



Sugar Industry Act 1999

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Queensland

Sugar Industry Act 1999

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Sugar Industry Act 1999

An Act about the sugar industry in Queensland, and for other purposes

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *Sugar Industry Act 1999*.

2 Commencement

- (1) Chapter 4, part 10 commences on 1 October 1999.
- (2) The remaining provisions commence on 1 January 2000.

3 Principal object of Act

The principal object of the Act is to facilitate an internationally competitive, export oriented sugar industry based on sustainable production that benefits those involved in the industry and the wider community.

4 Definitions

The dictionary in the schedule defines particular words used in this Act.

6 State bound

This Act binds all persons, including the State.

Chapter 2 Supply contracts and cane access rights

Part 2 Arrangements for supply contracts from 1 January 2006

Division 1 Cane supply is governed by supply contracts

29 Purpose of pt 2

The purpose of this part is to ensure the supply by growers of cane to a mill and the payment to growers in return are governed by supply contracts.

30 Definitions for pt 2

In this part—

bargaining representative, for a group of growers, means a person with the written authority of each grower who is a member of the group.

group of growers see section 33(1).

interested third party means a person with a direct or indirect monetary interest in—

- (a) the supply by growers of cane to a mill; or
- (b) the milling of cane.

Examples—

- 1 a harvesting contractor who is engaged by a grower or mill owner to harvest cane
- 2 a producer of ethanol
- 3 a person who transports cane to a mill

31 Supply contract

- (1) A grower may supply cane to a mill for a crushing season only if the grower has a supply contract with the mill owner for the season.
- (2) A supply contract may be for 1 or more than 1 crushing season.
- (3) A supply contract may be either an individual contract or a collective contract.
- (4) An interested third party may be a party to a supply contract between a mill owner and a grower.
- (5) Each of the parties to a supply contract must sign the contract.

32 Individual contract

An individual contract—

- (a) is a supply contract made directly between a grower and a mill owner; and
- (b) may be for all or part of the supply of cane grown by the grower.

33 Collective contract

- (1) A collective contract is a supply contract made between 2 or more growers (a *group of growers*) and a mill owner.
- (2) Each grower in a group of growers must sign the collective contract.
- (3) A group of growers may appoint a bargaining representative to negotiate a collective contract on behalf of the group.
- (4) There may be more than 1 collective contract in force at the same time for a mill.
- (5) A grower may be a party to more than 1 collective contract.

33A Arbitration of disputed terms of intended supply contract

- (1) This section applies if—
 - (a) a grower is negotiating, or has attempted to negotiate, a supply contract (an *intended supply contract*) with a mill owner, whether the grower is acting on the grower's own behalf or is in a group of growers that has appointed a bargaining representative to negotiate the contract on behalf of the group; and
 - (b) the grower or bargaining representative gives the mill owner a notice requiring the mill owner to use all reasonable endeavours to negotiate a supply contract within a stated period (the *negotiation period*) of at least 10 business days; and
 - (c) at the end of the negotiation period, the grower and mill owner dispute a proposed term of the intended supply contract.
- (2) The grower and mill owner are taken to have made an agreement (the *referral agreement*)—
 - (a) to refer the dispute to arbitration; and
 - (b) for the dispute to be arbitrated under the *Commercial Arbitration Act 2013* subject to subsections (5) to (9).
- (3) If the grower or mill owner refers a dispute about a proposed term of the intended supply contract to arbitration, the *Commercial Arbitration Act 2013* applies to the arbitration subject to subsections (4) to (9).
- (4) Despite the *Commercial Arbitration Act 2013*, section 7, the referral agreement is taken to be an arbitration agreement under that Act.
- (5) The arbitral tribunal appointed for the arbitration may decide the dispute about the proposed term only by deciding the term.
- (6) Subsection (7) applies if a GEI sugar marketing term is a proposed term of the intended supply contract and the grower proposes to nominate an entity to be the GEI sugar marketing entity.

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- (7) A term of the intended supply contract must not have the effect of unreasonably treating the grower less favourably than the grower would be likely to be treated if a mill-related entity were to be the GEI sugar marketing entity.
 - (8) Without limiting subsection (7), a term of the intended supply contract would have the effect of unreasonably treating the grower less favourably for the subsection if the effect were that the grower would unreasonably pay more for a service provided by the mill owner under the intended supply contract than the grower would pay for the service if a mill-related entity were the GEI sugar marketing entity.
 - (9) Each party must bear the party's own costs of the arbitration.
 - (10) If the arbitral tribunal decides each dispute about the proposed terms of the intended supply contract, the grower and mill owner are taken to have made a supply contract including—
 - (a) any terms agreed between the parties; and
 - (b) the terms decided by the arbitral tribunal.
 - (11) In this section—

arbitral tribunal see the *Commercial Arbitration Act 2013*, section 2.

mill-related entity means—

 - (a) the mill owner; or
 - (b) a related body corporate of the mill owner.

33B Terms of supply contract about sale of on-supply sugar

- (1) This section applies to a supply contract for cane between a grower and a mill owner unless the grower is a related body corporate of the mill owner.
- (2) The supply contract must include each of the following—
 - (a) a term providing for the amount, or the basis for working out the amount, of the payment to the grower for the supply of the cane (the *cane payment*);

- (b) unless the grower and mill owner otherwise agree—a term (a ***related sugar pricing term***) requiring the amount of the cane payment to be worked out in a stated way by linking that amount to the sale price of the on-supply sugar to which the supply contract relates;
 - (c) if the supply contract includes a related sugar pricing term, both of the following, unless the grower and mill owner otherwise agree—
 - (i) a term requiring the mill owner to bear the sale price exposure for the sale of a proportion of the on-supply sugar that is worked out in a stated way;
 - (ii) a term (a ***GEI sugar price exposure term***) requiring the grower to bear the sale price exposure for the sale of the remaining on-supply sugar (the ***grower economic interest sugar***);
 - (d) if the supply contract includes a GEI sugar price exposure term—
 - (i) a term (a ***GEI sugar marketing term***) requiring the mill owner to have an agreement with a stated entity (the ***GEI sugar marketing entity***) to sell the quantity of the on-supply sugar that is at least equal to the quantity of the grower economic interest sugar; and
 - (ii) unless the grower and mill owner otherwise agree, a term providing for an entity nominated by the grower to be the GEI sugar marketing entity;
 - (e) if the supply contract provides for an entity nominated by the grower to be the GEI sugar marketing entity—a term requiring the mill owner to deliver for sale the quantity of the on-supply sugar that is at least equal to the quantity of the grower economic interest sugar, as directed by the entity, within a stated reasonable period.
- (3) However, subsection (2)(d) does not apply if the supply contract states that the mill owner will sell the on-supply sugar.

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- (4) Without limiting subsection (2)(e), the stated period must be reasonable having regard to the likely period in which the mill owner could deliver the on-supply sugar for sale to a related body corporate of the mill owner.

Note—

See section 298.

34 Parties must use dispute resolution process stated in supply contract

- (1) A supply contract must state a process for dispute resolution including by arbitration.
- (2) The parties must attempt to resolve the dispute by using the process.
- (3) Subject to subsection (4), the *Commercial Arbitration Act 2013* applies to an arbitration mentioned in subsection (1).
- (4) Each party must bear the party's own costs of the arbitration.

35 Variation of supply contract

- (1) The parties to a supply contract may, in writing, vary the contract.
- (2) The varied supply contract is taken to be the supply contract for this part.

Division 2 Dispute resolution

36 Application of div 2

This division applies if a dispute arises between any or all of the parties to a supply contract about its terms.

37 No final offer arbitration

- (1) The parties can not 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.

Part 4 Cane access, harvesting and mill supply

63 Access right to harvest and supply cane

- (1) This part provides for the grant by a landholder or the Land Court of 2 types of right (each an *access right*)—
- (a) a permit to pass; and
 - (b) a cane railway easement.
- (2) A permit (a *permit to pass*) may be granted to—
- (a) a grower to facilitate harvest of cane and supply to a mill; or
 - (b) a mill owner to facilitate harvest of cane and supply of cane to any mill or between any mills or to service a cane railway easement.
- (3) A permit to pass authorises the person to whom it is granted and a person acting on the person’s behalf to use another person’s land under the permit’s conditions.

- (4) A permit to pass must state the period for which it has effect.
- (5) An easement (a *cane railway easement*) may be granted to a mill owner to facilitate harvest of cane and supply of cane to any mill or between any mills.
- (6) A cane railway easement may be granted whether or not it is annexed to or used and enjoyed together with any other land.
- (7) The grant of an access right is subject to the powers under the *Transport Infrastructure Act 1994* of the chief executive or a railway manager within the meaning of that Act.

64 Landholder may grant an access right

A landholder may grant an access right affecting the holder's land under an agreement with a mill owner or a grower.

Note—

See sections 70 and 71 for the requirement to notify the registrar.

65 Land Court may grant an access right

- (1) This section applies if a person seeking an access right affecting land does not reach agreement with the landholder for the grant.
- (2) The person may apply to the Land Court to be granted the access right.
- (3) The applicant must serve a copy of the application on every person the applicant knows may be entitled to claim compensation if the access right is granted.
- (4) Subsection (3) does not limit the persons on whom a copy of the application must be served under the rules of the Land Court.
- (5) The Land Court may grant the application only if it is satisfied—
 - (a) the applicant has failed, after reasonable attempts, to negotiate an agreement with the landholder for the access right; and

- (b) the access right is necessary for a purpose mentioned in section 63(2) or (5) in relation to the applicant; and
- (c) the access right, if granted, would not affect native title, or if it would, there is an indigenous land use agreement consenting to the grant.

Note—

See sections 70 and 71 for the requirement to notify the registrar.

- (6) The Land Court may impose reasonable conditions on the grant.

Example of a condition—

a condition that the mill owner or grower construct and maintain, at or near the boundaries of the land, cattle grids or other structures

- (7) In this section—

indigenous land use agreement means an indigenous land use agreement under the *Native Title Act 1993* (Cwlth) registered on the register of indigenous land use agreements.

68 Compensation on grant of access right

- (1) Subject to subsection (6), if the Land Court or a landholder grants an access right, the landholder whose land is affected and the grantee of the access right may agree on the amount of any compensation payable to the landholder.
- (2) If the landholder and grantee can not agree, either of them may apply to the Land Court for an order.
- (3) On an application under subsection (2), the Land Court may decide the amount of any compensation payable by the grantee to the landholder and make an order for payment.
- (4) In deciding the amount of compensation, the Land Court must have regard to the following matters—
 - (a) if the granting of the access right effectively severs land in which the landholder has an interest from other land in which the landholder has an interest—any change in the values of those interests;

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- (b) any change in the value of any interest in any land held by the landholder that otherwise happens because of the granting of the access right;
 - (c) any loss, injury or damage suffered by the landholder, or expense reasonably incurred by the landholder, as a direct, natural and reasonable consequence of the granting of the access right;
 - (d) anything else relevant to deciding what is just and reasonable compensation for the granting of the access right.
- (5) For calculating the change in the value of an interest in land under subsection (4), the changed value of the interest must be decided as at the day the access right was granted.
- (6) The Land Court, in granting a permit to pass, may order the grantee to pay to the landholder whose land is affected by the permit 1 or both of the following—
- (a) an amount, or amounts from time to time, towards the cost to the landholder of the use of the permit;
 - (b) an amount as compensation for significant detriment to the landholder’s use of the land.

70 Notification and recording of matters relating to permits to pass

- (1) This section applies if any of the following happens (a *permit event*)—
- (a) a permit to pass is granted;
 - (b) a permit to pass is relinquished by the grantee;
 - (c) a permit to pass, or a condition on which a permit to pass is held, is varied or cancelled under section 72.
- (2) Within 28 days after the permit event happens, the grantee must give to the registrar—
- (a) a signed notice—
 - (i) stating that the permit event has happened; and

[s 71]

- (ii) identifying the parties to the permit to pass and the land affected by the permit; and
- (b) a copy of—
 - (i) for the grant of a permit to pass—the permit to pass; or
 - (ii) otherwise—the document by which the relinquishment, variation or cancellation was effected.

Maximum penalty—40 penalty units.

- (3) The registrar must ensure a notice appears in the relevant register kept under the *Land Act 1994* or the *Land Title Act 1994* so that a search of the register will show the permit event has happened.

71 Notification and registration of matters relating to cane railway easements

- (1) This section applies if any of the following happens (an *easement event*)—
 - (a) a cane railway easement is granted;
 - (b) a cane railway easement is relinquished by the grantee;
 - (c) a cane railway easement, or a condition on which a cane railway easement is held, is varied or cancelled under section 72.
- (2) Within 28 days after the easement event happens, the grantee must give to the registrar a signed notice—
 - (a) stating that the easement event has happened; and
 - (b) identifying the parties to the cane railway easement and the land affected by the easement.

Maximum penalty—40 penalty units.

- (3) The easement event may be registered under the *Land Act 1994* or the *Land Title Act 1994* only in compliance with that Act.

- (4) Until the easement event is registered, the registrar must ensure a notice appears in the relevant register kept under the *Land Act 1994* or the *Land Title Act 1994* so that a search of the register will show the easement event has happened.
- (5) It is sufficient compliance with subsection (2) for the grantee to give to the registrar, within 28 days after the easement event happens, the documents the registrar requires to register the easement event.

72 Variation and cancellation of access right, dispute resolution and enforcement

- (1) The landholder whose land is affected by an access right and the grantee of the access right may, by agreement, vary or cancel the access right or a condition on which it is held.
- (2) A party to an access right may apply to the Land Court to vary or cancel the access right or a condition on which the access right is held.
- (3) The applicant must serve a copy of the application on every person the applicant knows may be entitled to claim compensation if the application is granted.
- (4) The Land Court may grant the application only if—
 - (a) for an application to cancel a cane railway easement—the court is satisfied the easement has not been used for at least 2 years; or
 - (b) otherwise—the court is satisfied there are special circumstances.
- (5) A change in the use of the land affected by the access right is not in itself special circumstances for subsection (4)(b).
- (6) A cane railway easement included in a register kept under the *Land Act 1994* or the *Land Title Act 1994* may be varied only in compliance with the provisions of that Act about amending an easement.

73 Compensation on cancellation or variation of access right

- (1) A party to an access right may apply to the Land Court for an order for the payment of compensation if the parties to the access right—
 - (a) have, by agreement, varied or cancelled the access right or a condition on which it is held; and
 - (b) can not agree on the payment of compensation for the variation or cancellation.
- (2) Subsection (3) applies if—
 - (a) an application is made under subsection (1); or
 - (b) the Land Court makes an order under section 72 varying or cancelling an access right or a condition on which an access right is held.
- (3) The Land Court may decide the amount of any compensation payable by a party to the access right to the other party and make an order for payment.
- (4) In deciding the amount of any compensation, the Land Court must have regard to the following matters—
 - (a) if the variation or cancellation effectively severs land in which the landholder has an interest from other land in which the landholder has an interest—any change in the values of those interests;
 - (b) any change in the value of any interest in any land held by the landholder that otherwise happens because of the variation or cancellation;
 - (c) any loss, injury or damage suffered by a party, or expense reasonably incurred by a party, as a direct, natural and reasonable consequence of the variation or cancellation;
 - (d) any compensation previously paid in relation to the access right;

- (e) anything else relevant to deciding what is just and reasonable compensation for the variation or cancellation.
- (5) For calculating the change in the value of an interest in land under subsection (4), the changed value of the interest must be decided as at the day the access right was varied or cancelled.

74 Rectification or reinstatement of land on cancellation or variation of access right

- (1) This section applies if the Land Court cancels an access right affecting land or varies an access right in a way that excludes land affected by the right.
- (2) The Land Court may order the person who is or was the grantee of the access right to carry out rectification or reinstatement of the land as directed by the court.

74A Enforcement of Land Court decisions

- (1) This section applies if the Land Court makes an order under this part.
- (2) The registrar of the Land Court must give a copy of the order to the registrar of the Supreme Court who must file it in the Supreme Court registry.
- (3) On filing, the order is enforceable as if it were an order of the Supreme Court.

75 Construction etc. of railways, obstruction of access right

- (1) For supply of cane to a mill, a mill owner or a person authorised by the mill owner may—
 - (a) construct, maintain, alter and use a railway or road and carry out any other necessary works on land of the mill owner or over which the mill owner holds an access right; and

- (b) use on the railway or road vehicles or rolling stock and other machinery and equipment the mill owner may consider necessary.
- (2) However, subsection (1)(a) applies—
- (a) in relation to a road other than a State-controlled road, subject to any local laws in force under the *Local Government Act 2009*, section 60; or
 - (b) in relation to a State-controlled road, subject to the *Transport Infrastructure Act 1994*, section 50.
- Editor's note—*
Transport Infrastructure Act 1994, section 50 (Ancillary works and encroachments)
- (3) A person may apply to the Land Court for an order restraining anyone else from obstructing or attempting to obstruct the applicant's use of an access right or a right under subsection (1).
- (4) The court may make the order sought on the conditions it considers appropriate.
- (5) A person who suffers loss or damage because another person obstructs or attempts to obstruct the person's use of the person's access right or right under subsection (1) may recover the amount of the loss or damage as a debt from the other person.

Chapter 6 Authorisations for competition legislation

236 Definitions for ch 6

In this chapter—

Competition Code means the Competition Code under the *Competition Policy Reform (Queensland) Act 1996*.

competition legislation means the *Competition and Consumer Act 2010* (Cwlth), section 51(1)(b) or the Competition Code of this jurisdiction, section 51.

Editor's note—

Competition Code, section 51 (Exceptions)

237 Collective contracts

- (1) This section applies for the making or variation of a collective contract between a group of growers and a mill owner who are within the same region to the extent the collective contract is made or varied for giving effect to a settlement about—
 - (a) the acceptance and crushing of cane by a mill at a time fixed under the collective contact; and
 - (b) the terms on which payments are to be made by a mill owner for cane to be supplied to a mill by a grower under the collective contact.
- (2) For subsection (1)—
 - (a) a region may overlap with another region; and
 - (b) a group of growers and a mill owner are ***within the same region*** if the land on which each grower's cane is grown is in the same region as the land on which the mill is situated.
- (3) The following things are specifically authorised for the competition legislation—
 - (a) the making of the collective contract;
 - (b) the variation of the collective contract;
 - (c) the acceptance and crushing of cane by a mill at a time fixed under the collective contract;
 - (d) the payment of a price for cane by a mill owner to a grower under the collective contract;
 - (e) the receipt of a price for cane by a grower from a mill owner under the collective contract;

- (f) a financial incentive scheme of premiums, discounts and allowances relating to cane and sugar quality or to anything that may affect cane and sugar quality having regard to best practice under the collective contract.

- (4) In this section—

region means a part of the State that is prescribed under a regulation.

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

- (a) a group of growers;
- (b) a mill owner;
- (c) an interested third party.

238 Sale of on-supply sugar

The following things are specifically authorised for the competition legislation—

- (a) a grower and mill owner making a supply contract including a GEI sugar marketing term;
- (b) a mill owner and GEI sugar marketing entity making an agreement to sell on-supply sugar in compliance with a GEI sugar marketing term;
- (c) a GEI sugar marketing entity selling on-supply sugar under an agreement mentioned in paragraph (b);
- (d) a grower and mill owner being taken to have made a supply contract under section 33A(10).

Chapter 7 Miscellaneous

246 Minister may establish advisory bodies

The Minister may establish an advisory committee or other body to help the Minister in the administration of this Act.

247 Injunctions

- (1) Subsection (2) applies if a person has engaged, is engaging or is proposing to engage in conduct that is, was, or would be, any of the following—
 - (a) a contravention of chapter 2;
 - (b) attempting to contravene chapter 2;
 - (c) aiding, abetting, counselling or procuring a person to contravene chapter 2;
 - (d) inducing or attempting to induce (whether by threats, promises or otherwise) a person to contravene chapter 2;
 - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of chapter 2;
 - (f) conspiring with others to contravene chapter 2.
- (2) On the application of an interested entity, the court may grant an injunction restraining the person from engaging in the conduct and, if the court considers it is desirable to do so, requiring the person to do anything.
- (3) If a person has failed, is failing, or is proposing to fail, to do anything that the person is required to do under chapter 2, the court may, on the application of an interested entity, grant an injunction requiring the person to do the thing.
- (4) However, the court may grant the injunction under subsection (2) or (3) only if it is satisfied that there is no other adequate remedy.

- (5) On an application under subsection (2) or (3), the court may grant the injunction sought with the consent of all the parties to the proceeding, whether or not the court is satisfied that the subsection applies.
- (6) The court may grant an interim injunction pending a decision on an application under subsection (2).
- (7) The court may discharge or vary an injunction, and may grant an injunction on conditions.
- (8) The court's power to grant an injunction restraining a person from engaging in conduct may be exercised—
 - (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in the conduct; and
 - (b) whether or not the person has previously engaged in conduct of that kind; and
 - (c) whether or not there is an imminent danger of substantial damage to another person if the person engages, or continues to engage, in the conduct.
- (9) The court's power to grant an injunction requiring a person to do a thing may be exercised—
 - (a) whether or not it appears to the court that the person intends to fail again, or to continue to fail, to do the thing; and
 - (b) whether or not the person has previously failed to do a thing of that kind; and
 - (c) whether or not there is an imminent danger of substantial damage to another person if the person fails, or continues to fail, to do the thing.
- (10) The court may, in addition to, or instead of, ordering an injunction against a person, order the person to pay damages to someone.
- (11) The court's powers under this section are in addition to its other powers.
- (12) In this section—

court means the Supreme Court.

interested entity means an entity established under this Act or another person, whose interests have been, are or would be affected by the relevant conduct.

249 Statutory declaration

- (1) This section applies to an application or submission to an entity established under this Act.
- (2) The entity may require particular information to be verified by statutory declaration as a condition of its consideration or further consideration of the application or submission.

250 Records to be kept

An entity established under this Act—

- (a) must keep the records that may be necessary for the proper discharge of its functions; and
- (b) is a public authority under the *Public Records Act 2002*.

251 Superannuation schemes

- (1) An entity established under this Act may—
 - (a) establish or amend superannuation schemes; or
 - (b) join in establishing or amending superannuation schemes; or
 - (c) take part in superannuation schemes.
- (2) The auditor-general may audit the schemes.
- (3) Subsection (2) is subject to the *Auditor-General Act 2009*.

252 Offence to make false statement in application or submission

A person must not, in an application or submission made to an entity under this Act, make any false or misleading statement without reasonable excuse.

Maximum penalty—40 penalty units.

253 Improper use of information prohibited

- (1) A person who has been the Sugar Industry Commissioner under this Act, or who is or has been a member, director, officer or employee of an entity established under this Act, must not make improper use of information acquired because of the person's position, or an opportunity provided by the position, to gain directly or indirectly an advantage for any person or to cause detriment to the entity or any person.

Maximum penalty—500 penalty units or 5 years imprisonment.

- (2) An offence against this section is a misdemeanour.

255 Proceedings for an offence

- (1) Subject to subsection (2), a proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886* within the later of the following—
- (a) 1 year after the offence is committed;
 - (b) 6 months after the commission of the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.
- (2) A proceeding for an indictable offence may, at the election of the prosecution, be taken—
- (a) by way of summary proceedings under subsection (1);
or
 - (b) on indictment.

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- (3) A proceeding against a person for an indictable offence must be before a magistrate if it is a proceeding—
 - (a) for the summary conviction of the person; or
 - (b) for an examination of witnesses in relation to the charge.
 - (4) If a proceeding for an indictable 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*.
 - (5) If—
 - (a) a person charged with an indictable offence asks at the start of a summary proceeding for the offence that the charge be prosecuted on indictment; or
 - (b) the magistrate hearing a charge of an indictable offence considers the charge should be prosecuted on indictment;the magistrate—
 - (c) must not decide the charge as a summary offence; and
 - (d) must proceed by way of a committal proceeding.
 - (6) If a magistrate acts under subsection (5)—
 - (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 (5) is taken to be evidence in the proceeding for 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).
 - (7) The maximum penalty that may be imposed on a summary conviction of an indictable offence is 100 penalty units or 1 year's imprisonment.
 - (8) In this section—

indictable offence means an offence against section 253.

255A Allegations of false or misleading matters

- (1) This section applies to a proceeding for an offence against this Act described as involving—
 - (a) false or misleading information; or
 - (b) a false or misleading document or statement.
- (2) It is enough for the complaint starting the proceeding to state the document, information or statement was ‘false or misleading’ to the defendant’s knowledge, without specifying which.
- (3) In the proceeding, evidence that the document, information or statement was given or made recklessly is evidence that it was given or made so as to be false or misleading.

256 Evidence

- (1) A document purporting to be a copy of a collective contract and purporting to be certified as a copy by or on behalf of a party to the agreement is evidence of the contract.
- (2) A statement in a complaint for an offence against this Act of when the commission of the offence came to the knowledge of the complainant is evidence of that fact.
- (3) A certificate purporting to be signed by a person authorised to do so by an entity established under this Act stating that a particular document is a document lodged with or held by the entity, or a copy of the document, is evidence of anything stated in the certificate.

257 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may provide for a maximum penalty of not more than 20 penalty units for a contravention of a regulation.

Chapter 8 Transitional provisions for Sugar Industry Amendment Act 2005

Chapter 9 Transitional provisions for Primary Industries and Other Acts Amendment Act 2008

Part 1 Preliminary

284 Definitions for ch 9

In this chapter—

access rights register means the register of that name kept by the commissioner before the commencement day under repealed section 69.

commencement day means the day this chapter commences.

commissioner means the Sugar Industry Commissioner holding office under this Act before the commencement day.

Part 2 Provisions relating to access rights

285 Period of operation of permit to pass

- (1) This section applies to a permit to pass that was in force immediately before the commencement day.
- (2) If the permit does not state a period for which it has effect—

- (a) section 63(4) does not apply to the permit; and
- (b) the permit is taken to have effect until it is cancelled or otherwise stops having effect under this Act.

286 Access rights granted by the commissioner

An access right granted by the commissioner, that was in force immediately before the commencement day, continues in force according to its terms as if it had been granted by the Land Court.

287 Land Court to assume jurisdiction for current applications

- (1) An application to the commissioner under old section 65 that, immediately before the commencement day, had not been decided by the commissioner is taken to be an application to the Land Court under new section 65.
- (2) An application to the commissioner under old section 72 that, immediately before the commencement day, had not been decided by the commissioner is taken to be an application to the Land Court under new section 72.
- (3) An application to a Magistrates Court under old section 75 that, immediately before the commencement day, had not been finally dealt with by the Magistrates Court is taken to be an application to the Land Court under new section 75.
- (4) The president of the Land Court may give—
 - (a) a direction or order that an application mentioned in this section, and any materials relating to the application that were held by the commissioner or before a Magistrates Court, be taken to be part of the proceeding before the Land Court; and
 - (b) any other necessary directions about how a proceeding under this section is to be dealt with.
- (5) The chief executive must take all reasonable steps to make any applications mentioned in subsections (1) and (2), and any

materials relating to the applications that were held by the commissioner, available to the Land Court.

- (6) The registrar of a Magistrates Court must take all reasonable steps to make any applications mentioned in subsection (3), and any materials relating to the applications that were before the Magistrates Court, available to the Land Court.
- (7) In this section—
new means as in force from the commencement day.
old means as in force before the commencement day.

288 Outstanding decisions of valuers

- (1) This section applies if—
 - (a) a valuer was appointed under section 68 or 73 to decide an amount; and
 - (b) immediately before the commencement day, the valuer had not finally decided the amount.
- (2) Section 68 or 73, as in force immediately before the commencement day, continues to apply in relation to the making, effect and costs of the decision.

289 Access rights register

- (1) On the commencement day, the access rights register becomes the property of the registrar.
- (2) The registrar must ensure that, for each current access right recorded in the access rights register immediately before the commencement day, a notice appears in the relevant register kept under the *Land Act 1994* or the *Land Title Act 1994* so that a search of the register will show the existence of the access right.

290 Rectification or reinstatement order by the commissioner

- (1) An order made by the commissioner before the commencement day under old section 74, that was in force immediately before the commencement day, continues in force according to its terms as if it had been made by the Land Court.
- (2) In this section—
old means as in force before the commencement day.

Part 3 Provisions relating to the commissioner

291 Commissioner

- (1) On the commencement day, the commissioner goes out of office.
- (2) No compensation is payable to the commissioner because of subsection (1).

292 Agreements and legal proceedings

- (1) An agreement or arrangement in force immediately before the commencement day, between the commissioner and another entity, is taken to be an agreement or arrangement between the State and the entity.
- (2) A proceeding that could have been started or continued by or against the commissioner before the commencement day may be started or continued by or against the State.

293 Assets and liabilities

On the commencement day, an asset or liability of the commissioner, in the commissioner's capacity as commissioner under this Act, immediately before the commencement day becomes an asset or liability of the State.

294 Employees

- (1) A person's employment by the commissioner immediately before the commencement day is, on the commencement day, taken to be lawfully terminated under the *Industrial Relations Act 1999*.
- (2) The person has the rights given to an employee whose employment has been lawfully terminated under that Act.
- (3) The rights given to the person may be exercised against the State as if the State had been the employer who terminated the person's employment.

295 Exempt documents

A document to which section 271 applied immediately before the commencement day continues to be exempt matter under the *Freedom of Information Act 1992*.

Part 4 Appeals

296 Appeal to Magistrates Court

- (1) This section applies in relation to a decision of the commissioner, made before the commencement day, from which a person had a right of appeal under section 234 before the commencement day.
- (2) The appeal may be started or continued on or after the commencement day and, for that purpose—
 - (a) section 234, as in force before the commencement day, continues to apply; and
 - (b) the chief executive is the respondent in place of the commissioner.

297 Appeal to Land Court

- (1) This section applies in relation to a decision of the commissioner made before the commencement day under section 65 or 72(3).
- (2) An appeal against the decision may be started or continued on or after the commencement day and, for that purpose—
 - (a) section 235, as in force before the commencement day, continues to apply; and
 - (b) the chief executive is the respondent in place of the commissioner.

Chapter 10 Other transitional provisions

298 Transitional provision for Sugar Industry (Real Choice in Marketing) Amendment Act 2015

- (1) This section applies to a contract (an *existing cane supply contract*) that, immediately before the commencement, was a supply contract in force under chapter 2.
- (2) Section 33B does not apply to the existing cane supply contract.
- (3) Subsection (2) stops applying if both of the following happen—
 - (a) the current contract period for the existing cane supply contract ends or the contract is terminated;
 - (b) the current agreement period for an existing related raw sugar supply agreement, if any, for the existing cane supply contract ends or the agreement is terminated.
- (4) Despite subsection (3), subsection (2) stops applying on 1 July 2017.

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- (5) Section 34, as in force immediately before the commencement, applies to—
- (a) the existing cane supply contract; and
 - (b) any existing arbitration.
- (6) Subsection (5)(a) stops applying—
- (a) when the current period for the existing cane supply contract ends; or
 - (b) if the existing cane supply contract is terminated.
- (7) Despite subsections (2) and (5), the existing cane supply contract is taken to be a supply contract.
- (8) In this section—

current agreement period, for an existing related raw sugar supply agreement, means the period stated in the agreement for which it is in force but does not include a period to which an extension or renewal of the agreement relates.

current contract period, for the existing cane supply contract—

- (a) means the period stated in the contract for which it is in force; but
- (b) if the contract is extended or renewed on or after the commencement, does not include a period to which the extension or renewal relates.

existing arbitration means an arbitration proceeding authorised by the existing cane supply contract that has started and not been completed before the commencement.

existing related raw sugar supply agreement, for the existing cane supply contract, means an agreement—

- (a) for the sale of raw sugar that has been manufactured, or is to be manufactured, from the cane supplied, or to be supplied, under the existing cane supply contract; and
- (b) that was in force immediately before the commencement.

Schedule Dictionary

section 4

access right see section 63(1).

acquire includes purchase, take on lease, licence or under another interest.

bargaining representative, for chapter 2, part 2, see section 30.

cane means sugar cane.

cane railway easement see section 63(5).

collective contract means a collective contract under section 33.

Competition Code—

- (a) for chapter 6, see section 236; or
- (b) for chapter 8, part 7, see section 281.

competition legislation—

- (a) for chapter 6, see section 236; or
- (b) for chapter 8, part 7, see section 281.

crushing season means, for any calendar year, the season for the harvesting and crushing of cane starting in the year.

decision includes an order and a direction.

GEI sugar marketing entity see section 33B(2)(d)(i).

GEI sugar marketing term see section 33B(2)(d)(i).

grantee, of an access right, means the mill owner or grower to whom the access right is granted.

group of growers, for chapter 2, part 2, see section 33(1).

grower—

- (a) generally, means a person who supplies cane to a mill; and

- (b) may, if the context permits, include a person who proposes to supply cane to a mill.

interested third party, for chapter 2, part 2, see section 30.

mill means a building or other structure that is equipped for the manufacture of sugar from cane.

mill owner or ***owner of a mill*** means an entity owning or having the control of a mill including the manager, the managing director or other person controlling the business of a mill.

notice means written notice.

obstructs includes assaults, threatens, abuses, insults, intimidates, hinders and attempts to obstruct.

on-supply sugar, to which a supply contract relates, means the raw sugar manufactured, or to be manufactured, from the cane supplied, or to be supplied, under the supply contract.

party, to an access right, means the landholder for the land affected by the access right or the grantee of the access right.

permit to pass see section 63(2).

pooled export contract see section 243(1).

products includes by-products.

QSL means Queensland Sugar Limited ACN 090 152 211.

registrar, in relation to an access right, means the registrar of titles under the *Land Title Act 1994*.

related body corporate see the Corporations Act, section 50.

sell, on-supply sugar, includes set a sale price for, market, export or otherwise arrange to sell, the sugar.

sugar means all raw sugar, crystal sugar, sugar syrups, inverted syrups, liquid sugar and any other form of manufactured sugar other than the following—

- (a) final molasses;
- (b) a form of sugar manufactured from another form of sugar previously disposed of by QSL;

- (c) sugar the source of which was grown outside Queensland.

sugar cane means any plant or part of a plant, whether or not the part has been crushed, of the genus *Saccharum* or any hybrid of sugar cane.

supplier, for sugar, means a person who, immediately before the sugar is manufactured, owns the sugar cane from which the sugar is manufactured.

supply contract—

- (a) means a written contract, complying with chapter 2, part 2, division 1, made between a grower and a mill owner for the supply of cane by the grower to the mill; and
- (b) includes a supply contract taken to have been made under section 33A(10).

sustainable production means farming practices and systems that maintain or enhance—

- (a) economic viability of production; and
- (b) the natural resource base, that is, soil, land and water; and
- (c) other ecosystems that are influenced by agricultural activities.