

Queensland



*Competition Policy Reform (Queensland) Act 1996*

**COMPETITION POLICY  
REFORM  
(QUEENSLAND—SUGAR  
INDUSTRY EXEMPTIONS)  
REGULATION 1998**

**Reprinted as in force on 7 August 1998  
(Regulation not amended up to this date)**

**Reprint No. 1**

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## **Information about this reprint**

This regulation is reprinted as at 7 August 1998.

**See endnotes for information about when provisions commenced.**

Queensland



**COMPETITION POLICY REFORM  
(QUEENSLAND—SUGAR INDUSTRY  
EXEMPTIONS) REGULATION 1998**

**TABLE OF PROVISIONS**

Section		Page
<b>PART 1—PRELIMINARY</b>		
1	Short title .....	3
2	Definitions .....	3
3	Words and expressions used in Sugar Act and this regulation .....	5
<b>PART 2—EXCEPTIONS</b>		
4	Specific authorisation—Sugar Act, s 25 .....	5
5	Specific authorisation—Sugar Act, s 108 .....	6
6	Specific authorisation—Sugar Act, s 110 .....	7
7	Specific authorisation—Sugar Act, s 115 .....	7
8	Specific authorisation—Sugar Act, s 118 .....	8
9	Specific authorisation—Sugar Act, s 119 .....	9
10	Specific authorisation—Sugar Act, s 121 .....	9
11	Specific authorisation—Sugar Act, s 122 .....	10
12	Specific authorisation—Sugar Act, s 130 .....	10
13	Specific authorisation—Sugar Act, ss 137, 138 and 151 .....	12
14	Specific authorisation—Sugar Act, s 139 .....	13
15	Specific authorisation—Sugar Act, s 142 .....	13
16	Specific authorisation—Sugar Act, s 145 .....	14
17	Specific authorisation—Sugar Act, s 147 .....	14
18	Specific authorisation—Sugar Act, s 149 .....	14
<b>PART 3—EXPIRY</b>		
19	Expiry .....	15

*Competition Policy Reform  
(Queensland—Sugar Industry Exemptions)  
Regulation 1998*

---

	<b>SCHEDULE 1</b> .....	16
	<b>EXISTING AWARDS</b>	
	<b>SCHEDULE 2</b> .....	18
	<b>EXISTING CONTRACTS</b>	
	<b>ENDNOTES</b>	
1	Index to endnotes .....	19
2	Date to which amendments incorporated .....	19
3	Key .....	19
4	List of legislation .....	20

*Competition Policy Reform  
(Queensland—Sugar Industry Exemptions)  
Regulation 1998*

---

**COMPETITION POLICY REFORM  
(QUEENSLAND—SUGAR INDUSTRY  
EXEMPTIONS) REGULATION 1998**

[reprinted as in force on 7 August 1998]

**PART 1—PRELIMINARY**

**Short title**

1. This regulation may be cited as the *Competition Policy Reform (Queensland—Sugar Industry Exemptions) Regulation 1998*.

**Definitions**

2. In this regulation—

“**competition legislation**” means section 51(1)(b)<sup>1</sup> of the Trade Practices Act or section 51<sup>2</sup> of the Competition Code of this jurisdiction.

“**existing award**” means an award—

(a) made by a negotiating team under section 118(1)<sup>3</sup> of the

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<sup>1</sup> Section 51 (Exceptions)

<sup>2</sup> Section 51 states that in deciding whether a person has contravened the Competition Code, Part IV, certain things must be disregarded. Section 51(1) of the Code provides that the following must be disregarded—

(a) ...

(b) anything done in a State, if the thing is specified in, and specifically authorised by:

(i) an Act passed by the Parliament of that State; or

(ii) regulations made under such an Act.

<sup>3</sup> Section 118 (Making of awards)

*Competition Policy Reform*  
*(Queensland—Sugar Industry Exemptions)*  
*Regulation 1998*

---

Sugar Act, having regard to sections 119<sup>4</sup> and 121<sup>5</sup> of the Sugar Act; and

- (b) registered for that Act; and
- (c) published in the gazette; and
- (d) mentioned in schedule 1.

**“harvesting equity committee”** means a committee that—

- (a) consists of representatives of a mill owner and assignment holders; and
- (b) is established under an award to review matters about the harvesting of sugarcane to try to ensure the harvesting is carried out in a fair, effective and efficient way.

**“local board”** means a local board established under section 38<sup>6</sup> of the Sugar Act.

**“mill supply contract”** means a contract or agreement mentioned in section 130(1)<sup>7</sup> of the Sugar Act.

**“new award”** see section 8.

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

- (a) an assignment holder;
- (b) a harvesting equity committee;
- (c) a local board;
- (d) a mill owner;
- (e) a mill suppliers’ committee;
- (f) for a settlement about using a particular person for an activity

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<sup>4</sup> Section 119 (Matters to which award extends)

<sup>5</sup> Section 121 (Award to determine crushing times)

<sup>6</sup> Section 38 (Establishment of local boards)

<sup>7</sup> Section 130 (Mill supply contracts)

*Competition Policy Reform*  
*(Queensland—Sugar Industry Exemptions)*  
*Regulation 1998*

---

mentioned in section 8(2)(a) or (b)—the person.

“**Sugar Act**” means the *Sugar Industry Act 1991*.

### **Words and expressions used in Sugar Act and this regulation**

3. Unless the contrary intention appears, words and expressions used in the Sugar Act and this regulation have the same meaning in this regulation as they have in that Act.

## **PART 2—EXCEPTIONS**

### **Specific authorisation—Sugar Act, s 25**

4.(1) The entry by the corporation into a contract for the sale of sugar for a price stated in a sugar price direction is specifically authorised for the competition legislation.

(2) In this section—

“**market**” see section 4E<sup>8</sup> of the Trade Practices Act.

“**sugar price direction**” means a direction given to the corporation under section 25(1)<sup>9</sup> of the Sugar Act about the price of sugar in a market.

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<sup>8</sup> Section 4E—

**Market**

**4E.** For the purposes of this Act, unless the contrary intention appears, “market” means a market in Australia and, when used in relation to any goods or services, includes a market for those goods or services and other goods or services that are substitutable for, or otherwise competitive with, the first-mentioned goods or services.

<sup>9</sup> Section 25 (Minister’s directions to Corporation)

*Competition Policy Reform  
(Queensland—Sugar Industry Exemptions)  
Regulation 1998*

---

**Specific authorisation—Sugar Act, s 108**

**5.(1)** The following things are specifically authorised for the competition legislation—

- (a) the making of a determination by the corporation under section 108(2)<sup>10</sup> of the Sugar Act;
- (b) the giving of an authorisation by the corporation under section 108(2) of the Sugar Act to an employee or agent of the corporation or another body or person authorising the employee, agent or other body or person to give directions about a matter mentioned in the subsection;
- (c) the giving of a direction by an employee or agent of the corporation or another body or person under an authorisation mentioned in paragraph (b);
- (d) anything done under, or because of, a determination mentioned in paragraph (a) by—
  - (i) the corporation; or
  - (ii) an entity to whom the determination relates;
- (e) anything done under, or because of, an authorisation mentioned in paragraph (b) by—
  - (i) the corporation; or
  - (ii) the entity to whom the authorisation is given;
- (f) anything done under, or because of, a direction mentioned in paragraph (c) by—
  - (i) the corporation; or
  - (ii) the entity giving the direction; or
  - (iii) the mill owner to whom the direction is given.

**(2)** Subsection (1) applies to a determination only if the determination applies to a mill owner.

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<sup>10</sup> Section 108 (Delivery to and acceptance by Corporation of sugar)

*Competition Policy Reform*  
*(Queensland—Sugar Industry Exemptions)*  
*Regulation 1998*

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(3) Subsection (1) applies to an authorisation only if it relates to a direction given to a mill owner.

(4) Subsection (1) applies to a direction only if it is given to a mill owner.

(5) Also, subsection (1) applies to a determination, authorisation or direction only to the extent it relates to the delivery of raw sugar to a place or person for giving effect to a contract, arrangement or understanding made or arrived at between the corporation and another person.

### **Specific authorisation—Sugar Act, s 110**

6. The following things are specifically authorised for the competition legislation—

- (a) the giving of a direction by the corporation to the owner of a mill under section 110(1)<sup>11</sup> of the Sugar Act about sugar produced at the mill requiring the owner to produce a particular brand of raw sugar;
- (b) the production by the owner of a mill of a particular brand of raw sugar because of a direction given to the owner by the corporation under section 110(1) of the Sugar Act.

### **Specific authorisation—Sugar Act, s 115**

7.(1) This section applies to a determination by the corporation under section 115(1)<sup>12</sup> of the Sugar Act about the following—

- (a) the amounts of the progressive payments to be made by the corporation to the owner of a mill for sugar manufactured by the owner of the mill;
- (b) when the progressive payments are to be made.

(2) The making of the determination is specifically authorised for the competition legislation.

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<sup>11</sup> Section 110 (Directions on brand of raw sugar)

<sup>12</sup> Section 115 (Payments to sugar mill owners)

*Competition Policy Reform*  
*(Queensland—Sugar Industry Exemptions)*  
*Regulation 1998*

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(3) However, subsection (2) applies only if—

- (a) the corporation has, under section 112(1)<sup>13</sup> of the Sugar Act, made provision for costs, and payments, out of the proceeds received by the corporation from the sale of the sugar; and
- (b) the corporation has made a decision under section 113(1)<sup>14</sup> of the Sugar Act that sufficient information is available to calculate the net value per tonne of the sugar; and
- (c) the corporation has calculated the net value per tonne of the sugar under section 113(1) of the Sugar Act, having regard to the matters set out in the corporation’s guidelines made under section 113(7) of the Sugar Act.

**Specific authorisation—Sugar Act, s 118**

**8.(1)** The following things are specifically authorised for the competition legislation—

- (a) the making of an award (a “**new award**”) by a negotiating team under section 118(1)<sup>15</sup> of the Sugar Act, having regard to sections 119 and 121<sup>16</sup> of the Sugar Act;
- (b) the variation of a new or existing award by a negotiating team under section 118(6) of the Sugar Act.

(2) Subsection (1) applies to the making or variation of an award only to the extent the award is made or varied for giving effect to a settlement about—

- (a) the harvesting of sugarcane by an assignment holder under the award, including the use of a particular person for the harvesting; or

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<sup>13</sup> Section 112 (Corporation’s operating costs)

<sup>14</sup> Section 113 (Calculation of price payable to owners of sugar mills)

<sup>15</sup> Section 118 (Making of awards)

<sup>16</sup> Section 119 (Matters to which award extends) and section 121 (Award to determine crushing times)

*Competition Policy Reform  
(Queensland—Sugar Industry Exemptions)  
Regulation 1998*

---

- (b) the use of a particular person for—
  - (i) the delivery of sugarcane to a mill by an assignment holder under the award; or
  - (ii) the transport of sugarcane by a mill owner under the award; or
- (c) the base prices to be paid for sugarcane.

**Specific authorisation—Sugar Act, s 119**

**9.(1)** The following things are specifically authorised for the competition legislation—

- (a) the harvesting of sugarcane by an assignment holder under a new or existing award, including the use of a particular person for the harvesting;
- (b) the use of a particular person for—
  - (i) the delivery of sugarcane to a mill by an assignment holder under a new or existing award; or
  - (ii) the transport of sugarcane by a mill owner under a new or existing award.

**(2)** Subsection (1)(a) applies only to the extent the award gives effect to a settlement about the harvesting.

**(3)** Subsection (1)(b) applies only to the extent the award gives effect to a settlement about the use of the particular person for doing the thing mentioned in subsection (1)(b)(i) or (ii).

**Specific authorisation—Sugar Act, s 121**

**10.** The taking delivery and crushing of sugarcane by a mill owner at a time fixed under a new or existing award is specifically authorised for the competition legislation.

*Competition Policy Reform  
(Queensland—Sugar Industry Exemptions)  
Regulation 1998*

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**Specific authorisation—Sugar Act, s 122**

**11.** The following things are specifically authorised for the competition legislation—

- (a) the payment by the owner of a mill to an assignment holder of a price for sugarcane by reference to—
  - (i) the base price for the sugarcane specified, under section 122(1)<sup>17</sup> of the Sugar Act, in a new or existing award; or
  - (ii) the price for the sugarcane stated in a relative scheme of payment provided for, under section 122(2) of the Sugar Act, in a new or existing award;
- (b) the receipt by an assignment holder from the owner of a mill of a price for sugarcane by reference to—
  - (i) the base price for the sugarcane specified, under section 122(1) of the Sugar Act, in a new or existing award; or
  - (ii) the price for the sugarcane stated in a relative scheme of payment provided for, under section 122(2) of the Sugar Act, in a new or existing award.

**Specific authorisation—Sugar Act, s 130**

**12.(1)** The entry into a mill supply contract (a “**new contract**”) is specifically authorised for the competition legislation.

**(2)** Subsection (1) applies to the entry only to the extent the contract is about—

- (a) the harvesting of sugarcane by an assignment holder under the contract, including the use of a particular person for the harvesting; or
- (b) the use of a particular person for—

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<sup>17</sup> Section 122 (Award to regulate price of and payment for sugarcane to assignment holders)

*Competition Policy Reform  
(Queensland—Sugar Industry Exemptions)  
Regulation 1998*

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- (i) the delivery of sugarcane to a mill by an assignment holder under the contract; or
- (ii) the transport of sugarcane by a mill owner under the contract; or
- (c) the taking delivery and crushing of sugarcane by a mill owner at a time fixed under the contract; or
- (d) the price for sugarcane to be paid by a mill owner to an assignment holder under the contract.

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

- (a) the harvesting of sugarcane by an assignment holder under a new or existing contract, including the use of a particular person for the harvesting;
- (b) the use of a particular person for—
  - (i) the delivery of sugarcane to a mill by an assignment holder under a new or existing contract; or
  - (ii) the transport of sugarcane by a mill owner under a new or existing contract;
- (c) the taking delivery and crushing of sugarcane by a mill owner at a time fixed under a new or existing contract;
- (d) the payment of a price for sugarcane by a mill owner to an assignment holder under a new or existing contract;
- (e) the receipt of a price for sugarcane by an assignment holder from a mill owner under a new or existing contract.

(4) This section applies to a contract whether or not the contract is an exempt contract.

(5) In this section—

**“exempt contract”** means a mill supply contract exempted from

*Competition Policy Reform*  
*(Queensland—Sugar Industry Exemptions)*  
*Regulation 1998*

---

section 131<sup>18</sup> or 134<sup>19</sup> of the Sugar Act under a regulation under section 134A<sup>20</sup> of the Sugar Act.

**“existing contract”** means a mill supply contract in existence at the commencement of this regulation and mentioned in schedule 2.

**Specific authorisation—Sugar Act, ss 137, 138 and 151**

**13.(1)** The following things are specifically authorised for the competition legislation—

- (a) the granting of an assignment by the corporation under section 138(1)<sup>21</sup> of the Sugar Act to the extent of any increase in the aggregate of all assignments’ areas determined by the corporation under section 149<sup>22</sup> of the Sugar Act;
- (b) the granting of an assignment by the corporation under section 138(1) of the Sugar Act to the extent of any assignment’s area cancelled by the corporation under section 147<sup>23</sup> or 151<sup>24</sup> of the Sugar Act;
- (c) the variation or cancellation of an assignment by the corporation under section 137(1)<sup>25</sup> of the Sugar Act in circumstances prescribed by that Act (including, in particular, those mentioned in section 151<sup>26</sup> of the Sugar Act).

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<sup>18</sup> Section 131 (Procedure for making effective mill supply contract)

<sup>19</sup> Section 134 (Contracts limited to 3 years)

<sup>20</sup> Section 134A (Exemption from controls over agreements)

<sup>21</sup> Section 138 (Grant of assignment by Corporation)

<sup>22</sup> Section 149 (Annual determination of increase in the aggregate of assignments’ areas)

<sup>23</sup> Section 147 (Application to Corporation for transfer of assignment to another mill)

<sup>24</sup> Section 151 (Cancellation of assignment)

<sup>25</sup> Section 137 (Corporation’s general authority over assignments)

<sup>26</sup> Section 151 (Cancellation of assignment)

*Competition Policy Reform*  
*(Queensland—Sugar Industry Exemptions)*  
*Regulation 1998*

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(2) Subsection (1) applies to the granting, variation or cancellation of an assignment only to the extent it is made for giving effect to a settlement.

(3) In this section—

“**corporation**” includes a local board acting as delegate of the corporation.

**Specific authorisation—Sugar Act, s 139**

**14.(1)** The making of guidelines by the corporation under section 139(1)<sup>27</sup> of the Sugar Act is specifically authorised for the competition legislation.

(2) Subsection (1) applies to the making of guidelines only to the extent the guidelines provide, under section 139(2) of the Sugar Act, with respect to the aggregate of all assignments’ areas available to be granted in a calendar year, that a prescribed proportion is to be offered in the first instance to holders of existing assignments.

**Specific authorisation—Sugar Act, s 142**

**15.(1)** The making of a designated assignment order by a local board under section 142(1)<sup>28</sup> of the Sugar Act is specifically authorised for the competition legislation.

(2) Subsection (1) applies to the making of a designated assignment order only to the extent the order is made for giving effect to a settlement.

(3) In this section—

“**designated assignment order**” means an order directing the corporation—

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

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<sup>27</sup> Section 139 (Guidelines for grant of assignment)

<sup>28</sup> Section 142 (Orders by local board)

*Competition Policy Reform*  
*(Queensland—Sugar Industry Exemptions)*  
*Regulation 1998*

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- (b) to cancel an assignment; or
- (c) to grant an assignment.

**Specific authorisation—Sugar Act, s 145**

**16.(1)** The exercise by a local board of a discretion under section 145(2)(b)<sup>29</sup> of the Sugar Act to make, or to refuse to make, an order directing the corporation to transfer an assignment from an existing holder to another person is specifically authorised for the competition legislation.

**(2)** Subsection (1) applies to the exercise of a discretion only to the extent the discretion is exercised for giving effect to a settlement.

**Specific authorisation—Sugar Act, s 147**

**17.(1)** This section applies to an application by an assignment holder to the corporation under section 147(1)<sup>30</sup> of the Sugar Act to give effect to an authorised transaction of a kind mentioned in section 147(2) of the Sugar Act.

**(2)** The granting or refusal of the application by the corporation is specifically authorised for the competition legislation.

**(3)** Subsection (2) applies to the granting or refusal of the application only to the extent the granting or refusal is made for giving effect to a settlement.

**Specific authorisation—Sugar Act, s 149**

**18.(1)** The following things are specifically authorised for the competition legislation—

- (a) the making of a determination by the corporation under

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<sup>29</sup> Section 145 (Local board to grant application or give reasons for refusal)

<sup>30</sup> Section 147 (Application to Corporation for transfer of assignment to another mill)

*Competition Policy Reform*  
*(Queensland—Sugar Industry Exemptions)*  
*Regulation 1998*

---

section 149(1)<sup>31</sup> of the Sugar Act to increase, or not to increase, the aggregate area of all assignments' areas in existence at the commencement of a calendar year;

- (b) if the corporation makes a determination to increase the aggregate area—the making of a determination by the corporation under section 149(1) of the Sugar Act about the extent of the increase.

(2) Subsection (1) applies to a determination only to the extent the determination is made for giving effect to a settlement.

### PART 3—EXPIRY

#### Expiry

**19.** This regulation expires on 31 December 1999.

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<sup>31</sup> Section 149 (Annual determination of increase in the aggregate of assignments' areas)

## **SCHEDULE 1**

### **EXISTING AWARDS**

section 2, definition “existing award”

<b>Award</b>	<b>Date of gazette in which award published</b>
Babinda	24 April 1998
Bingera Local	15 May 1998
Fairymead	15 May 1998
Farleigh	22 May 1998
Inkerman	12 June 1998
Invicta	24 April 1998
Isis	1 May 1998
Kalamia	12 June 1998
Macknade	12 June 1998
Marian	22 May 1998
Maryborough	24 April 1998
Millaquin	15 May 1998
Moreton	5 June 1998
Mossman	24 April 1998
Mourilyan	8 May 1998
Mulgrave	1 May 1998
Pioneer	5 June 1998

*Competition Policy Reform*  
*(Queensland—Sugar Industry Exemptions)*  
*Regulation 1998*

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## SCHEDULE 1 (continued)

Plane Creek	22 May 1998
Pleystowe	22 May 1998
Proserpine	22 May 1998
Racecourse	22 May 1998
Rocky Point	10 July 1998
South Johnstone	19 June 1998
Tableland	22 May 1998
Tully	15 May 1998
Victoria	12 June 1998

## **SCHEDULE 2**

### **EXISTING CONTRACTS**

section 12, definition “existing contract”

1. A mill supply contract to which the owner of the mill known as the ‘Mossman Central Mill’ is a party.
2. A mill supply contract to which the owner of the mill known as the ‘Tableland Mill’ is a party.

*Competition Policy Reform  
(Queensland—Sugar Industry Exemptions)  
Regulation 1998*

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## ENDNOTES

### 1 Index to endnotes

		Page
2	Date to which amendments incorporated . . . . .	19
3	Key . . . . .	19
4	List of legislation . . . . .	20

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Competition Policy Reform (Queensland—Sugar Industry Exemptions) Regulation 1998 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

*Competition Policy Reform  
(Queensland—Sugar Industry Exemptions)  
Regulation 1998*

---

**4 List of legislation**

**Competition Policy Reform (Queensland—Sugar Industry Exemptions)  
Regulation 1998 SL No. 215**

made by the Governor in Council on 23 July 1998

notfd gaz 24 July 1998 pp 1491–2

commenced on date of notification

exp 31 December 1999 (see s 19)