

Queensland



*Sugar Industry Act 1999*

# **SUGAR INDUSTRY REGULATION 1999**

**Reprinted as in force on 1 July 2004  
(includes commenced amendments up to 2004 SL No. 46)**

**Reprint No. 1C**

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This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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# Queensland



## SUGAR INDUSTRY REGULATION 1999

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# SUGAR INDUSTRY REGULATION 1999

[as amended by all amendments that commenced on or before 1 July 2004]

## 1 Short title

This regulation may be cited as the *Sugar Industry Regulation 1999*.

## 2 Commencement

This regulation commences on 1 January 2000.

## 3 Call for applications for grant of unallocated hectares—Act, s 22

(1) For section 22(4) of the Act, a cane production board calls for applications from growers for the grant of unallocated hectares by publishing a notice—

- (a) in a newspaper likely to be read by the growers; or
- (b) in some other public medium the board considers sufficient to bring the notice to the growers' attention.

(2) The notice must—

- (a) be published in a way that is likely to ensure growers understand the purpose and content of the notice; and
- (b) state the date by which applications must be made; and
- (c) give the name of a representative of the board and information on how to contact the representative to enquire about making an application.

(3) For subsection (2)(b), the date must be at least 30 days after the notice is published.

(4) The notice may also state—

- (a) applications may not be granted as the purpose of the notice is merely to assess the level of demand for the grant of unallocated hectares; and
- (b) the board will assess the level of demand and, if there is a demand, refer the assessment to the negotiating team; and

- (c) in assessing the level of demand, the board will consider the likelihood of the grower's application being granted if unallocated hectares are available.

#### **4 Calculation of declared measurable increase—Act, s 24**

For section section 24(5)(b)<sup>1</sup> of the Act, the declared measurable increase is calculated by the arbitrator based on the material presented at arbitration.

#### **5 Process for moving supply from current mill—horizontal expansion process**

Schedule 1 states the regulation process for section 24(7) of the Act.

#### **6 Calculation of declared sustainable increase—Act, s 27**

For section 27(4)(b) of the Act, the declared sustainable increase is calculated using the following formula—

$$\mathbf{dsa} = \frac{\mathbf{a}}{\mathbf{b}} \times \mathbf{cpa}$$

where—

“**a**” means the sustainable increase.

“**b**” means the average cane productivity for the crushing seasons decided by the arbitrator.

“**cpa**” means the total number of hectares included in all the cane production areas that relate to the mill.

“**dsa**” means the declared sustainable increase.

#### **7 Process of moving supply from current mill—productivity increase process**

Schedule 2 states the regulation process for section 27(6) of the Act.

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<sup>1</sup> Section 24 (If the negotiating team does not agree on horizontal expansion) of the Act

**8 Giving effect to cane production board's decisions—Act, s 33**

For section 33(1) of the Act, the cane production board must record the effect of the decision in its register within 14 days after the date of the decision.

**9 Schemes for payment—Act, s 102**

For section 102(10)(b) of the Act, payments to a mill owner for penalty sugar are calculated and made at the rate of \$1 for each tonne of raw sugar equivalent of sugar that the mill owner delivers to the corporation.

**10 Production of brands of raw sugar—Act, s 103**

For section 103(9) of the Act, definition “industry standard brand”, the industry standard brand of raw sugar is Brand 1.

**11 Dispute resolution process—Act, ss 24, 27, 38, 54, 92, 97 and 219**

Schedule 3 states the dispute resolution process for sections 24(1), 27(2), 38(1), 54(3), 92(3), 97(3) and 219(6) of the Act.

**12 Dispute resolution process—Act, s 103**

Schedule 4 states the dispute resolution process for section 103(6) of the Act.

**13 Dissolution of cane protection and productivity boards**

The following cane protection and productivity boards are dissolved on 1 April 2002—

- (a) Bingera Cane Protection and Productivity Board;
- (b) Fairymead Cane Protection and Productivity Board;
- (c) Millaquin Cane Protection and Productivity Board.

**14 Establishment of productivity area and cane protection and productivity board**

- (1) The Bundaberg Productivity Area is established.

(2) The Bundaberg Productivity Area consists of the productivity areas for which the Bingera, Fairymead and Millaquin Cane Protection and Productivity Boards were established.

(3) The Bundaberg Cane Protection and Productivity Board is established for the Bundaberg Productivity Area.

## **15 Assets and liabilities of dissolved boards**

When the cane protection and productivity boards mentioned in section 13 (the “**old boards**”) are dissolved—

- (a) all assets of the old boards immediately before 1 April 2002 become the assets of the Bundaberg Cane Protection and Productivity Board (the “**new board**”); and
- (b) all liabilities of the old boards immediately before 1 April 2002 become the liabilities of the new board.

## **16 Issue of shares in STL—Act, s 272**

For section 272 of the Act—

- (a) the number and class of shares are—
  - (i) 229 348 203 ‘G’ class shares; and
  - (ii) 130 651 797 ‘M’ class shares; and
- (b) the day is 2 August 2000.

## **17 Fees**

The fees payable under the Act are in schedule 5.

## **SCHEDULE 1**

### **REGULATION PROCESS (HORIZONTAL EXPANSION)**

section 5

#### **1 Making an application**

An eligible grower may apply to the board for—

- (a) a notice (a **“move consent notice”**) that the board will facilitate cancellation of the grower’s cane production area, or a stated number of hectares included in the area, in support of the grower’s application to be granted unallocated hectares relating to a receiving mill; or
- (b) a grant of a stated number of unallocated hectares, arising from cancellations, and applied for by the grower under section 22(5)<sup>2</sup> of the Act.

#### **2 Dealing with applications**

(1) As far as practicable, the board must deal with applications made under section 1 in the order in which they are received.

(2) In assessing an application for a move consent notice, the board must consider whether unallocated hectares arising from the cancellation will be able to be granted to another eligible grower.

(3) An application must be refused if the regulation process has ended.

(4) If the board receives an application for a move consent notice relating to a stated number of hectares and the board has not received applications for grant of at least an equivalent number of unallocated hectares, the board—

- (a) must not grant the application in relation to the stated number of hectares; and
- (b) must ask the applicant if the applicant wishes—

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2 Section 22 (Start of horizontal expansion process) of the Act

## SCHEDULE 1 (continued)

- (i) to have the application granted in relation to the number of hectares for which the board has received applications for grant; or
  - (ii) to withdraw the application.
- (5) As the board deals with applications, the board must—
- (a) issue a move consent notice to each successful applicant; and
  - (b) give each applicant for a grant of unallocated hectares notice that the application will be granted as unallocated hectares become available from cancellations.

**3 Move consent notices**

(1) The move consent notice must state that, if a receiving cane production board grants unallocated hectares to the applicant, the current cane production board will cancel the applicant's current cane production area or the number of hectares included in the area and mentioned in the applicant's application for the move consent notice.

(2) A move consent notice ceases to have effect 1 year after the date of the notice.

**4 Withdrawing an application**

(1) An applicant given a notice under section 2(5)(b) may, by notice to the board, withdraw the application at any time before the cancellation, from which the unallocated hectares will arise, is made.

(2) After the cancellation is made, the grant of unallocated hectares is binding on the applicant.

(3) The board must not consider, for any further grant of unallocated hectares under the current regulation process, an applicant who has withdrawn an application.

**5 Granting unallocated hectares**

As cancellations based on move consent notices are made, the board must grant unallocated hectares, arising out of the cancellations, to

## SCHEDULE 1 (continued)

applicants previously given notice under section 2(5)(b) who have not withdrawn their applications.

**6 End of regulation process**

The regulation process ends when the first of the following happens—

- (a) there are no more applications under section 1 to be processed;
- (b) the total number of unallocated hectares granted by the following boards equals the amount of the declared measurable increase—
  - (i) the current cane production board in granting unallocated hectares arising from cancellations;
  - (ii) receiving cane production boards in granting unallocated hectares based on move consent notices.

**7 Time for making an application**

An application under section 1 must be made within 5 years after the arbitrator's declaration to the board, under section 24(5) of the Act, about the measurable increase or before the end of the process under section 6(b), whichever happens first.

## **SCHEDULE 2**

### **REGULATION PROCESS (PRODUCTIVITY INCREASE)**

section 7

#### **1 Making an application**

A grower may apply to the board for a notice (a “**move consent notice**”) that the board will facilitate cancellation of the grower’s cane production area, or a stated number of hectares included in the area, in support of the grower’s application to be granted unallocated hectares relating to a receiving mill.

#### **2 Dealing with applications**

(1) As far as practicable, the board must deal with applications made under section 1 in the order in which they are received.

(2) An application must be refused if the regulation process has ended.

#### **3 Move consent notices**

(1) The move consent notice must state that, if a receiving cane production board grants unallocated hectares to the applicant, the current cane production board will cancel the applicant’s current cane production area or the number of hectares included in the area and mentioned in the applicant’s application for the move consent notice.

(2) A move consent notice ceases to have effect 1 year after the date of the notice.

#### **4 End of regulation process**

(1) The regulation process ends when the first of the following happens—

- (a) there are no more applications under section 1 to be processed;
- (b) receiving cane production boards, in granting unallocated hectares based on move consent notices issued under the process,



## SCHEDULE 2 (continued)

make grants of unallocated hectares equal to the amount of the declared sustainable increase.

(2) Despite cancellations based on move consent notices, the number of hectares that are cancelled do not become unallocated hectares available to be granted.

**5 Time for making an application**

An application under section 1 must be made within 5 years after the arbitrator's declaration to the board, under section 27(4) of the Act, about the sustainable increase or before the end of the process under section 4(1)(b), whichever happens first.

### SCHEDULE 3

## DISPUTE RESOLUTION PROCESS FOR SECTIONS 24, 27, 38, 54, 92, 97 AND 219 OF THE ACT

section 11

### PART 1—PRELIMINARY

#### 1 Definitions

In this schedule—

“**arbitrator**” means an arbitrator appointed by a negotiating team.

“**final offer**” see section 14.

“**final offer arbitration**” see section 20A(2).

“**mediator**” means a mediator appointed by a negotiating team.

“**mill owner member**”, for a negotiating team, means a member of the negotiating team appointed by a mill owner or jointly by mill owners.

“**mill suppliers’ committee member**”, for a negotiating team, means a member of the negotiating team appointed by a mill suppliers’ committee or jointly by mill suppliers’ committees.

“**party**”, to a negotiation, mediation or arbitration, means either the mill owner members or the mill suppliers’ committee members.

“**timetable**”, for a negotiating team, means the timetable applying, under section 32, to a negotiating team.

## SCHEDULE 3 (continued)

**PART 2—NEGOTIATION****2 Application of pt 2**

This part does not apply to a dispute mentioned in section 24(1) or 27(2)<sup>3</sup> of the Act.

**3 Negotiation**

(1) A negotiating team must start negotiations in each year before the date stated in the timetable.

(2) The negotiating team must negotiate in good faith.

(3) Negotiations must take place at the time and place and in the way agreed by the negotiating team.

**4 Negotiated agreement**

(1) The negotiating team must try to reach a negotiated agreement without the involvement of a third party.

(2) However, the parties may nominate representatives to negotiate a specific issue.

**5 Mediation and arbitration**

(1) If 1 of the parties considers unanimous agreement is unlikely before the date stated in the timetable for negotiation to end, the party may ask to proceed to mediation.

(2) Negotiations may continue throughout mediation or arbitration.

(3) The parties may bypass mediation and proceed directly to arbitration only if both parties agree.

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3 Section 24 (If the negotiating team does not agree on horizontal expansion) or 27 (Establishment of productivity increase process) of the Act

## SCHEDULE 3 (continued)

**PART 3—MEDIATION***Division 1—Application of part***6 Application of pt 3**

This part does not apply to a dispute mentioned in section 24(1) or 27(2)<sup>4</sup> of the Act.

*Division 2—Conducting mediation***7 When to proceed to mediation**

A negotiating team must proceed to mediation if—

- (a) the team has not unanimously agreed on all issues to be resolved before the date stated in the timetable for negotiation to end; or
- (b) under section 5(1), 1 of the parties has asked to proceed.

**8 Appointment of mediator**

(1) A negotiating team must appoint a person as mediator and decide whether the person is also to be the arbitrator.

(2) Before accepting an appointment as mediator, the person must tell the negotiating team whether the person also agrees to be arbitrator if there are unresolved issues at the end of the mediation.

**9 List of issues to be resolved**

(1) Each party must give to the mediator and each other a written list of the issues the party believes need to be resolved.

(2) The mediator must meet with the parties, together or separately—

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<sup>4</sup> Section 24 (If the negotiating team does not agree on horizontal expansion) or 27 (Establishment of productivity increase process) of the Act

**SCHEDULE 3 (continued)**

- (a) to discuss issues to be resolved; and
- (b) to prepare a final list of issues; and
- (c) to fix a schedule for steps in the mediation.

(3) The steps must include preparing a summary of the parties' submissions.

(4) Any issue raised by either party may be included in the list of issues.

(5) The list must not include an issue about which the parties have already agreed.

(6) The final list may be amended only if the negotiating team unanimously agrees.

**10 Mediation—when, where and how**

(1) The negotiating team and the mediator must decide a time and place for the mediation to be held.

(2) If a time and place is not decided, the mediator must fix the time and place.

(3) A mediation must be held in the way decided by the mediator after consulting with the negotiating team.

**11 When mediation ends**

Mediation ends on the earlier of the following—

- (a) if the negotiating team has not reached agreement on all issues that need to be resolved—the date stated in the timetable;
- (b) if the negotiating team reaches a negotiated agreement about all the issues—the date of the agreement.

**12 List of unresolved issues**

(1) If mediation about a dispute mentioned in section 92(2) or 97(2) of the Act ends, each party must give the mediator and the other party a list of the party's unresolved issues.

(2) The issues on the list are the issues to be resolved at arbitration.

## SCHEDULE 3 (continued)

*Division 3—Final offers***13 Application of div 3**

This division applies only to a dispute mentioned in section 38(1) or 54(3) of the Act.

**14 Final offers at end of mediation**

(1) If mediation in relation to a dispute mentioned in section 38(1) or 54(3) of the Act ends, each party must give a written offer (a “**final offer**”) for resolving all issues to—

- (a) the mediator; and
- (b) the other party.

(2) The final offer must state the basis on which the party is prepared to settle all issues that have not been agreed.

(3) The mediator may require a party to give a statement explaining the basis of the party’s final offer.

**15 Considering final offers before meeting**

If the mediator does not decide to allow a shorter time, the parties must be given at least 2 days to consider the final offers.

**16 Meeting about final offers**

(1) After the time allowed to consider final offers has ended, the parties and the mediator must meet—

- (a) to identify issues in the list of issues to be resolved that have not been agreed, for discussion between the parties and the arbitrator; and
- (b) to identify issues to be resolved; and
- (c) to clarify—
  - (i) the provisions of the final offers; and
  - (ii) that the final offers cover all issues to be resolved; and

**SCHEDULE 3 (continued)**

(d) to oversee amendments to the offers to show the parties' intentions.

(2) A party may, if the mediator agrees, amend the party's final offer at the meeting.

(3) After the meeting, a final offer may be amended only—

- (a) with the negotiating team's unanimous agreement; or
- (b) at a preliminary meeting under section 21.

**17 Accepting final offers**

(1) An acceptance of a final offer must be—

- (a) in writing; and
- (b) made by each person to whom the offer was made; and
- (c) given to the offeror.

(2) An acceptance may be given at any time before the arbitrator's decision is given.

**PART 4—ARBITRATION*****Division 1—Conducting arbitration*****18 When to proceed to arbitration**

For a dispute mentioned in section 38(1), 54(3), 92(2) or 97(2) of the Act, the parties must proceed to arbitration if they have not agreed on all issues that need to be resolved.

**19 Appointment of arbitrator**

The parties must appoint a person as arbitrator if the mediator has not also been appointed as arbitrator.

## SCHEDULE 3 (continued)

**20 When arbitration starts**

(1) For a dispute mentioned in section 24(1) or 27(2) of the Act, arbitration starts when the dispute arises.

(2) For a dispute mentioned in section 38(1), 54(3), 92(2) or 97(2) of the Act, arbitration starts when—

- (a) mediation has ended; and
- (b) the arbitrator has received the list of issues for arbitration from the mediator.

**20A When final offer arbitration permitted**

(1) The parties to a dispute mentioned in section 38(1) or 54(3) of the Act may agree to 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.

(3) If the parties mentioned in subsection (1) do not agree to use final offer arbitration, the *Commercial Arbitration Act 1990* applies to the arbitration.

**21 Preliminary meeting**

(1) The arbitrator must hold a preliminary meeting with the negotiating team before arbitration starts.



## SCHEDULE 3 (continued)

(2) The purpose of the meeting is—

- (a) for a dispute mentioned in section 38(1), 54(3), 92(2) or 97(2) of the Act if the parties have agreed to use final offer arbitration—
  - (i) if the parties' final offers or lists of issues for arbitration have not been given to the arbitrator—for the arbitrator to receive the offers or lists; and
  - (ii) to clarify the final offers or the issues on the list; and
  - (iii) if amendments to the offers or lists are needed to show the parties' intentions—to oversee the amendments; and
- (b) for the arbitrator to fix a timetable for procedural issues in the arbitration, including delivering submissions and replies to the arbitrator and the other party.

**22 Conducting arbitration**

(1) Arbitration must be as informal as is consistent with an appropriate hearing of the issues.

(2) The arbitrator—

- (a) may exclude observers from the arbitration; and
- (b) may call for sworn oral or documentary evidence.

(3) For subsection (2)(b), the arbitrator may administer an oath.

(4) The arbitrator is not bound by the rules of evidence and may be informed in any way the arbitrator considers appropriate.

(5) The arbitrator must act consistently with natural justice.

**23 Submissions**

(1) The arbitrator may, at any stage of an arbitration, require the parties to give written or oral submissions on an issue.

(2) A party may reply to a submission made by the other party.

## SCHEDULE 3 (continued)

**24 Arbitrator may call for documents, material or information**

(1) If the arbitrator considers it necessary to help the arbitrator make a decision, the arbitrator may require the giving of a document, material or information in the custody, possession or power of—

- (a) a negotiating team member; or
- (b) a mill owner concerned in the arbitration; or
- (c) a grower who supplies cane to the mill for which the mill suppliers' committee concerned in the arbitration is established.

(2) If a person fails to give the document, material or information at the request of the arbitrator, the arbitrator may take the failure into consideration when making the decision.

**25 Commercial confidentiality**

(1) This section applies if a document, material or information is given to the arbitrator.

(2) The person who gave the document, material or information may make a claim to the arbitrator that it is commercially confidential (a “**confidentiality claim**”).

(3) A confidentiality claim—

- (a) may be written or oral; and
- (b) may be made when, or at any time after, the document, material or information is given to the arbitrator.

(4) If a confidentiality claim is made, the arbitrator may give the document, material or information to another person only if—

- (a) the claimant consents; or
- (b) the other person undertakes in writing to the arbitrator and to the claimant—
  - (i) not to disclose the document, material or information to another person; and
  - (ii) not to copy the document, material or information; and

## SCHEDULE 3 (continued)

- (iii) to return the document, material or information to the arbitrator at the end of the arbitration or at an earlier time required by the claimant.

**26 Arbitrator may seek independent advice**

(1) The arbitrator may seek advice from an independent expert if the negotiating team agrees.

(2) If the advice involves extra cost or time for the arbitration, the arbitrator must first obtain the negotiating team's agreement to the cost or time.

(3) Before calling for the advice, the arbitrator must notify the negotiating team of—

- (a) the identity and qualifications of the proposed expert; and
- (b) the questions the arbitrator intends to put to the expert.

(4) The arbitrator must—

- (a) if the advice is written—give the negotiating team a copy of the advice; or
- (b) if the advice is oral—disclose the substance of the advice to the negotiating team.

(5) In this section—

“**advice**” includes information.

**27 No separate meetings without agreement**

The arbitrator may separately meet with a negotiating team member involved in the arbitration before the arbitration ends only if the negotiating team agrees.

**28 When arbitration ends**

Arbitration ends—

- (a) when the arbitrator makes a decision; or
- (b) if, before the arbitrator makes a decision—

## SCHEDULE 3 (continued)

- (i) a party accepts an offer made by the other party; or
- (ii) the parties reach a negotiated agreement about all of the issues to be resolved.

*Division 2—Arbitrator’s decision***29 No final offer arbitration**

(1) This section applies—

- (a) to a dispute mentioned in section 24(1), 27(2), 92(2) or 97(2) of the Act; or
- (b) for a dispute mentioned in section 38(1) or 54(3) of the Act—only if the parties have not agreed to use final offer arbitration or a process substantially the same as final offer arbitration.

(2) The arbitrator must, within 14 days after submissions close—

- (a) make a decision based on the submissions received; and
- (b) give written reasons for the decision to the parties.

**30 Final offer arbitration**

(1) This section applies—

- (a) to a dispute mentioned in section 38(1) or 54(3) of the Act; but
- (b) only if the parties have agreed to use final offer arbitration or a process substantially the same as final offer arbitration.

(2) If each party has made a final offer, the arbitrator must within 14 days after submissions close—

- (a) make a decision by choosing 1 of the offers; and
- (b) give written reasons for the decision to the parties.

(3) If only 1 final offer has been made, the arbitrator may accept the offer as the arbitrator’s decision.

## SCHEDULE 3 (continued)

**31 Decision binding**

The arbitrator's decision or an agreement made by the negotiating team in an arbitration binds—

- a) the members of the negotiating team; and
- (b) a mill owner concerned in the arbitration; and
- (c) a mill suppliers' committee concerned in the arbitration; and
- (d) a grower who supplies cane to the mill for which the mill suppliers' committee concerned in the arbitration is established.

**PART 5—MISCELLANEOUS****32 Timetable**

(1) The following timetable states the dates in each year by which the stages in the dispute resolution process must be reached—

- (a) 15 February—negotiation stage starts;
- (b) 31 March—mediation stage starts immediately after the end of the negotiation stage;
- (c) 30 April—mediation stage ends, final offers or lists of issues to be resolved given by each party to the other party and the mediator;
- (d) 1 May—arbitration stage starts;
- (e) 28 May—arbitration stage ends, arbitrator's decision, and reasons for the decision, given.

(2) The timetable applies to a negotiating team unless the team unanimously agrees to amend it.

**33 Amalgamating issues**

A mediator or arbitrator may, if the negotiating team agrees, amalgamate similar issues that have arisen in more than 1 mill area into 1 mediation or arbitration.

## SCHEDULE 3 (continued)

**34 Mediators and arbitrators not liable to parties**

(1) A mediator or arbitrator is not liable to the parties to the mediation or arbitration on any ground, other than fraud or dishonesty.

(2) A mediator or arbitrator must—

- (a) act fairly, in good faith and without bias; and
- (b) treat issues raised in the mediation or arbitration in confidence.

**35 Costs**

(1) The parties concerned in a mediation or arbitration must each pay half of—

- (a) the mediator's or arbitrator's fees and expenses; and
- (b) other costs jointly associated with the mediation or arbitration.

(2) A mill owner member of the negotiating team must be indemnified by the mill owners concerned in the negotiation, mediation or arbitration for costs the member incurs under the dispute resolution process.

(3) A mill suppliers' committee member of the negotiating team must be indemnified by the mill suppliers' committee concerned in the negotiation, mediation or arbitration for costs the member incurs under the dispute resolution process.

**36 Confidentiality**

(1) Discussions between a party and the mediator in negotiations or mediations are without prejudice.

(2) Evidence of anything done or said, or an admission made, at a mediation or arbitration is inadmissible in a civil proceeding.

(3) However, subsections (1) and (2) do not apply if all parties to the negotiation, mediation or arbitration agree.

**37 Consultation with members of negotiating team**

Proceedings must be conducted by mediators and arbitrators in consultation with the members of the negotiating team.

## SCHEDULE 3 (continued)

**38 Help to members of negotiating team**

(1) A member of the negotiating team may be helped in the negotiation, mediation and arbitration process by an adviser or spokesperson.

(2) However, a member may be represented by a lawyer<sup>5</sup> only if the other members agree.

(3) In this section—

“**adviser**” includes a person who holds a law degree.

“**spokesperson**” includes a person who holds a law degree.

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5 Under the *Acts Interpretation Act 1954*, section 36—

“**lawyer**” means a barrister, solicitor, barrister and solicitor or legal practitioner of the High Court or the Supreme Court of a State.

## **SCHEDULE 4**

### **DISPUTE RESOLUTION PROCESS FOR SECTION 103 OF THE ACT**

section 12

#### **PART 1—PRELIMINARY**

##### **1 Definitions**

In this schedule—

**“arbitrator”** means an arbitrator appointed by the corporation and the mill owner.

**“final offer”** see section 12.

**“mediator”** means a mediator appointed by the corporation and the mill owner.

**“party”**, for a negotiation, mediation or arbitration, means either the corporation or the mill owner.

#### **PART 2—NEGOTIATION**

##### **2 Negotiation**

(1) The parties must negotiate in good faith.

(2) Negotiations must take place at the time and place and in the way agreed by the parties.

##### **3 Negotiated agreement**

(1) The parties must discuss the costs incurred by the mill owner in complying with the corporation’s direction to the mill owner to produce a particular brand of raw sugar in a particular period or amount.



**SCHEDULE 4 (continued)**

(2) The parties must try to reach a negotiated agreement without the involvement of a third party.

(3) However, the parties may nominate representatives to negotiate a specific issue in the dispute.

**4 Mediation and arbitration**

(1) If 1 of the parties considers unanimous agreement is unlikely, the party may ask to proceed to mediation.

(2) Negotiations may continue throughout mediation or arbitration.

(3) The parties may bypass mediation and proceed directly to arbitration only if both parties agree.

**PART 3—MEDIATION****5 When to proceed to mediation**

The parties must proceed to mediation if—

- (a) the parties have not agreed on all issues that need to be resolved;  
or
- (b) under section 4(1), 1 of the parties has asked to proceed.

**6 Appointment of mediator**

(1) The parties must appoint a person as mediator and decide whether the person is also to be the arbitrator.

(2) Before accepting an appointment as mediator, the person must tell the parties whether the person also agrees to be arbitrator if there are unresolved issues at the end of the mediation.

(3) The mediator is appointed under a written agreement between the parties and the mediator.

**SCHEDULE 4 (continued)****7 List of issues to be resolved**

(1) The parties must give to the mediator and each other a list of the issues they believe need to be resolved.

(2) The mediator must meet with the parties, together or separately—

- (a) to discuss the issues to be resolved; and
- (b) to prepare a final list of issues.

(3) The list must not include an issue about which the parties have already agreed.

(4) The final list may be amended only if the parties agree.

(5) The issues on the list are the issues to be resolved at arbitration.

**8 When mediation ends**

Mediation ends on the earlier of the following—

- (a) if the parties have not reached agreement on all issues that need to be resolved—5 business days after the start of mediation;
- (b) if the parties reach a negotiated agreement about all the issues—the date of the agreement.

**PART 4—ARBITRATION****9 When to proceed to arbitration**

The parties must proceed to arbitration if they have not agreed on all issues that need to be resolved.

**10 Appointment of arbitrator**

(1) The parties must appoint a person as arbitrator if the mediator has not also been appointed as arbitrator.

(2) The arbitrator is appointed under a written agreement between the parties and the arbitrator.

## SCHEDULE 4 (continued)

**11 When arbitration starts**

Arbitration starts when—

- (a) mediation has ended; and
- (b) the arbitrator has received the list of issues for arbitration from the mediator.

**12 Final offers at start of arbitration**

(1) At the start of arbitration, each party must give a written offer (a “**final offer**”) for resolving all issues to—

- (a) the arbitrator; and
- (b) the other party.

(2) The final offer must state the basis on which the party is prepared to settle all issues that have not been agreed.

(3) The arbitrator may require a party to give a statement explaining the basis of the party’s final offer.

**13 Conducting arbitration**

(1) Arbitration must be as informal as is consistent with an appropriate hearing of the issues.

(2) An arbitrator—

- (a) may exclude observers from the arbitration; and
- (b) may call for sworn oral or documentary evidence.

(3) For subsection (2)(b), the arbitrator may administer an oath.

(4) The arbitrator is not bound by the rules of evidence and may be informed in any way the arbitrator considers appropriate.

(5) The arbitrator must act consistently with natural justice.

**14 When arbitration ends**

Arbitration ends—

- (a) when the arbitrator makes a decision; or

## SCHEDULE 4 (continued)

- (b) if, before the arbitrator makes a decision—
  - (i) a party accepts an offer made by the other party; or
  - (ii) the parties reach a negotiated agreement about all of the issues to be resolved.

**15 Arbitrator's decision**

(1) The arbitrator must—

- (a) give the parties a written decision within 5 business days after the end of arbitration; and
- (b) give the parties written reasons for the decision within 10 business days after the end of arbitration.

(2) However, the parties may agree to allow the arbitrator a longer period of time than a period stated in subsection (1).

(3) The arbitrator's decision is binding on the parties.

**PART 5—MISCELLANEOUS****16 Fees and expenses of mediation and arbitration**

The parties must each pay—

- (a) half of the mediator's and the arbitrator's fees and expenses; and
- (b) their own costs of the mediation and arbitration.

**SCHEDULE 5****FEES**

section 17

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|----|---|-------|
| 1. | Inspection of access rights register and certificate of information recorded in register (if certificate issued at same time as inspection)—Act, s 69(9)..... | 10.00 |
| 2. | Certificate of information recorded in access rights register (if certificate issued other than at same time as inspection of register)—Act, s 70(2).....     | 10.00 |

## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2004. Future amendments of the Sugar Industry Regulation 1999 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

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

### TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Reprint date
1	none	1 January 2000	20 January 2000
1A	to 2000 SL No. 202	28 July 2000	11 August 2000
1B	to 2002 SL No. 23	1 April 2002	2 April 2002
			(Column discontinued)
			Notes
1C	to 2004 SL No. 46	1 July 2004	

## 5 List of legislation

### **Sugar Industry Regulation 1999 SL No. 339**

made by the Governor in Council on 16 December 1999

notfd gaz 17 December 1999 pp 1586–9

ss 1–2 commenced on date of notification

remaining provisions commenced 1 January 2000 (see s 2)

exp 1 September 2010 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

### **Sugar Industry Amendment Regulation (No. 1) 2000 SL No. 202**

notfd gaz 28 July 2000 pp 1115–16

commenced on date of notification

### **Sugar Industry Amendment Regulation (No. 1) 2002 SL No. 23**

notfd gaz 15 February 2002 pp 618–19

ss 1–2 commenced on date of notification

remaining provisions commenced 1 April 2002 (see s 2)

### **Sugar Industry Amendment Regulation (No. 1) 2004 SL No. 46**

notfd gaz 7 May 2004 pp 47–8

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2004 (see s 2)

**6 List of annotations****Call for applications for grant of unallocated hectares—Act, s 22****prov hdg** amd 2002 SL No. 23 s 3 sch**s 3** amd 2002 SL No. 23 s 3 sch**Calculation of declared measurable increase—Act, s 24****prov hdg** amd 2002 SL No. 23 s 3 sch**s 4** amd 2002 SL No. 23 s 3 sch**Process for moving supply from current mill—horizontal expansion process****s 5** amd 2002 SL No. 23 s 3 sch**Calculation of declared sustainable increase—Act, s 27****prov hdg** amd 2002 SL No. 23 s 3 sch**s 6** amd 2002 SL No. 23 s 3 sch**Process of moving supply from current mill—productivity increase process****s 7** amd 2002 SL No. 23 s 3 sch**Giving effect to cane production board's decisions—Act, s 33****prov hdg** amd 2002 SL No. 23 s 3 sch**s 8** amd 2002 SL No. 23 s 3 sch**Schemes for payment—Act, s 102****prov hdg** amd 2002 SL No. 23 s 3 sch**s 9** amd 2002 SL No. 23 s 3 sch**Production of brands of raw sugar—Act, s 103****prov hdg** amd 2002 SL No. 23 s 3 sch**s 10** amd 2002 SL No. 23 s 3 sch**Dispute resolution process—Act, ss 24, 27, 38, 54, 92, 97 and 219****prov hdg** amd 2002 SL No. 23 s 3 sch**s 11** amd 2002 SL No. 23 s 3 sch**Dispute resolution process—Act, s 103****prov hdg** amd 2002 SL No. 23 s 3 sch**s 12** amd 2002 SL No. 23 s 3 sch**Dissolution of cane protection and productivity boards****s 13** ins 2002 SL No. 23 s 5**Establishment of productivity area and cane protection and productivity board****s 14** ins 2002 SL No. 23 s 5**Assets and liabilities of dissolved boards****s 15** ins 2002 SL No. 23 s 5**Issue of shares in STL—Act, s 272****prov hdg** amd 2002 SL No. 23 s 3 sch**s 16** (prev s 12A) ins 2000 SL No. 202 s 3

renum 2002 SL No. 23 s 4

amd 2002 SL No. 23 s 3 sch



**Fees**

s 17 (prev s 13) renum 2002 SL No. 23 s 4

**SCHEDULE 1—REGULATION PROCESS (HORIZONTAL EXPANSION)****Making an application**

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**Time for making an application**

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**SCHEDULE 2—REGULATION PROCESS (PRODUCTIVITY INCREASE)****Time for making an application**

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**SCHEDULE 3—DISPUTE RESOLUTION PROCESS FOR SECTIONS 24, 27, 38,  
54, 92, 97 AND 219 OF THE ACT**

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**Definitions**

s 1 def “final offer arbitration” ins 2004 SL No. 46 s 4(1)

**Application of pt 2**

s 2 amd 2002 SL No. 23 s 3 sch

**Application of pt 3**

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**Application of div 3**

s 13 amd 2002 SL No. 23 s 3 sch

**Final offers at end of mediation**

s 14 amd 2002 SL No. 23 s 3 sch

**When to proceed to arbitration**

s 18 amd 2002 SL No. 23 s 3 sch

**When arbitration starts**

s 20 amd 2002 SL No. 23 s 3 sch; 2004 SL No. 46 s 4(2)–(4)

**When final offer arbitration permitted**

s 20A ins 2004 SL No. 46 s 4(5)

**Preliminary meeting**

s 21 amd 2002 SL No. 23 s 3 sch; 2004 SL No. 46 s 4(6)

**No final offer arbitration**

prov hdg amd 2002 SL No. 23 s 3 sch

s 29 amd 2002 SL No. 23 s 3 sch

sub 2004 SL No. 46 s 4(7)

**Final offer arbitration**

prov hdg amd 2002 SL No. 23 s 3 sch

sub 2004 SL No. 46 s 4(8)

s 30 amd 2002 SL No. 23 s 3 sch; 2004 SL No. 46 s 4(9)–(11)

**SCHEDULE 4—DISPUTE RESOLUTION PROCESS FOR SECTION 103 OF THE  
ACT**

**sch hdg** amd 2002 SL No. 23 s 3 sch

**SCHEDULE 5—FEES**

amd 2002 SL No. 23 s 3 sch