

Queensland



**PRIMARY INDUSTRIES  
LEGISLATION  
AMENDMENT ACT 1996**

**Act No. 13 of 1996**

Queensland



**PRIMARY INDUSTRIES LEGISLATION  
AMENDMENT ACT 1996**

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**MINOR AMENDMENTS OF PRIMARY PRODUCERS'  
ORGANISATION AND MARKETING ACT 1926**



Queensland



**Primary Industries Legislation Amendment  
Act 1996**

**Act No. 13 of 1996**

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**An Act to amend legislation about primary industries and for other  
purposes**

*[Assented to 23 May 1996]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Primary Industries Legislation Amendment Act 1996*.

### **Commencement**

2. Section 20(2) commences on a day to be fixed by proclamation.

## **PART 2—AMENDMENT OF AGRICULTURAL CHEMICALS DISTRIBUTION CONTROL ACT 1966**

### **Act amended in pt 2**

3. This part amends the *Agricultural Chemicals Distribution Control Act 1966*.

### **Amendment of s 7 (Appointment of inspectors and analysts)**

4. Section 7(1) and (2)—

*omit, insert—*

‘7.(1) The chief executive may appoint a person to be an inspector or analyst.

‘(2) The chief executive may appoint a person as an inspector or analyst only if the chief executive is satisfied the person has the necessary expertise or experience.’.

## **PART 3—AMENDMENT OF AGRICULTURAL STANDARDS ACT 1994**

### **Act amended in pt 3**

5. This part amends the *Agricultural Standards Act 1994*.

### **Amendment of s 4 (Definitions)**

6. Section 4, definition “analyst”—

*omit, insert—*

‘“analyst” means a person who holds an appointment as an analyst.<sup>1</sup>’.

### **Replacement of heading—pt 4, div 1 (Inspectors)**

7. Part 4, division 1, heading—

*omit, insert—*

*‘Division 1—Inspectors and analysts’.*

### **Replacement of s 15 (Appointment)**

8. Section 15—

*omit, insert—*

#### **‘Appointment of inspectors and analysts**

‘15.(1) The chief executive may appoint a person to be an inspector or analyst.

‘(2) The chief executive may appoint a person as an inspector or analyst only if the chief executive is satisfied the person has the necessary expertise or experience.’.

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<sup>1</sup> Analysts are appointed under section 15 (Appointment of inspectors and analysts).



**PART 4—AMENDMENT OF CHEMICAL USAGE  
(AGRICULTURAL AND VETERINARY) CONTROL  
ACT 1988**

**Act amended in pt 4**

**9.** This part amends the *Chemical Usage (Agricultural and Veterinary) Control Act 1988*.

**Amendment of s 5 (Appointment of inspectors and analysts)**

**10.** Section 5(1) and (2)—

*omit, insert—*

**‘5.(1)** The chief executive may appoint a person to be an inspector or analyst.

**‘(2)** The chief executive may appoint a person as an inspector or analyst only if the chief executive is satisfied the person has the necessary expertise or experience.’.

**PART 5—AMENDMENT OF FARM PRODUCE  
MARKETING ACT 1964**

**Act amended in pt 5**

**11.** This part amends the *Farm Produce Marketing Act 1964*.

**Amendment of s 7 (Application for farm produce commercial seller’s licence)**

**12.(1)** Section 7(3)—

*insert—*

**‘(d)** held a licence for which the Minister forfeited the prescribed indemnity.’.

(2) Section 7(3A), ‘subsection (3)(a) to (e) shall apply and extend’—

*omit, insert—*

‘subsection (3)(a) to (d) applies’.

(3) Section 7(6), ‘form prescribed’—

*omit, insert—*

‘approved form’.

(4) Section 7(9B), ‘prescribed form’—

*omit, insert—*

‘approved form’.

#### **Amendment of s 22B (Requirement to register associated persons)**

13. Section 22B(3)(b), ‘prescribed form’—

*omit, insert—*

‘approved form’.

#### **Amendment of s 46A (Functions)**

14. Section 46A(b), ‘the authority’—

*omit, insert—*

‘the Brisbane Market Authority (“**the authority**”)’.

## **PART 6—AMENDMENT OF FISHERIES ACT 1994**

### **Act amended in pt 6**

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

**Amendment of s 144 (Production or display of inspector's identity card)**

**16.(1)** Section 144(1)—

*omit, insert—*

**'144.(1)** This section does not apply to a uniformed police officer.

**'(2)** An inspector may exercise a power under this Act in relation to a person only if—

(a) the inspector first produces—

(i) if the inspector is a police officer—the inspector's police identity card for inspection by the person; or

(ii) in any other case—the inspector's identity card for inspection by the person; or

(b) the inspector has the inspector's identity card displayed so that it is clearly visible to the person.'

**(2)** Section 144(2)—

*renumber* as section 144(3).

**PART 7—AMENDMENT OF FRUIT MARKETING ORGANISATION ACT 1923****Act amended in pt 7**

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

**Amendment of s 2 (Definitions)**

**18.(1)** Section 2, definition **"fruit"**, after 'citrus fruits,'—

*insert—*

'tomatoes'.

(2) Section 2, definition “**other fruits**”, ‘, tomatoes,’—  
*omit.*

### **Amendment of s 8 (Constitution of provisional committee of direction)**

19. Section 8, heading—

*omit, insert—*

**‘Functions of COD’.**

### **Amendment of s 11 (Constitution of sectional group committees)**

20.(1) Section 11, words before subsection (2)—

*omit, insert—*

#### **‘Sectional group committees**

**‘11.(1)** In this section—

**“heavy produce”** means garlic, onions, potatoes, pumpkins, sweet potatoes or swede turnips.

**“the Stanthorpe fruit and vegetable area”** means the local government areas of the following shires—

- (a) Inglewood;
- (b) Stanthorpe;
- (c) Warwick, other than the area of the former Shire of Allora, as described in the order in council published in the gazette on 13 November 1954 at page 1281.

**“vegetable”** does not include heavy produce.

**‘(1A)** The following sectional group committees may be elected with the following functions—

- (a) in the Stanthorpe fruit and vegetable area—the deciduous group committee with functions for fruit, vegetables and heavy produce grown in the area;
- (b) for fruit, vegetables and heavy produce grown outside the Stanthorpe fruit and vegetable area—

- (i) the banana group committee with functions for bananas;
- (ii) the citrus group committee with functions for citrus fruit;
- (iii) the tomato group committee with functions for tomatoes;
- (iv) the heavy produce group committee with functions for heavy produce.
- (v) the other fruits group committee with functions for other fruits, deciduous fruit and, if there is no elected tomato group committee, tomatoes;
- (vi) the vegetable group committee with functions for vegetables and, if there is no elected heavy produce committee, heavy produce;’.

**(2)** Section 11(2) to (2H)—

*omit, insert—*

‘**(2)** The deciduous group committee must not exercise powers outside the Stanthorpe fruit and vegetable area.

‘**(2A)** A sectional group committee other than the deciduous group committee must not exercise powers in the Stanthorpe fruit and vegetable area.

‘**(2B)** However, the Governor in Council may by regulation—

- (a) direct the deciduous group committee not to exercise powers for a stated fruit (other than a deciduous fruit), vegetable, or heavy produce; or
- (b) direct the other fruits committee not to exercise powers for deciduous fruits grown outside the Stanthorpe fruit and vegetable area; or
- (c) authorise a sectional group committee to exercise powers of another sectional group committee, either in the Stanthorpe fruit and vegetable area or elsewhere.

‘**(2C)** Subsections (2) to (2B) do not apply to the COD.’.

**Amendment of s 21 (Period of office of elected members and consumers' representative on COD)**

**21.(1)** Section 21, '29 February 1996'—

*omit, insert—*

'31 August 1996'.

**(2)** Section 21, '31 August 1996'—

*omit, insert—*

'31 December 1996'.<sup>2</sup>

**PART 8—AMENDMENT OF GRAIN INDUSTRY  
(RESTRUCTURING) ACT 1991****Act amended in pt 8**

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

**Amendment of various provisions to extend statutory marketing scheme**

**23.** Sections 4(3), 6(3), 10, 29(2)(b), 35(5), 56 and 73, '30 June 1996'—

*omit, insert—*

'30 June 1997'.

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<sup>2</sup> The *Fruit Marketing Amendment Organisation Regulation (No. 1) 1996* extended the period of office and the expiry of section 21 to 31 August 1996.

**PART 9—AMENDMENT OF PRIMARY  
PRODUCERS’ ORGANISATION AND MARKETING  
ACT 1926**

**Act amended in pt 9 and schedule**

**24.** This part and the schedule amend the *Primary Producers’ Organisation and Marketing Act 1926*.

**Amendment of s 2 (Interpretation)**

**25.(1)** Section 2, heading—

*omit, insert—*

**‘Definitions’.**

**(2)** Section 2, definition, **“appointed day”**—

*omit, insert—*

**“appointed day”** see section 40(2).’.

**(3)** Section 2—

*insert—*

**“approved form”** see section 55.<sup>3</sup>.

**(4)** Section 2, definition **“certificate”**, ‘prescribed form’—

*omit, insert—*

‘approved form’.

**(5)** Section 2, definition, **“prescribed instrument”**, ‘orders in council,’—

*omit.*

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<sup>3</sup> Section 55 (Approval of forms)

**Omission of s 5A (Precept by council)**

26. Section 5A—

*omit.*

**Amendment of s 9 (Power to declare commodity and extend Act and constitute board for same)**

27.(1) Section 9(1), ‘or eggs’—

*omit.*

(2) Section 9(5F), ‘Department of Primary Industries’—

*omit, insert—*

‘department’.

(3) Section 9(8), ‘*State Transport Facilities Act 1946*, or the regulations thereunder.’—

*omit, insert—*

‘*Transport Operations (Road Use Management) Act 1995* or the Acts mentioned in schedule 2, part 1 of that Act.<sup>4</sup>’.

**Amendment of s 11C (Termination of term of office of board)**

28. Section 11C(1) and (2), ‘order in council’—

*omit, insert—*

‘gazette notice’.

**Amendment of s 12 (Council and boards not to be concerned in party politics)**

29.(1) Section 12, words before subsection (2)—

*omit, insert—*

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<sup>4</sup> Schedule 2 (Repealed Acts)



**‘Boards not to be concerned in party politics**

**‘12.(1)** A board must not—

(a) use its funds for—

(i) a commodity that is not a commodity under this Act; or

(ii) a political party; or

(b) affiliate with a body, association or organisation that supports the politics, programs or aims of a political party.’.

**(2)** Section 12(2), from ‘the council or a board’ to ‘any regulation,’—

*omit, insert—*

‘a board has contravened this Act’.

**(3)** Section 12(2), ‘council or, as the case may be,’—

*omit.*

**(4)** Section 12(5), words before ‘exercise’—

*omit, insert—*

‘**(5)** The Governor in Council may exercise powers under this section even if the board has not been prosecuted, or is not liable for, a contravention of this Act.’.

**Amendment of s 13 (General powers of board)**

**30.(1)** Section 13(1)(d)(i), ‘Companies (Queensland) Code’—

*omit, insert—*

‘Corporations Law’.

**(2)** Section 13(1)(e), ‘Department of Primary Industries’—

*omit, insert—*

‘department’.

**Amendment of s 14A (Marketing board to insure against defalcations by agent)**

**31.** Section 14A(1) and (2), ‘*Insurance Act 1916*’—

*omit, insert—*

*‘Insurance Act 1973 (Cwlth)’.*

**Amendment of s 18A (Variation of payment arrangements)**

**32.** Sections 18A(2) and (3)—

*omit.*

**Amendment of s 19 (Issue of certificates and payment in connection with commodity delivered to board)**

**33.** Section 19(1), ‘prescribed form’—

*omit, insert—*

*‘approved form’.*

**Amendment of s 22 (Remedy against board confined to claim for an account)**

**34.** Section 22(3), ‘form and containing the particulars prescribed’—

*omit, insert—*

*‘approved form’.*

**Amendment of s 23 (Duty to give notice of encumbrances etc. on delivery thereof)**

**35.** Section 23(1), ‘prescribed form’—

*omit, insert—*

*‘approved form’.*

**Amendment of s 29 (Board may make levy)**

**36.** Section 29(2E), ‘order in council’—

*omit, insert—*

*‘regulation’.*

**Amendment of s 30A (Interpretation)**

**37.(1)** Section 30A, definition “**corporation**”—

*omit.*

**(2)** Section 30A, definition “**grower**”, ‘*Regulation of Sugar Cane Prices Act 1962*’—

*omit, insert—*

‘*Sugar Industry Act 1991*’.

**(3)** Section 30A, definition “**grower**”, paragraph (b)—

*omit, insert—*

‘(b) a corporation that is a subsidiary of another corporation under section 46 of the Corporations Law<sup>5</sup> (a “**subsidiary**”) and the other corporation owns a mill;’.

**(4)** Section 30A, definition “**grower**”, paragraph (c)—

*omit, insert—*

‘(c) a subsidiary of a mill owner.’.

**Amendment of s 30E (Subsidiary bodies)**

**38.** Section 30E(2A), ‘Companies (Queensland) Code’—

*omit, insert—*

‘Corporations Law’.

**Amendment of s 31A (Undue influence and like offences)**

**39.** Section 31A, paragraph (a), ‘*Wheat Pool Act 1920*’—

*omit, insert—*

‘*Grain Industry (Restructuring) Act 1991*’.

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<sup>5</sup> Corporations Law, section 46 (What is a subsidiary)

**Amendment of s 33 (Matters for regulation)**

**40.(1)** Section 33(1), words before paragraph (a)—

*omit, insert—*

**‘Regulation-making power**

**‘33.(1)** The Governor in Council may make regulations under this Act.

**‘(2)** A regulation may be made for or about the following matters—’.

**(2)** Section 33(1)(a)(ii), ‘prescribed form’—

*omit, insert—*

‘approved form’.

**(3)** Section 33(1)(a), from **‘General’** to ‘to be prescribed;’—

*omit.*

**(4)** Section 33(2), words before paragraph (a)—

*omit.*

**(5)** Section 33(2), paragraphs (a) to (n)—

*renumber* as paragraphs (d) to (q).

**(6)** Section 33—

*relocate* as section 56.

**Amendment of s 34B (Annual report of director of marketing)**

**41.** Section 34B(1)(c)—

*omit.*

**Amendment of s 36 (Board may be wound up)**

**42.(1)** Section 36(a)—

*omit, insert—*

‘(a) growers have voted to wind-up the board under section 37 and the board has not been dissolved under section 40(10) or (11);’.

(2) Section 36(b)—

*omit, insert—*

‘(b) the board had ended and it has not been reconstituted, extended or amalgamated with another board;’.

(3) Section 36, words after paragraph (c)—

*omit.*

### **Amendment of s 37 (Initiation of winding-up by growers)**

43.(1) Section 37(1)—

*omit, insert—*

‘37.(1) The Governor in Council may by gazette notice seek a petition for a poll on whether a board should be wound up under section 40.<sup>6</sup>’.

(2) Section 37(2), ‘that order in council,’—

*omit, insert—*

‘the gazette notice’.

### **Amendment of s 39 (Powers of inspector)**

44.(1) Section 39, ‘Companies (Queensland) Code, part 7 (Special investigations)’—

*omit, insert—*

‘*Australian Securities Commission Act 1989* (Cwlth), part 37’.

(2) Section 39, from paragraph (b) to ‘of that part,’—

*omit, insert—*

‘(b) the inspector is the Australian Securities Commission’.

---

<sup>6</sup> Section 40 (Vesting of property and assumption of liabilities)

<sup>7</sup> Part 3 (Investigations and information-gathering)

**Amendment of s 40 (Vesting of property and assumption of liabilities)**

**45.(1)** Section 40(2) and (3), ‘order in council’—

*omit, insert—*

‘gazette notice’.

**(2)** Section 40(5), ‘, real and personal,’—

*omit.*

**(3)** Section 40(9), from ‘an order in council’ to ‘appointed day,’—

*omit, insert—*

‘a gazette notice under subsection (2) may’.

**(4)** Section 40(10)—

*omit, insert—*

**(10)** The board is dissolved on the appointed day if—

- (a) the appointed day is after this subsection commences; and
- (b) no order has been made to wind-up the board before the appointed day.

**(11)** A regulation may fix a date for the board to be dissolved (the “**dissolution date**”) if—

- (a) the appointed day is before subsection (10) commences; and
- (b) no order is made to wind-up the board before the appointed day.

**(12)** The board is dissolved on the dissolution date.’.

**Amendment of s 41 (Administrator may be appointed)**

**46.(1)** Section 41(2), ‘Companies (Queensland) Code, part 12, division 2, subdivision B (Liquidators)’—

*omit, insert—*

‘Corporations Law, chapter 5, part 5.6, division 38’.

(2) Section 41(2), ‘order in council’—  
*omit, insert*—  
‘regulation’.

**Amendment of s 42 (Duty to facilitate transfer of property etc.)**

47. Section 42(1), from ‘Between’ to ‘that order,’—  
*omit, insert*—

‘From the publication of a gazette notice under section 40 to the appointed day’.

**Amendment of s 43 (Procedure for winding-up a board)**

48. Section 43(3), ‘Companies (Queensland) Code, part 12 (Winding-up)’—  
*omit, insert*—

‘Corporations Law, chapter 5, parts 5.4 to 5.7B<sup>9</sup>’.

**Amendment of s 44 (Arrangements and reconstructions)**

49. Section 44, from ‘Companies (Queensland) Code’ to ‘section 62’—  
*omit, insert*—  
‘Corporations Law, chapter 5, part 5.1<sup>10</sup>’.

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<sup>9</sup> Part 5.4 (Winding-up in insolvency), part 5.4A (Winding-up by the court on other grounds), part 5.4B (Winding-up in insolvency or by the court), part 5.5 (Voluntary winding-up), part 5.6 (Winding-up generally), part 5.7 (Winding-up of bodies other than companies), part 5.7A (Reciprocity with other jurisdictions) and part 5.7B (Recovering property or compensation for the benefit of creditors of insolvent company)

<sup>10</sup> Part 5.1 (Arrangements and reconstructions)

### **Amendment of s 46 (Application of moneys remaining after winding-up)**

**50.(1)** Section 46(1) and (1A)—

*omit, insert—*

**‘46.(1)** This section applies—

- (a) if property of a board remains after it has been wound up (**“the property”**); and
- (b) despite the Corporations Law, section 576.<sup>11</sup>

**‘(2)** The property must be—

- (a) held on trust by trustees fixed under subsection (2); and
- (b) if the property or part of it is money—paid to an industry trust fund (a **“trust fund”**); and
- (c) disposed of in a way approved by the Governor in Council.’.

**(2)** Section 46(2), from ‘established’ to ‘(1) shall’—

*omit, insert—*

‘must’.

**(3)** Section 46(3) from ‘shall audit’ to ‘shall have’—

*omit, insert—*

‘must audit each trust fund’.

**(4)** Section 46(4), words before ‘disbursed’—

*omit, insert—*

‘(4) A trust fund must be’.

### **Amendment of s 47 (Regulations and rules)**

**51.** Section 47(3), words before ‘apply—

*omit, insert—*

‘(3) The *Corporations (Queensland) Rules 1993*’.

<sup>11</sup> Section 576 (Outstanding property of defunct company to vest in Commission)



**Amendment of s 48 (Particular modifications)**

**52.(1)** Section 48, from ‘Companies (Queensland) Code’ to ‘schedule 9’—

*omit, insert—*

‘Corporations Law, the *Corporations Regulations*, chapter 5, part 5.1 and schedule 8<sup>12</sup>’.

**(2)** Section 48, ‘in such code’ to ‘or rules to’

*omit.*

**(3)** Section 48, words after paragraph (e)—

*omit.*

**Insertion of new ss 55 and 57**

**53.** After section 54—

*insert—*

**‘Approval of forms**

**‘55.** The chief executive may approve forms for use under this Act.

**‘Transitionally approved forms**

**‘57.(1)** This section applies if—

- (a) immediately before its commencement, there was a prescribed form for a matter; and
- (b) on the commencement, there is to be an approved form for the matter or a form may be approved for the matter.

---

<sup>12</sup> Part 5.1 (Arrangements and reconstructions), schedule 8 (External administration schemes of arrangement under part 5.1 of the Corporations Law)

‘(2) The form that was the prescribed form for the matter immediately before the commencement is taken to be the approved form for the matter until there is an approved form for the matter or until this section expires, whichever happens first.

‘(3) This section expires 3 months after it commences.’.

### **Amendment of sch 2 (Meeting procedure)**

**54.** Schedule 2, section 20, ‘Companies (Queensland) Code, section 232.’—

*omit, insert—*

‘Corporations Law, section 236.<sup>13</sup>’.

## **PART 10—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994**

### **Act amended in pt 10**

**55.** This part amends the *Transport Infrastructure Act 1994*.

### **Amendment of s 237 (Continuation of certain provisions of Harbours Act about Queensland Sugar Corporation)**

**56.** Section 237(4)—

*omit, insert—*

‘(4) This section expires on 31 October 1996, or if an earlier date is prescribed by regulation, on that date.’.

---

<sup>13</sup> Section 236 (General duty to make disclosure)

**Amendment of ch 10, pt 3 (Savings and transitional provisions about ports)**

**57.** Sections 227(2), 228(3), 229(2), 230(5), 231(3), 232(8), 233(11), 234(4), 235(5) and (6), 238(3) and 240(2), ‘2’—

*omit, insert—*

‘3’.

**SCHEDULE****MINOR AMENDMENTS OF PRIMARY  
PRODUCERS' ORGANISATION AND MARKETING  
ACT 1926**

section 24

**Amendment****1. Before section 1—***insert—***‘PART 1—PRELIMINARY’.****2. Heading after section 1—***omit.***3. Heading after section 2—***omit.***4. Heading after section 5A—***omit, insert—***‘PART 2—OFFICERS’.****5. Heading after section 6—***omit, insert—***‘PART 3—COMMODITIES AND COMMODITY  
BOARDS’.**

## SCHEDULE (continued)

**6. Section 9(2) to (7D), headings—***omit.***7. Section 10A(2) to (9), headings—***omit.***8. Section 10C(3) to (18), headings—***omit.***9. Section 11(4), heading—***omit.***10. Heading after section 13C—***omit, insert—***‘PART 4—MARKETING’.****11. Section 15(3) and (4), headings—***omit.***12. Section 18(2) to (3), headings—***omit.***13. Section 20(3), heading—***omit.*

## SCHEDULE (continued)

**14. Section 22(3), heading—***omit.***15. Section 23A(2), heading—***omit.***16. Heading after section 24—***omit, insert—***‘PART 5—RETURNS AND ADMINISTRATION’.****17. Heading after section 27B—***omit, insert—***‘PART 6—LEVY BY BOARD’.****18. Section 29(2) and (4), headings—***omit.***19. Section 30(2) to (9), headings—***omit.***20. Heading after section 30F—***omit, insert—***‘PART 7—GENERAL’.**

## SCHEDULE (continued)

**21. Section 31(2) to (5), headings—***omit.***22. Section 33(1)(a) to (c), headings—***omit.***23. Heading after section 34E—***omit, insert—***‘PART 8—WINDING-UP ARRANGEMENTS’.****24. Heading after section 48—***omit, insert—***‘PART 9—MISCELLANEOUS’.**