

Queensland



**PRIMARY INDUSTRIES
LEGISLATION
AMENDMENT ACT 1997**

Act No. 20 of 1997

Queensland



PRIMARY INDUSTRIES LEGISLATION AMENDMENT ACT 1997

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MINOR AMENDMENTS OF SUGAR INDUSTRY ACT 1991

Queensland



**Primary Industries Legislation Amendment
Act 1997**

Act No. 20 of 1997

**An Act to amend various Acts administered by the Minister for
Primary Industries**

[Assented to 15 May 1997]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Primary Industries Legislation Amendment Act 1997*.

Commencement

2. Part 4 commences on a day to be proclaimed.

PART 2—AMENDMENT OF FORESTRY ACT 1959

Act amended in pt 2

3. This part amends the *Forestry Act 1959*.

Amendment of s 5 (Meaning of terms)

4.(1) Section 5, heading—

omit, insert—

‘Definitions’.

(2) Section 5(1)—

insert—

‘**“conviction”** includes a finding of guilt, and the acceptance of a plea of guilty by a court.

“incidental thing” see section 18(1)(ga)(i).

“seized thing” see section 82B.’.

(3) Section 5(1), definition ‘**forest products**’, after ‘fallen’—
insert—

‘, including timber.’.

(4) Section 5(2)—

omit.

Amendment of s 18 (General powers of forest officers)

5.(1) Section 18(1)(e), ‘or which’ to ‘paragraph (b)’—

omit, insert—

‘or which, in the forest officer’s reasonable opinion, may be material to an inquiry under paragraph (c)’.

(2) Section 18(1)(g)—

omit, insert—

‘(g) subject to subsections (1A) and (3), enter a place in which the forest officer reasonably suspects are forest products or quarry material got or interfered with or that the forest officer reasonably suspects have been got or interfered with in contravention of the Act; and

(ga) if the forest officer finds forest products or quarry material mentioned in paragraph (g) in a place entered under that paragraph, the forest officer may—

(i) seize, take away and detain the forest products or quarry material together with anything (an “**incidental thing**”) including any document, equipment, gear, machinery, plant, vehicle or vessel, the officer reasonably suspects has been used or is intended to be used, in or in connection with, or is evidence of, the getting or interfering with the forest products or quarry material; and

(ii) subject to sections 82D to 82F, secure anything seized until the end of proceedings for a contravention of the Act; and’.

(3) After section 18(1)—

insert—

‘(1A) The power to enter a place under subsection (1)(g) may be exercised—

- (a) for a place that is occupied land—only between sunrise and sunset or at any time with the consent of the owner or an agent or employee of the owner; or
- (b) otherwise—at any time.’.

(4) Section 18—

insert—

‘(6) In this section—

“**occupied land**” means land on which the owner is lawfully residing.

“**owner**”, of land, includes—

- (a) the lessee or licensee from the State of the land; or
- (b) the person who has lawful control of the land, on trust or otherwise; or
- (c) the person who is entitled to receive the rents and profits of the land.’.

Amendment of s 39 (Interfering with forest products on State forests etc.)

6. Section 39(1), as penalty provision—

insert—

‘Maximum penalty—

- (a) for a first offence—1 000 penalty units; and
- (b) for a subsequent offence—3 000 penalty units.’.

Amendment of s 53 (Interference with forest products on Crown holdings and mining leases)

7. Section 53(1), penalty provision—

omit, insert—

‘Maximum penalty—

- (a) for a first offence—1 000 penalty units; and
- (b) for a subsequent offence—3 000 penalty units.’.

Amendment of s 54 (Interfering with forest products on Crown lands etc.)

8. Section 54(1), as penalty provision—

insert—

‘Maximum penalty—

- (a) for a first offence—1 000 penalty units; and
- (b) for a subsequent offence—3 000 penalty units.’.

Amendment of s 82 (Seizure and forfeiture of timber etc.)

9.(1) Section 82, heading—

omit, insert—

‘**Powers for seized timber etc.**’.

(2) Section 82(1)—

omit.

(3) Section 82(2), heading—

omit.

(4) Section 82(2), ‘this section’—

omit, insert—

‘section 18(1)(ga)(i)’.

(5) Section 82(3), ‘this section’—

omit, insert—

‘section 18(1)(ga)(i)’.

(6) Section 82(4) to (6) and headings—

omit.

(7) Section 82(7), heading—

omit.

(8) Section 82(7), ‘under this section’—

omit, insert—

‘under section 82(1)(ga)(i)’.

(9) Section 82(7A), ‘(7)’—

omit, insert—

‘(3)’.

(10) Section 82(8), heading—

omit.

(11) Section 82(8), ‘the timber’ to ‘and remain’—

omit, insert—

‘anything seized or which has become and remains’.

(12) Section 82(9) and heading—

omit.

(13) Section 82(10), heading—

omit.

(14) Section 82(10), ‘A forest officer’

omit, insert—

‘Despite sections 82C to 82F, and 82H, a forest officer’.

(15) After section 82(10)—

insert—

‘(10A) Before seizing a beehive under subsection (7), the forest officer must—

- (a) make reasonable inquiries to find the owner (the “**apiarist**”) of the hive; and

- (b) if the apiarist can be found—require the apiarist, by written notice, to remove the hive within a stated reasonable time.

‘**(10B)** The apiarist must comply with a requirement under subsection (8).

Maximum penalty—20 penalty units.

‘**(10C)** If the apiarist can not be found or contravenes subsection (8), the forest officer may then exercise the power under subsection (7).’.

(16) Section 82(2), (3), (7) to (8A) and (10) to (12)—
renumber as section 82(1) to (12).

Amendment of s 82A (Seizure and forfeiture of vehicles)

10.(1) Section 82A(2)—

omit.

(2) Section 82A(2A), ‘Notwithstanding subsection (2)’—

omit, insert—

‘Despite sections 82D and 82E’.

(3) Section 82A(3) to (5)—

omit.

(4) Section 82A(2A)—

renumber as section 82A(2).

Insertion of new ss 82B–82M

11. After section 82A—

insert—

‘Receipt to be given

‘**82B.(1)** As soon as practicable after a thing (a “**seized thing**”) is seized by a forest officer under this Act, the forest officer must give a receipt for it to the person from whom it was seized.

‘(2) The receipt must describe generally the condition of the seized thing and, if more than 1 thing is seized, must include an inventory or general description of them.

‘(3) If, for any reason, it is not practicable to comply with subsection (1), the forest officer must—

- (a) leave the receipt at the place where the thing is seized; and
- (b) ensure the receipt is left in a reasonably secure way in a conspicuous position.

‘(4) This section does not apply if—

- (a) it is not practicable to comply with subsection (1); and
- (b) it is not practicable to comply with subsection (3); and
- (c) the owner of the seized thing can not be decided after reasonable inquiries or, having regard to its value, it is not reasonable to make inquiries about its owner.

‘Forest officer to allow inspection etc.

‘82C. Until a seized thing is forfeited, returned or otherwise finally dealt with under this Act, a forest officer must allow a person who would be entitled to possession of it, if it had not been seized, to inspect it and, if it is a document, make copies of it.

‘Corporation may return seized thing

‘82D.(1) The corporation may return a seized thing to its owner.

‘(2) The corporation may return the thing to its owner on conditions, including conditions to ensure that the thing is available for forfeiture.

‘(3) If the thing is not ordered to be forfeited to the State, the corporation must return any property, including any security, taken by it under a condition imposed under subsection (2) at the end of—

- (a) 6 months after the seizure; or
- (b) if a prosecution for an offence involving the forest products or quarry material to which the seizure of the thing related is started

within the 6 months—the prosecution for the offence and any appeal from the prosecution.

‘Corporation’s obligation to return seized things

‘82E.(1) The corporation must return a seized thing to its owner at the end of—

- (a) 6 months; or
- (b) if a prosecution for an offence involving the forest products or quarry material to which the seizure of the thing related is started within the 6 months—the prosecution for the offence and any appeal from the prosecution.

‘(2) Despite subsection (1), the corporation must return the thing to its owner immediately if it is not satisfied, or stops being satisfied, its retention as evidence is necessary.

‘(3) However, the corporation may keep the thing if the corporation believes, on reasonable grounds, the thing is liable to forfeiture under this Act.

‘(4) This section does not require the return of a thing that has been forfeited under section 82F, 82G or 82L or another law.

‘Corporation may order forfeiture of unclaimed seized things

‘82F.(1) This section applies if the owner of a seized thing can not be found after reasonable inquiries or, having regard to its value, it is not reasonable to make inquiries about its owner.

‘(2) The corporation may order the forfeiture of the thing.

‘Forfeiture of seized things on conviction

‘82G.(1) On the conviction of a person for an offence against section 39, 53 or 54, the court may order the forfeiture of a seized thing including any incidental thing seized in connection with the offence under section 18(1)(ga)(i).

‘(2) The court may make an order under subsection (1) in relation to the thing whether or not the thing has been returned to its owner.

‘(3) The court may make any order to enforce the forfeiture that it considers appropriate.

‘(4) This section does not limit the court’s powers under the *Crimes (Confiscation) Act 1989*, the *Penalties and Sentences Act 1992* or any other law.

‘Where and how to start appeal

‘82H.(1) A person from whom a seized thing has been seized may appeal to the Magistrates Court nearest to where the thing was seized.

‘(2) The appeal is started by—

- (a) filing a written notice of appeal with the clerk of the court of the Magistrates Court; and
- (b) giving a copy of the notice to the corporation.

‘(3) Without limiting subsection (2)(b), the corporation is given a copy of the notice if a copy is given to the forest officer who seized the thing.

‘(4) The notice of appeal must state the grounds of the appeal.

‘Hearing procedures

‘82I.(1) The power to make rules of court under the *Magistrates Courts Act 1921* includes power to make rules of court for an appeal to Magistrates Courts under section 82H.

‘(2) The procedure for the appeal is to be—

- (a) in accordance with the rules made under the *Magistrates Courts Act 1921*; or
- (b) in the absence of relevant rules, as directed by a magistrate.

‘(3) In deciding the appeal, the Magistrates Court—

- (a) is not bound by the rules of evidence; and
- (b) must observe natural justice; and
- (c) may hear the appeal in court or chambers.

‘(4) However, the Magistrates Court is not to require the corporation or any witness to disclose any evidence or information, including the name of a witness that may prejudice—

- (a) an investigation of an offence against this Act; or
- (b) a proceeding for a contravention of this Act, whether or not a proceeding has then been commenced.

‘Powers of Magistrates Court on appeal

‘**82J.(1)** In deciding the appeal, the Magistrates Court may—

- (a) confirm the seizure of the thing; or
- (b) set aside the seizure and order the return of the thing.

‘(2) Without limiting subsection (1), a Magistrates Court may give any necessary directions about the seized thing before the appeal is heard or to dispose of the appeal.

‘Appeal to District Court on questions of law only

‘**82K.(1)** A party dissatisfied by the decision of the Magistrates Court may appeal to a District Court, but only on a question of law.

‘(2) A District Court may give any necessary directions about the seized thing before the appeal is heard or to dispose of the appeal.

‘Seized forest products and quarry material become State’s property

‘**82L.(1)** This section applies—

- (a) if a seized thing is forest products or quarry material; and
- (b) despite sections 82E to 82G.

‘(2) The forest products and quarry material are forfeited if—

- (a) their seizure is not the subject of an appeal to a Magistrates Court within 14 days after their seizure; or
- (b) their seizure is the subject of an appeal to a Magistrates Court within 14 days after their seizure, but the seizure is confirmed on appeal; or

- (c) the corporation and the person (the “**claimant**”) claiming to be entitled to the forest products and quarry material agree, in writing, that the forest products and quarry material are forfeited.

‘Forfeited things seized become State’s property

‘**82M.** On the forfeiture of a seized thing under section 82F, 82G or 82L, the thing becomes the State’s property.’.

Amendment of s 83 (Power of the corporation to deal with forest products etc. forfeited)

12. Section 83(1), ‘vessel’—

omit, insert—

‘incidental thing’.

Amendment of s 86 (Obstruction of officer etc.)

13.(1) Section 86(1)(c), ‘products’ to ‘vehicle’—

omit, insert—

‘products, quarry material, incidental thing or vehicle’.

(2) Section 86(1)(d), ‘products’ to ‘vehicle’—

omit, insert—

‘products, quarry material, incidental thing or vehicle’.

(3) Section 86(1)(d), ‘or detained’—

omit, insert—

‘, detained or forfeited’.

Amendment of s 87 (Forgery of licence etc. and other offences)

14. Section 87, penalty provision—

omit, insert—

‘Maximum penalty—

- (a) for a first offence—1 000 penalty units or 1 year imprisonment;
and
- (b) for a subsequent offence—3 000 penalty units or 2 years imprisonment.’.

PART 3—AMENDMENT OF GRAIN INDUSTRY (RESTRUCTURING) ACT 1991

Act amended in pt 3

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

Amendment of s 3 (Definitions)

16. Section 3—

insert—

‘**“expiry date”** means 30 June 1998.’.

Amendment of s 4 (Chairperson)

17. Section 4(3), ‘30 June 1997’—

omit, insert—

‘the expiry date’.

Amendment of s 6 (Statutory director)

18. Section 6(3), ‘30 June 1997’—

omit, insert—

‘the expiry date’.

Amendment of s 10 (Expiry of this division)

19. Section 10, ‘30 June 1997’—

omit, insert—

‘the expiry date’.

Amendment of s 29 (Application)

20. Section 29(2)(b), ‘30 June 1997’—

omit, insert—

‘the expiry date’.

Amendment of s 35 (Delivery of vested grain)

21. Section 35(5), ‘30 June 1997’—

omit, insert—

‘the expiry date’.

Amendment of s 56 (Expiry of this part)

22. Section 56, ‘30 June 1997’—

omit, insert—

‘the expiry date’.

Amendment of s 73 (Expiry of this part)

23. Section 73, ‘30 June 1997’—

omit, insert—

‘the expiry date’.

Insertion of new pt 9

24. After section 80—

insert—

‘PART 9—TRANSITIONAL ARRANGEMENTS FOR APPOINTMENTS

‘Extension of term

‘81.(1) The appointment instrument appointing Rodney Frank Birch as chairperson of Grainco on and from 1 January 1997 to 30 June 1997 is taken instead to have appointed him as chairperson from 1 January 1997 to the expiry date.

‘(2) The appointment instrument appointing Raoul Edward Nieper as statutory director of Grainco on and from 1 July 1996 to 30 June 1997 is taken instead to have appointed him as statutory director from 1 July 1996 to the expiry date.

‘(3) In this section—

“appointment instrument” means—

- (a) for subsection (1), Executive Council Minute No. 877 of 30 July 1996; or
- (b) for subsection (2), Executive Council Minute No. 693 of 27 June 1996.’.

PART 4—AMENDMENT OF SUGAR INDUSTRY ACT 1991

Act amended in pt 4

25. This part and the schedule amend the *Sugar Industry Act 1991*.

Amendment of s 3 (Definitions)

26.(1) Section 3(1), definitions **“appointed member”** and **“Board”**—
omit.

(2) Section 3(1)—

insert—

‘ **“appointed director”** means—

- (a) for the Corporation—each director of the Corporation other than the director who is chief executive of the Corporation; and
- (b) for the Bureau—each director of the Bureau other than the Director.

“Bureau” means the Bureau of Sugar Experiment Stations established under section 53.’.

Replacement of ss 13 and 14

27. Sections 13 and 14—

omit, insert—

‘Board of directors

‘**13.(1)** The Corporation is governed by a board of directors.

‘**(2)** The board consists of 10 directors of whom—

- (a) 1 is to be the chief executive officer of the Corporation, who is a director without further appointment; and
- (b) 9 are to be persons appointed by the Governor in Council, 1 of whom is to be appointed as chairperson.

‘**(3)** Each appointed director of the Corporation is to be appointed for a term not longer than 3 years.

‘Qualifications for appointment to board of directors

‘**14.** Of the appointed directors of the Corporation—

- (a) the director who is to be appointed chairperson is to be a person with extensive commercial experience relevant to the Corporation’s objectives; and
- (b) 3 directors are to be persons with experience in the production of sugar cane; and

- (c) 3 directors are to be persons with experience in the milling of sugar cane; and
- (d) 2 directors are to be persons with wide commercial experience.’.

Omission of ss 16 and 17

28. Sections 16 and 17—

omit.

Amendment of s 27 (Corporation’s power to delegate)

29. Section 27(a)—

omit, insert—

‘(a) the chairperson of the Corporation’s board; or’.

Insertion of new pt 2, div 2A

30. After section 29—

insert—

‘Division 2A—General duties and liabilities of officers of Corporation

‘Duty and liability of certain officers of Corporation

‘29A.(1) A Corporation officer must act honestly in the exercise of powers, and discharge of functions, as a Corporation officer.

Maximum penalty—

- (a) if the contravention is committed with intent to deceive or defraud the Corporation, the Corporation’s creditors or creditors of another person or for another fraudulent purpose—500 penalty units or 5 years imprisonment; or
- (b) otherwise—100 penalty units.

‘(2) In the exercise of powers and the discharge of functions, a Corporation officer must exercise the degree of care and diligence that a

reasonable person in a similar position within the Corporation would exercise.

Maximum penalty—100 penalty units.

‘(3) A person who is, or was, a Corporation officer must not make improper use of information acquired because of the person’s position as a Corporation officer to directly or indirectly—

- (a) gain an advantage for the person or for another person; or
- (b) cause detriment to the Corporation.

Maximum penalty—500 penalty units or 5 years imprisonment.

‘(4) An officer of the Corporation must not make improper use of the officer’s position as a Corporation officer to directly or indirectly—

- (a) gain an advantage for the officer or another person; or
- (b) cause detriment to the Corporation.

Maximum penalty—500 penalty units or 5 years imprisonment.

‘(5) If a person contravenes this section in relation to the Corporation, the Corporation may recover from the person as a debt due to the Corporation—

- (a) if the person or another person made a profit because of the contravention—an amount equal to the profit; and
- (b) if the Corporation suffered loss or damage because of the contravention—an amount equal to the loss or damage.

‘(6) An amount may be recovered from the person whether or not the person has been convicted of an offence for the contravention.

‘(7) Subsection (5) is in addition to, and does not limit, the *Crimes (Confiscation) Act 1989*.

‘(8) In deciding for subsection (2) the degree of care and diligence that a reasonable person in a similar position within the Corporation would exercise, regard must be had to—

- (a) the fact that the person is a Corporation officer; and
- (b) the application of this Act to the Corporation; and

- (c) relevant matters required or permitted to be done under this Act in relation to the Corporation including, for example any relevant directions, notifications or approvals given to the Corporation by the Minister.

‘(9) Subsection (8) does not limit the matters to which regard may be had for the purposes of subsection (2).

‘(10) In this section—

“**officer**” of the Corporation means—

- (a) a Corporation director; or
(b) the chief executive officer; or
(c) another person who is concerned, or takes part, in the Corporation’s management.’.

Amendment of s 40 (Membership of local board)

31. Section 40(3), ‘term’ to ‘member.’—

omit, insert—

‘term not longer than 3 years.’.

Omission of ss 41 and 42

32. Sections 41 and 42—

omit.

Amendment of s 52G (Dispute resolution)

33. Section 52G—

insert—

‘(7) The arbitrator must give written reasons for the arbitrator’s decision.

‘(8) The provision included in an award under subsection (5) is taken to have been decided by the negotiating team.

‘(9) To remove doubt, it is declared that for the *Judicial Review Act 1991*,

sections 4 and 20(1), the decision mentioned in subsection (8) is “**a decision to which this Act applies**”.’.

Replacement of s 53 (Preservation of Board)

34. Section 53—

omit, insert—

‘Establishment of Bureau

‘**53.(1)** The Bureau of Sugar Experiment Stations is established.

‘**(2)** The Bureau is a body corporate.

‘**(3)** Subject to this Act, the Bureau is capable of—

- (a) suing and being sued; and
- (b) acquiring, holding, dealing with and disposing of real and personal property; and
- (c) doing and suffering all acts and things as bodies corporate may in law do and suffer.’.

Replacement of ss 56–60

35. Sections 56 to 60—

omit, insert—

‘Board of directors

‘**56.(1)** The Bureau is governed by a board of directors.

‘**(2)** The board consists of 8 directors of whom—

- (a) 1 is to be the Director of Sugar Experiment Stations who is a director without further appointment; and
- (b) 7 are to be persons appointed by the Governor in Council, 1 of whom is to be appointed as chairperson.

‘**(3)** Each appointed director mentioned in subsection (2)(b) is to be appointed for a term of 3 years.

‘Qualifications for appointment to board of directors

‘57. Of the appointed directors of the Bureau—

- (a) the director who is to be appointed chairperson is to be a person with extensive commercial experience relevant to the Bureau’s objectives; and
- (b) 2 directors are to be persons with experience in the production of sugar cane; and
- (c) 2 directors are to be persons with experience in the milling of sugar cane; and
- (d) 1 director is to be person with wide research and development experience; and
- (e) 1 director is to be person with wide commercial experience.’.

Amendment of s 62 (Functions of Board)

36.(1) Section 62, heading **‘Board’**—

omit, insert—

‘Bureau’.

(2) Section 62, **‘Board’**—

omit, insert—

‘Bureau’.

(3) Section 62(f)—

omit.

Omission of s 69 (Bureau)

37. Section 69—

omit.

Amendment of s 81 (Membership of a productivity board)

38. Section 81—

insert—

‘(10) In this section—

“**appointed member**” means a member of the board other than the member mentioned in subsection (1)(c).’.

Amendment of s 94 (Definitions for pt 6)

39.(1) Section 94, definition “**body**”—

omit.

(2) Section 94—

insert—

‘ “**appointed member**” means—

- (a) in relation to the Corporation—each director of the Corporation other than the director who is chief executive of the Corporation; and
- (b) in relation to a local board—each member of the local board; and
- (c) in relation to the Bureau—each director of the Bureau other than the Director; and
- (d) in relation to a productivity board—each member of the productivity board except the person nominated by the Bureau.

“**body**” means—

- (a) the board of directors of the Corporation; or
- (b) a local board; or
- (b) a negotiating team; or
- (d) the board of directors of the Bureau.

“**business manager**” for an industry participant, means—

- (a) a director, employee or officer of an industry participant; or
- (b) a manager or trustee of, or a partner in, an entity that is an industry participant.

“**disclosure body**” means a body other than a negotiating team.

“domestic marketing matter” means a matter about the sale by the Corporation of raw sugar for consumption or processing in the domestic market.

“industry participant” means—

- (a) a person who—
 - (i) grows sugar cane; or
 - (ii) mills sugar cane; or
 - (iii) produces, refines or manufactures sugar; or
 - (iv) other than the Corporation, sells sugar solely by wholesale or retail; or
- (b) an entity representing the interests of persons carrying on any of the things mentioned in paragraph (a); or
- (c) a business manager of a person or entity mentioned in paragraph (a) or (b).

“material personal interest” in a matter, includes an interest in the matter that arises because a member is a business manager of another person who has a material personal interest in the matter.

“member” of a body, means—

- (a) for the board of directors of the Corporation—a director of the Corporation; or
- (b) for the board of directors of the Bureau—a director of the Bureau.’.

(3) Section 94, definition **“prescribed authority”**, ‘Sugar Experiment Stations Board’—

omit, insert—

‘Bureau’.

Replacement of s 103 (Disclosure of interest)

40. Section 103—

omit, insert—

‘Members of disclosure body to disclose interests

‘103.(1) If a member of a disclosure body has a direct or indirect interest in a matter being considered, or about to be considered, by the body, the member must disclose the nature of the interest to a meeting of the body as soon as practicable after the relevant facts come to the member’s knowledge.

Maximum penalty—100 penalty units.

‘(2) The disclosure must be recorded in the minutes of the meeting of the body.

‘Voting etc. by interested member of disclosure body

‘103A.(1) A member of a disclosure body who has a material personal interest in a matter that is being considered by the body must not—

- (a) vote on the matter; or
- (b) vote on a proposed resolution (a **“related resolution”**) under subsection (2)(a) in relation to the matter (whether in relation to the member or another member); or
- (c) be present while the matter, or a related resolution, is being considered by the body; or
- (d) otherwise take part in any decision of the body in relation to the matter or a related resolution.

Maximum penalty—100 penalty units.

‘(2) Subsection (1) does not apply to the matter if—

- (a) the body has at any time passed a resolution that—
 - (i) specifies the member, the interest and the matter; and
 - (ii) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter; or
- (b) if a quorum of the body can not be formed because of subsection (1)—the Minister has given a written direction to that effect for the matter.

‘Voting etc. by Corporation directors on domestic marketing matter

‘103B.(1) This section applies if—

- (a) a matter before the Corporation is a domestic marketing matter;
and
- (b) a director at the meeting at which the matter is to be considered is
an industry participant.

‘(2) The director is taken to have a material person interest in the matter.

‘(3) Section 103A(2) does not apply to the matter.

‘(4) However, if because of subsection (2) there are not enough members to form the quorum required under section 98(3), at least 2 appointed directors who do not have a material personal interest in the matter constitute a quorum for the meeting.’.

Amendment of s 105 (Removal of member)

41. Section 105(2)—

omit.

Amendment of s 238 (Proceedings for offences)

42. Section 238—

insert—

‘(2) This section applies subject to section 238A.’.

Insertion of new s 238A

43. After section 238—

insert—

‘Proceedings for indictable offences

‘238A.(1) A proceeding for an offence against part 2, division 2A (a **“prescribed offence”**) may, at the election of the prosecution, be taken—

- (a) by way of summary proceedings under section 238; or

(b) on indictment.

‘(2) A proceeding must be before a magistrate if it is a proceeding—

- (a) with a view to the summary conviction of a person on a charge of a prescribed offence; or
- (b) for an examination of witnesses in relation to a charge for a prescribed offence.

‘(3) If a proceeding for a prescribed offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

‘(4) If—

- (a) a person charged with a prescribed offence, in relation to which a proceeding is taken by way of a summary proceeding, asks, at the start of the proceeding, that the charge be prosecuted on indictment; or
- (b) the magistrate hearing and deciding a charge of a prescribed offence is of the opinion that the charge ought to be prosecuted on indictment;

the magistrate—

- (c) must not hear and decide the charge as a summary offence; but
- (d) must proceed by way of an examination of witnesses in relation to an indictable offence.

‘(5) If a magistrate acts under subsection (4)—

- (a) any plea of the person charged, made at the start of the proceeding, must be disregarded; and
- (b) any evidence brought in the proceeding before the magistrate decided to act under subsection (6) is taken to be evidence in the proceeding with a view to the committal of the person for trial or sentence; and

- (c) before committing the person for trial or sentence, the magistrate must make a statement to the person under the *Justices Act 1886*, section 104(2)(b).¹

‘(6) The maximum penalty that may be imposed on a summary conviction of a prescribed offence is 100 penalty units or 1 years imprisonment.’.

Insertion of new s 245

44. After section 244—

insert—

‘Transitional provisions for Primary Industries Legislation Amendment Act 1997

‘245.(1) The previous Board is renamed and continues in existence as the Bureau of Sugar Experiment Stations mentioned in section 53.

‘(2) In an Act or document, a reference to the previous Board may, if the context permits, be taken as a reference to the Bureau.

‘(3) The registrar of titles, and all other persons charged with keeping any register with respect to dealings with property, at the Bureau’s request are to make in the register all endorsements necessary to record the change in name of the previous Board under this section.

‘(4) In this section—

“previous Board” means the Sugar Experiment Stations Board established under this Act immediately before the commencement of section 45 of the *Primary Industries Legislation Amendment Act 1997*.’.

¹ *Justices Act 1886*, section 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)

SCHEDULE**MINOR AMENDMENTS OF SUGAR INDUSTRY ACT
1991**

section 25

1. Section 6(1)(d), ‘Sugar Experiment Stations Board’—*omit, insert—*

‘Bureau’.

2. Section 18, ‘members’—*omit, insert—*

‘directors’.

3. Part 4, heading—*omit, insert—***‘PART 4—BUREAU OF SUGAR EXPERIMENT
STATIONS’.****4. Section 54, heading, ‘Board’s—***omit, insert—*

‘Bureau’s’.

5. Section 54, ‘Board’—*omit, insert—*

‘Bureau’.

SCHEDULE (continued)

6. Section 55, heading, ‘Board’—*omit, insert—***‘Bureau’.****7. Section 55, ‘Board’—***omit, insert—***‘Bureau’.****8. Section 61, ‘Members’—***omit, insert—***‘Appointed directors’.****9. Section 61, ‘Board’—***omit, insert—***‘Bureau’.****10. Pt 4, div 2, heading, ‘Board’s’—***omit, insert—***‘Bureau’s’.****11. Section 63, heading, ‘Board’—***omit, insert—***‘Bureau’.****12. Section 63, ‘Board’—***omit, insert—***‘Bureau’.**

SCHEDULE (continued)

13. Section 64, ‘Board’—*omit, insert—*

‘Bureau’.

14. Section 65, heading, ‘Board’—*omit, insert—*

‘Bureau’.

15. Section 65(1), ‘Board’s’—*omit, insert—*

‘Bureau’s’.

16. Section 65(4), ‘member of the Board, the Director’—*omit, insert—*

‘director of the Bureau’.

17. Section 65, ‘Board’—*omit, insert—*

‘Bureau’.

18. Section 66, ‘Board’—*omit, insert—*

‘Bureau’.

19. Section 67, heading, ‘Board’s’—*omit, insert—*

‘Bureau’s’.

SCHEDULE (continued)

20. Section 67, ‘Board’—*omit, insert—*

‘Bureau’.

21. Section 67(a) to (d),—*omit, insert—*

- (a) a director; or
- (b) a member of the Bureau’s staff; or
- (c) a productivity board.’.

22. Section 68, ‘Board’—*omit, insert—*

‘Bureau’.

23. Section 68(2), ‘board’s—*omit, insert—*

‘Bureau’s’.

24. Section 70(1), ‘Board’—*omit, insert—*

‘Bureau’.

25. Section 70(2), ‘Board’—*omit, insert—*

‘board of directors’.

SCHEDULE (continued)

26. Section 70(3), ‘board’s—*omit, insert—*

‘Bureau’s’.

27. Section 71(1), ‘Board’—*omit, insert—*

‘Bureau’.

28. Section 72, ‘Board’—*omit, insert—*

‘Bureau’.

29. Section 74(2), ‘Board’—*omit, insert—*

‘Bureau’.

30. Section 77, ‘Sugar Experiment Stations Board’—*omit, insert—*

‘Bureau’.

31. Section 78(1), ‘Sugar Experiment Stations Board’—*omit, insert—*

‘Bureau’.

32. Section 81(1)(a), ‘Sugar Experiment Stations Board’s’—*omit, insert—*

‘Bureau’s’.

SCHEDULE (continued)

33. Section 81(1) and (8), ‘Sugar Experiment Stations Board’—*omit, insert—*

‘Bureau’.

34. Section 81(1), ‘Bureau of Sugar Experiment Stations’—*omit, insert—*

‘Bureau’.

35. Section 84, ‘Sugar Experiment Stations Board’—*omit, insert—*

‘Bureau’.

36. Section 84(3), ‘Board’s’—*omit, insert—*

‘Bureau’s’.

37. Section 85(b), ‘Sugar Experiment Stations Board’—*omit, insert—*

‘Bureau’.

38. Section 91, ‘Sugar Experiment Stations Board’—*omit, insert—*

‘Bureau’.

39. Section 92, heading, ‘Sugar Experiment Stations Board’—*omit, insert—*

‘Bureau’.

SCHEDULE (continued)

40. Section 92, ‘Sugar Experiment Stations Board’—*omit, insert—*

‘Bureau’.

41. Section 93, ‘Sugar Experiment Stations Board’—*omit, insert—*

‘Bureau’.

42. Section 219(a), ‘Sugar Experiment Stations Board’—*omit, insert—*

‘Bureau’.

43. Section 239(2), ‘Sugar Experiment Stations Board’—*omit, insert—*

‘Bureau’.

44. Section 239(2), ‘the Board’—*omit, insert—*

‘the Bureau’.