

Sugar Industry Regulation 2022

Explanatory Notes for SL 2022 No. 116

made under the

Sugar Industry Act 1999

General Outline

Short title

Sugar Industry Regulation 2022

Authorising law

Sections 237 and 257 of the *Sugar Industry Act 1999*

Policy objectives and the reasons for them

The *Sugar Industry Regulation 2010* gives effect to the *Sugar Industries Act 1999* (the Act), which allows all Queensland cane growers to collectively bargain within their respective local government areas (LGAs) (i.e. growers within a particular LGA may collectively bargain with mill/s in the same LGA).

The *Sugar Industry Regulation 2010* is due to expire on 31 August 2022 as provided for in the *Statutory Instruments Act 1992* (SI Act) and the *Statutory Instruments Regulation 2012* (SI Regulation). This is consistent with the provision of the SI Act that subordinate legislation be subject to staged automatic expiration on the 1 September following the 10 year anniversary of its making, unless otherwise exempted in regulation.

In the *Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2020* and *Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2021* the *Sugar Industry Regulation 2010* was exempted from staged automatic expiration pending review until 31 August 2022. Exemption from staged automatic expiration provided the appropriate time to perform a sunset review and, as a result of the review, the decision was made to remake the regulation.

In the Act, an LGA is an area defined by reference to the regulation, which prescribes each LGA relevant to the Act.

In 2017, the Australian Competition and Consumer Commission (ACCC) granted an authorisation to CANEGROWERS, the largest industry representative body for cane growers, allowing it to collectively bargain with mills on behalf of its members.

In 2021, the ACCC authorised a class exemption for all small businesses (with an aggregate annual turnover of less than \$10 million) to collectively bargain. Businesses must lodge a form with the ACCC to take advantage of this exemption.

While the CANEGROWERS authorisation and the class exemption cover the majority of cane growers, they do not cover cane growers who have a turnover higher than \$10 million per year, or who do not wish to collectively bargain under the auspices of CANEGROWERS.

Some of the LGAs expressed in the Schedule (Regions for collective contracts) of the current regulation do not reflect the current local government boundaries and need to be updated.

The purpose of the regulation is to remake the *Sugar Industry Regulation 2010* with minor amendments to update the LGAs, ensuring they remain consistent with current regional divisions.

Achievement of policy objectives

The regulation will achieve this objective by remaking the *Sugar Industry Regulation 2010* to continue to give effect to the Act, and to update the LGAs, ensuring they remain consistent with current local government boundaries.

Consistency with policy objectives of authorising law

The regulation maintains consistency with the objectives of the Act by continuing to give effect to the collective bargaining power of cane growers within particular LGAs, regardless of turnover or membership with CANEGROWERS.

Inconsistency with policy objectives of other legislation

The regulation is consistent with the main objectives of the Act.

Alternative ways of achieving policy objectives

As the regulation is mechanical in nature there are no alternative means of achieving these policy objectives.

Benefits and costs of implementation

The regulation continues to support the financial well-being of the sugar cane industry by supporting growers' ability to negotiate with sugar mill owners.

No additional costs to the Government have been identified.

Consistency with fundamental legislative principles

The subordinate legislation has been drafted with regard to, and is consistent with, the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

Consultation

The Australian Sugar Milling Council (ASMC), CANEGROWERS, Australian Cane Farmers Association, AgForce Queensland (Cane), Pioneer Cane Growers Organisation, Kalamia Cane Growers Organisation Ltd, Bundaberg Sugar Group, WH Heck and Sons Pty Ltd (cane growers and owners of the Rocky Point sugar mill) and Far Northern Milling Pty Ltd (the owners of the Mossman sugar mill) were consulted on the sunset review of the *Sugar Industry Regulation 2010* and remake of the Regulation in December 2021.

Initial stakeholder consultation on the expiration of the *Sugar Industry Regulation 2010* has been completed. All cane grower stakeholders requested that the *Sugar Industry Regulation 2010* be remade on the basis that it provides necessary protections for cane growers who are not covered by the ACCC exemptions.

The ASMC stated that the *Sugar Industry Regulation 2010* is outdated, due to the ACCC exemptions, but did not express any objection to the Regulation being remade.

The Department of Agriculture and Fisheries has consulted the Office of Best Practice Regulation (OBPR), within Queensland Treasury. The OBPR considers the requirements for the sunset review have been met; that the remake of the *Sugar Industry Regulation 2010* is unlikely to result in significant adverse impacts; and that no further assessment is required under the *Queensland Government Guide to Better Regulation*.

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