL”, “suitable cane land”, “supply agreement”, “third party”, “transfer”, “unallocated” and “variation”—

omit.

(3) Schedule, definitions “assets”, “board”, “liabilities”, “pest”, “pest infestation”, “proposed transfer day”, “replacement entity” and “transfer day”—

omit.

(4) Schedule, definitions “bargaining representative”, “collective contract”, “eligible collective”, “group of growers”, “intention to contract”, “interested third party” and “supply contract”—

omit.

‘(5) Schedule—

insert—

‘**“Competition Code”** see section 236.

“competition legislation” see section 236.’.

(6) Schedule—

insert—

‘**“amendment”**, for chapter 3, part 2, see section 107A.

“annual return” see section 107A.

“applicant”, for chapter 3, part 2, see section 107A.

“exemption”, for chapter 3, part 2, see section 107A.

“exemption application” see section 107A.

“exemption certificate” see section 107A.

“exemption certificate details” see section 107M(2).

“exemption conditions” see section 107J.

“exempt sugar” see section 107A.

“exempt use” see section 107B.

“late exemption application” see section 107E(4).

“on-user” see section 107A.

“periodic estimate” see section 107C(2).

“periodic estimate day” see section 107C(3).

“supplier”, for sugar, means a person who, immediately before the sugar is manufactured, owns the sugar cane from which the sugar is manufactured.

“use”, for chapter 3, part 2, see section 107A.’.

(7) Schedule—

insert—

‘ **“bargaining representative”**, for chapter 2, part 1, see section 8.

“collective contract” means a collective contract under section 11.

“eligible collective”, for chapter 2, part 1, see section 14.

“group of growers”, for chapter 2, part 1, see section 11(1).

“grower” means a person who supplies cane to a mill.

“intention to contract” means an intention to contract under section 20.

“interested third party”, for chapter 2, part 1, see section 8.

“mill” means a building or other structure that is equipped for the manufacture of sugar from cane.

“supply contract” see section 8.’.

(8) Schedule—

insert—

‘ **“bargaining representative”**, for chapter 2, part 2, see section 30.

“collective contract” means a collective contract under section 33.

“group of growers”, for chapter 2, part 2, see section 33(1).

“interested third party”, for chapter 2, part 2, see section 30.

“supply contract” see section 29.’.

(9) Schedule, definition “sugar cane”, after ‘part of a plant’—

insert—

‘, whether or not the part has been crushed,’.

**PART 3—MINOR AND CONSEQUENTIAL
AMENDMENTS OF ACTS**

37 Acts amended—schedule

The schedule amends the Acts it mentions.

SCHEDULE**MINOR AND CONSEQUENTIAL AMENDMENTS OF
ACTS**

sections 3 and 37

DUTIES ACT 2001

- 1** Schedule 6, definition “new right”, paragraph (f)—
omit.

LIENS ON CROPS OF SUGAR CANE ACT 1931

- 1** Sections 8(1), ‘Subject to the *Sugar Industry Act 1999* and any collective agreement mentioned in section 40⁴⁴ of that Act and affecting any crop, if’—
omit, insert—
‘If’.
- 2** Section 8(1), ‘relates any cane production area in which is’—
omit, insert—
‘the lien or supplies the crop from any land’.
- 3** Section 8(4)—
omit.

⁴⁴ *Sugar Industry Act 1999*, section 40 (Collective agreement—nature) was renumbered as section 41 under the *Sugar Industry Act 1999*, section 227A.

SCHEDULE (continued)

- 4 Section 9(1)(a), ‘under a cane supply and processing agreement entered into under the *Sugar Industry Act 1999*’—**

omit.

- 5 Section 9(1)(d), ‘such levies’—**

omit, insert—

‘the fees or charges’.

- 6 Section 17(1)(a), ‘, on land all or part of which is assigned to a mill under the *Sugar Industry Act 1991*’—**

omit.

SUGAR INDUSTRY ACT 1999

- 1 Chapter 4, part 10, division 1, heading—**

omit.

- 2 Chapter 4, part 10, division 2—**

omit.

- 3 Sections 109(1)(e) and (4), 110(1)(e), 230(2), 254(3) and (5)(c) and 256(4)—**

omit.

- 4 Section 230(3), from ‘to—’—**

omit, insert—

‘to an appropriately qualified mediator.’.

SCHEDULE (continued)

- 5 Section 234(3), from ‘appellant’—**
omit, insert—
‘appellant is given notice of the relevant decision.’.
- 6 Section 234(9), definition “decision”—**
omit, insert—
‘“decision” includes an order.’.
- 7 Section 236, definitions “harvesting equity committee” and “settlement”—**
omit.
- 8 Section 254(1), ‘subsections (2) to (4)’—**
omit, insert—
‘subsections (2) and (3)’.
- 9 Section 254(4), ‘subsections (2) and (3)’—**
omit, insert—
‘subsection (2)’.
- 10 Section 254(5)(d)—**
renumber as section 254(5)(c).
- 11 Section 254(4) and (5), as amended—**
renumber as section 254(3) and (4).

SCHEDULE (continued)

12 Section 256(1), ‘agreement’—*omit, insert—*

‘contract’.

TRANSPORT INFRASTRUCTURE ACT 1994**1 Schedule 6, definition “cane railway”, paragraph (a)(i) and (ii)—***omit.*