

Queensland



**PRIMARY INDUSTRIES
LEGISLATION
AMENDMENT ACT (No. 2)
1996**

Act No. 59 of 1996

Queensland



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Queensland



**Primary Industries Legislation Amendment
Act (No. 2) 1996**

Act No. 59 of 1996

An Act to amend legislation about primary industries

[Assented to 5 December 1996]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Primary Industries Legislation Amendment Act (No. 2) 1996*.

Commencement

2. Parts 8, 9 and 11 commence on a day to be fixed by proclamation.¹

PART 2—AMENDMENT OF BIOLOGICAL CONTROL ACT 1987

Act amended in pt 2

3. This part amends the *Biological Control Act 1987*.

Amendment of s 3 (Interpretation)

4.(1) Section 3, heading—

omit, insert—

‘Definitions’.

(2) Section 3, definition “**Council**”—

¹ Part 8 (Amendment of Meat Industry Act 1993)
Part 9 (Amendment of Primary Producers’ Organisation and Marketing Act 1926)
Part 11 (Amendment of Sugar Industry Act 1991)

omit, insert—

‘**“Council”** means the Agriculture and Resource Management Council of Australia and New Zealand.’.

(3) Section 3(2), as heading—

insert—

‘When organisms are taken to cause harm’.

(4) Section 3(2) and (3)—

renumber as section 3A(1) and (2).

(5) Section 3(4), as heading—

insert—

‘Council recommendations, decisions and approvals’.

(6) Section 3(4) and (5)—

renumber as section 3B(1) and (2).

(7) Section 3(6), as heading—

insert—

‘References to functions’.

(8) Section 3(6)—

renumber as section 3C.

Replacement of s 9 (Delegation)

5. Section 9—

omit, insert—

‘Delegation

‘9.(1) The Minister may delegate the Minister’s powers under this Act to—

- (a) a Minister who is a member of the Council; or
- (b) an appropriately qualified public service officer.

‘(2) The authority may delegate its powers to—

- (a) an appropriately qualified officer of the department; or
- (b) an appropriately qualified officer of another department if the other department’s Minister consents.

‘(3) However, the authority may not delegate its powers under section 17, 18, 26 to 29, 31, 32, 36 or 51.

‘(4) A power may be subdelegated if the delegation allows the subdelegation of the power.’.

Replacement of s 56 (Regulations)

6. Section 56—

omit, insert—

‘Regulation-making power

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

‘(2) A regulation may prescribe procedures to introduce and process proposals for declarations under this Act.’.

PART 3—AMENDMENT OF CITY OF BRISBANE MARKET ACT 1960

Act amended in pt 3

7. This part amends the *City of Brisbane Market Act 1960*.

Amendment of s 3 (Definitions)

8. Section 3, definitions “**policy council**” and “**selection committee**”—
omit.

Insertion of new s 11A

9. Part 2, division 3, after section 11—

insert—

‘Minister may establish advisory bodies

‘11A. The Minister may establish an advisory committee or other body to assist the Minister in the administration of this Act.’.

Amendment of s 12 (Composition of authority)

10.(1) Section 12(3)—

omit.

(2) Section 12(4)—

renumber as section 12(3).

Omission of ss 13 and 14

11. Sections 13 and 14—

omit.

Amendment of s 15 (Duration of appointment)

12.(1) Section 15(3)(d)—

omit.

(2) Section 15(3)(e) and (f)—

renumber as section 15(3)(d) and (e).

Omission of s 26 (Strategic plan)

13. Section 26—

omit.

PART 4—AMENDMENT OF DAIRY INDUSTRY ACT 1993

Act amended in pt 4

14. This part amends the *Dairy Industry Act 1993*.

Amendment of s 2 (Objectives)

15.(1) Section 2(c)—

omit.

(2) Section 2(d)—

renumber as section 2(c).

Amendment of s 3 (Definitions)

16. Section 3, definition “**Council**”—

omit.

Replacement of pt 2, div 1 (The Queensland Dairy Industry Policy Council)

17. Part 2, division 1—

omit, insert—

‘Division 1—Ministerial advisory bodies

‘Minister may establish advisory bodies

‘5. The Minister may establish an advisory committee or other body to assist the Minister in the administration of this Act.’.

Omission of s 15 (Duty of consultation)

18. Section 15—

omit.

Amendment of s 17 (Composition of the Authority)

19. Section 17(1), ‘, nominated for appointment by a selection committee’—

omit.

Omission of s 18 (Selection of appointed members)

20. Section 18—

omit.

Amendment of s 19 (Term of office)

21. Section 19(2)(f)—

omit, insert—

‘(f) becomes incapable of performing the duties of a member because of physical or mental incapacity; or’.

Amendment of s 28 (Price fixing)

22.(1) Section 28(1), words before paragraph (a)—

omit, insert—

‘**28.(1)** The authority may, if the Minister approves, make an order—’.

(2) Section 28(2)—

omit.

(3) Section 28(3) to (9)—

renumber as section 28(2) to (8).

(4) Section 28(5), as renumbered, ‘subsection (5)’—

omit, insert—

‘subsection (4)’.

(5) Section 28(8), as renumbered, ‘Subsection (8)’—

omit, insert—

‘Subsection (7)’.

Amendment of s 30 (Vesting of milk)

23.(1) Section 30(2)—

omit.

(2) Section 30(3)—

renumber as section 30(2).

Amendment of s 42 (Special trading rights for processors’ licences)

24. Section 42(1), words before ‘grant’—

omit, insert—

‘42.(1) The authority may, if the Minister approves,’.

Amendment of s 53 (Annual review of market milk consumption)

25. Section 53(2)(a), words from ‘proposed’ to ‘Council, and’—

omit.

Amendment of s 119 (Existing licences, permits and entitlements)

26.(1) Section 119(5), words before ‘renew’—

omit, insert—

‘(5) The authority may, if the Minister approves,’.

(2) Section 119(6), words from ‘as proposed’ to ‘Council and’—
omit.

PART 5—AMENDMENT OF FARM PRODUCE MARKETING ACT 1964

Act amended in pt 5

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

Amendment of s 5 (Definitions)

28. Section 5, definition “**policy council**”—
omit.

Replacement of pt 3 (The Horticulture Industry Policy Council)

29. Part 3—
omit, insert—

‘PART 3—MINISTERIAL ADVISORY BODIES

‘Minister may establish advisory bodies

‘46. The Minister may establish an advisory committee or other body to assist the Minister in the administration of this Act.’.

Omission of s 49A (Advisers)

30. Section 49A—
omit.

PART 6—AMENDMENT OF FISHERIES ACT 1994

Act amended in pt 6

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

Amendment of s 3 (Objectives of Act and their achievement)

32.(1) Section 3(2)(a)—

omit.

(2) Section 3(2)(b) to (g)—

renumber as section 3(2)(a) to (f).

Amendment of s 4 (Definitions)

33. Section 4, definition “**Policy Council**”—

omit.

Replacement of pt 2 (Queensland Fisheries Policy Council)

34. Part 2—

omit, insert—

‘PART 2—MINISTERIAL ADVISORY BODIES

‘Minister may establish advisory bodies

‘15. The Minister may establish an advisory committee or other body to assist the Minister in the administration of this Act.’

Amendment of s 26 (Authority’s other functions)

35. Section 26(1)(f), ‘, Policy Council’—

omit.

Amendment of s 186 (Composition)

36. Section 186(3)(c) and (d)—
omit.

Amendment of s 200 (Composition)

37. Section 200(4)—
omit.

Omission of ss 201 and 202

38. Sections 201 and 202—
omit.

Amendment of s 203 (Duration of appointment)

39.(1) Section 203(3)(d)—
omit.

(2) Section 203(3)(e) and (f)—
renumber as section 203(3)(d) and (e).

**PART 7—AMENDMENT OF GRAIN INDUSTRY
(RESTRUCTURING) ACT 1991****Act amended in pt 7**

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

Amendment of s 2 (Objects of this Act)

41.(1) Section 2(f)—

omit.

(2) Section 2(g)—

renumber as section 2(f).

Replacement of pt 3, div 3 (Queensland Grain Industry Policy Council)

42. Part 3, division 3—

omit, insert—

‘Division 3—Ministerial advisory bodies

‘Minister may establish advisory bodies

‘**25.** The Minister may establish an advisory committee or other body to assist the Minister in the administration of this Act.’.

**PART 8—AMENDMENT OF MEAT INDUSTRY ACT
1993****Act amended in pt 8**

43. This part amends the *Meat Industry Act 1993*.

Amendment of s 3 (Objectives of Act)

44.(1) Section 3(2)(b)—

omit.

(2) Section 3(2)(c)—

renumber as section 3(2)(b).

Amendment of s 4 (Definitions)

45. Section 4, definition “**Policy Council**”—

omit.

Replacement of pt 2 (The Queensland Livestock and Meat Industry Policy Council)

46. Part 2—

omit, insert—

‘PART 2—MINISTERIAL ADVISORY BODIES**‘Minister may establish advisory bodies**

‘**17.** The Minister may establish an advisory committee or other body to assist the Minister in the administration of this Act.’.

Amendment of s 24 (Functions)

47.(1) Section 24(3), words before paragraph (a)—

omit, insert—

‘**(3)** The authority’s secondary functions are—’.

(2) Section 24(3)(g)—

omit, insert—

‘(g) to advise the Minister on the following—

- (i) international and national trends on meat wholesomeness and integrity;
- (ii) meat quality assurance;
- (iii) changes to the regulation and administration of the Queensland meat industry; and’.

(3) Section 24—

insert—

‘(4) The authority must perform its functions efficiently and effectively.’.

Amendment of s 30 (Composition of Authority)

48.(1) Section 30(1) to (4)—

omit, insert—

‘30.(1) The authority is to consist of not more than 5 members.

‘(2) The Governor in Council is to appoint the members.

‘(3) The Governor in Council is to appoint 1 of the members as chairperson.

‘(4) The members must be persons the Minister considers have experience or expertise in 1 or more of the following—

- (a) livestock production;
- (b) meat processing;
- (c) meat wholesaling or retailing;
- (d) food technology;
- (e) marketing, public or business administration.’.

(2) Section 30(6)—

omit.

Omission of ss 31 and 32

49. Sections 31 and 32—

omit.

Amendment of s 33 (Duration of appointment)

50.(1) Section 33(3)(d)—

omit.

(2) Section 33(3)(e) to (g)—
renumber as section 33(3)(d) to (f).

(3) Section 33(5)—
omit.

Amendment of s 35 (Time and place of meetings)

51. Section 35(3)(b), ‘3 members’—
omit, insert—
‘half the members’.

Amendment of s 36 (Procedures governing conduct of proceedings)

52. Section 36(3)(a)—
omit, insert—
‘(a) a quorum is a majority of the members; and’.

Amendment of s 40 (Chief executive officer and secretary)

53. Section 40(2)—
omit.

Amendment of s 142 (Composition of Abattoir Corporation)

54.(1) Section 142(3) and (5)—
omit.
(2) Section 142(4) and (6)—
renumber as section 142(3) and (4).

Omission of ss 144 and 145

55. Sections 144 and 145—

omit.

Amendment of s 146 (Duration of appointment)

56.(1) Section 146(3)(d)—

omit.

(2) Section 146(3)(e) to (g)—

renumber as section 146(3)(d) to (f).

Insertion of new pt 7A

57. After part 7—

insert—

‘PART 7A—ADMINISTRATOR**‘Effect of part on pt 3**

‘162A.(1) This part applies despite part 3.

‘(2) Also, this part changes the way part 3 operates.

‘(3) In particular, the Governor in Council can not appoint members of the authority under part 3 for a term commencing before the earlier of the following—

- (a) the day the appointment of an administrator under this part ends;
- (b) the day this part expires.

‘Appointment of administrator

‘162B.(1) The Governor in Council may appoint as administrator of the authority a person the Minister considers has appropriate qualifications and experience to be the administrator.

‘(2) The administrator is to be appointed for the term, and on the conditions approved by the Governor in Council.

‘(3) The term of the appointment must not be more than 2 years.

‘(4) The administrator—

(a) holds office subject to the direction of the Minister; and

(b) unless the administrator earlier stops holding office because of section 33(2) or (3)—stops holding office when the term of the appointment ends or, if an earlier day is specified by the chief executive by gazette notice as the day the purpose of the administration ends, the earlier day.

‘(5) The Minister must notify the administrator’s appointment in the gazette as soon as practicable after the administrator is appointed.

‘Authority members stop holding office

‘162C.(1) On the appointment of an administrator under this part, the members of the authority go out of office.

‘(2) No compensation is payable to a member of the authority because of subsection (1).

‘Administrator is authority

‘162D.(1) For all purposes of this Act, the administrator is the authority.

‘(2) Subject to subsection (3), part 3, divisions 4 and 5 do not apply to the administrator.

‘(3) Sections 33(2) and (3), 34 and 38 apply to the administrator as if the administrator were a member of the authority.

‘Additional functions of administrator

‘162E.(1) The administrator has the following additional functions—

(a) to implement a program of structural change to the authority’s resources and functions;

-
- (b) to give the Minister a quarterly report on the authority's financial position, the functions of the authority, and anything else the Minister requires the administrator to include in the report;
 - (c) to give the Minister a final report on the administration, including details of any directions given by the Minister to the administrator.

‘(2) The Minister must table a report under subsection (1)(c) in the Legislative Assembly.

‘Expiry

‘162F. This part expires 2 years after it commences.’.

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

Act amended in pt 9

58. This part amends the *Primary Producers’ Organisation and Marketing Act 1926*.

Amendment of title

59. Title, ‘**and the council of agriculture**’—
omit.

Amendment of s 2 (Definitions)

60.(1) Section 2, definitions “**prescribed**”, “**prescribed instrument**” and “**producer representative body**”—
omit.

(2) Section 2—

insert—

‘**“producer representative body”** means the—

- (a) Queensland Cane Growers’ Organisation; or
- (b) Queensland Dairyfarmers’ Organisation; or
- (c) Queensland Pork Producers’ Organisation; or
- (d) Queensland Commercial Fishermen’s Organisation; or
- (e) a producer representative body established by regulation under section 30C.²

“State council” means the—

- (a) Queensland Cane Growers’ Council; or
- (b) Queensland Dairyfarmers’ State Council; or
- (c) Queensland Pork Producers’ State Council; or
- (d) Queensland Commercial Fishermen’s State Council; or
- (e) the State council of a producer representative body established by a regulation under section 30C.²

“subsidiary body” means a subsidiary body under section 30E(1).³.

Amendment of s 11A (Further powers of commodity board)

61.(1) Section 11A(1), ‘or, as the case may be, the council of agriculture’—

omit.

(2) Section 11A(2), words after ‘particular industry’—

omit.

² Section 30C (Producer representative bodies)

³ Section 30E (Subsidiary bodies)

Amendment of s 11B (Failure to elect or appoint representative)

62. Section 11B, from ‘at any time, to ‘Governor in Council’—

omit, insert—

‘any association or body of persons fails to elect its prescribed representative or representatives on any board, the Governor in Council’.

Amendment of s 12 (Boards not to be concerned in party politics)

63. Section 12(5), ‘that the council or that board’—

omit, insert—

‘the board’.

Amendment of s 13 (General powers of board)

64. Section 13(1)(e), ‘, the council of agriculture,’—

omit.

Amendment of s 26 (Protection of the Crown etc.)

65. Section 26, ‘, the council’—

omit.

Amendment of s 27 (Financial administration)

66. Section 27, ‘and the council as if each of those bodies were’—

omit, insert—

‘as if the board was’.

Amendment of s 29 (Board may make levy)

67.(1) Section 29(2)(b)—

omit.

(2) Section 29(2)(c) to (f)
renumber as section 29(2)(b) to (e).

Amendment of s 29B (Superannuation schemes)

68. Section 29B(5)—
omit.

Amendment of s 30 (Cane to be a commodity)

69.(1) Section 30(4) to (5B)—
omit, insert—

‘**(4)** A regulation may establish or dissolve a mill supplier’s committee for a mill.

‘**(5)** A mill supplier’s committee must have the number of members, that is 10 or less, fixed under a regulation.

‘**(5A)** The elected representatives on the district cane grower’s executive for the mill are members of the committee by virtue of office.

‘**(5B)** The remaining members must be elected in the way prescribed under a regulation by growers who supply sugar cane to the mill.

‘**(5C)** A regulation may—

- (a) establish a district cane growers’ executive; or
- (b) dissolve an executive; or
- (c) amend an executive’s constitution; or
- (d) amalgamate executives; or
- (e) fix—
 - (i) the mill suppliers that elect an executive; and
 - (ii) the number of representatives to be elected by the suppliers.

‘**(5D)** A representative to a district cane growers’ executive may only be elected by growers who supply the mill the representative supplies.

‘(5E) Elections for district cane grower’s executives must be conducted in a way prescribed under a regulation.’.

(2) Section 30(9) and (10)—

omit.

Amendment of s 30B (Queensland Cane Growers’ Council may hold property as trustee)

70. Section 30B(2)(b), ‘pursuant to section 30(5B)’—

omit, insert—

‘under section 30(5C)⁴’.

Amendment of s 30C (Producer representative bodies)

71.(1) Section 30C(3)(a)(iii)—

omit.

(2) Section 30C(3)(a)(iv) to (xiii)—

renumber as section 30C(3)(a)(iii) to (xii).

(3) Section 30C(3)(a)(vii), as renumbered, ‘the council of agriculture,’—

omit.

(4) Section 30C(4)—

omit, insert—

‘(4) A regulation may—

- (a) establish a producer representative body; and
- (b) state conditions for the body’s establishment.

⁴ Section 30 (Cane to be a commodity)

Example of conditions under subsection(4)(b)—

A regulation may provide that a producer representative body may only be established if—

- (a) a stated number of growers of the commodity for a proposed board request a poll about the establishment of the body; and
- (b) the poll is taken; and
- (c) the prescribed majority of the commodity's growers vote in the poll; and
- (d) the prescribed majority of valid votes are cast in favour of the body's establishment.'.

Amendment of s 30D (State councils)

72.(1) Section 30D(1), 'made under section 30(9)'—

omit.

(2) Section 30D(3)—

omit.

Amendment of s 30E (Subsidiary bodies)

73. Section 30E(1), 'made under section 30(9)'—

omit.

Amendment of s 32 (Evidence)

74. Section 32(a) and (b), 'the council or'—

omit.

Amendment of s 34E (Application of Act to the committee of direction of fruit marketing)

75. Section 34E, ', 13C and 34B shall'—

omit, insert—

'and 13C'.

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

76. Section 37(2)(b), ‘a board constituted pursuant to section 30’—
omit, insert—
‘a producer representative body’.

Amendment of s 51 (Approved rules or articles)

77. Section 51(1)(d)—
omit.

Amendment of s 56 (Regulation-making power)

78.(1) Section 56(2)(a)(i) and (v), ‘the council or any board’—
omit, insert—
‘a board, producer representative body or subsidiary body’.

(2) Section 56(2)(a)—
insert—

‘(vii) the number of members or office holders of a board,
producer representative body or subsidiary body;’.

(3) Section 56(2)(b)—
omit, insert—

‘(b) the powers and functions of subsidiary bodies;

(ba) the relationship between a State council and its subsidiary bodies;

(bb) the fees, allowances and expenses that may be paid to a member,
officer or representative of a board, producer representative body
or subsidiary body;

(bc) the business, meetings and procedures of a board, producer
representative body or subsidiary body;’.

(4) Section 56(2)(d) to (j), ‘a board’—
omit, insert—

‘a board, producer representative body or subsidiary body’.

(5) Section 56(2)(e)—

omit.

(6) Section 56(2)(f) and (i), ‘the board’—

omit, insert—

‘the board, producer representative body or subsidiary body’

(7) Section 56(2)(l)—

omit, insert—

(l) fix the amount of a levy by a board, producer representative body or subsidiary body;

(la) provide that a particular levy may only be made by a board, producer representative body or subsidiary body in stated circumstances;

Examples of regulations under paragraph (la)—

1. A regulation may provide that a board, producer representative body or subsidiary body may only make a particular levy on the growers in an industry if—

(a) a stated number of the growers request a poll of the growers; and

(b) the poll is taken; and

(c) a majority of the growers voting in the poll approve the making of the levy.

2. A regulation may provide that a stated subsidiary body may only make a particular levy with the consent of its State council.

(lb) require a person or body who requested a poll under this Act to pay its costs;’.

(8) Section 56(2)(a) to (q)—

renumber as section 56(2)(a) to (u).

Omission of schedule 3 (Change in name of bodies)

79. Schedule 3—

omit.

PART 10—AMENDMENT OF STOCK ACT 1915**Act amended in pt 10**

80. This part amends the *Stock Act 1915*.

Amendment of s 25 (Drover to give notice before entering a holding)

81. Section 25(3)—

omit, insert—

‘(3) However, a complainant lodging a complaint more than 21 days after the ground of complaint arose must have discovered the ground of complaint within 3 months after it arose.’.

**PART 11—AMENDMENT OF SUGAR INDUSTRY
ACT 1991****Act amended in pt 11**

82. This part amends the *Sugar Industry Act 1991*.

Replacement of ss 4 and 5

83. Sections 4 and 5—

omit, insert—

‘Minister may establish advisory bodies

‘4. The Minister may establish an advisory committee or other body to assist the Minister in the administration of this Act.’

Amendment of s 12 (Objectives of Corporation)

84. Section 12(a), from ‘or accepted’ to ‘Council’—

omit.

Omission of s 15 (Selection of appointed members)

85. Section 15—

omit.

Amendment of s 17 (Casual vacancies)

86.(1) Section 17(3)—

omit.

(2) Section 17(4)—

renumber as section 17(3).

Amendment of s 136 (The assignment entitlement)

87. Section 136—

insert—

‘(7) This section does not prevent land included within a description of land assigned to 1 mill also being included in a description of land being assigned to another mill.’

Amendment of s 138 (Grant of assignment by Corporation)

88.(1) Section 138(1)(a)—

omit.

(2) Section 138(1)(b) and (c)—

renumber as section 138(1)(a) and (b).

(3) Section 138(3), '(1)(c)'—

omit, insert—

'(1)(b)'.

(4) Section 138(3)(b)—

omit, insert—

'(b) if the applicant is not the person who held the assignment to which the cancelled area related; and'.

Amendment of s 139 (Guidelines for grant of assignment)

89. Section 139(2), 'and (b)'—

omit.

Amendment of s 147 (Application to Corporation for transfer of assignment to another mill)

90. Section 147(7), '148 or'—

omit.

Omission of s 148 (Transitional expansion)

91. Section 148—

omit.

Amendment of s 150 (Government project land)

92. Section 150(1)(a), ‘prescribed by section 148 or’—
omit.

Amendment of s 174 (Corporation to determine adjusted area)

93. Section 174(3), ‘the Sugar Industry Policy Council’—
omit, insert—

‘bodies the Minister believes represent relevant sugar industry interests’.