

Queensland



**SUGAR INDUSTRY AND
OTHER LEGISLATION
AMENDMENT BILL (NO. 2)
2003**



SUGAR INDUSTRY AND OTHER LEGISLATION AMENDMENT BILL (No. 2) 2003

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2003

A BILL

FOR

An Act to amend the Sugar Industry Act 1999, and for other purposes

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The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Clause 1 Short title

3

This Act may be cited as the *Sugar Industry and Other Legislation Amendment Act (No. 2) 2003*.

4

5

Clause 2 Commencement

6

(1) Sections 3, 10 to 22, 27, 31 to 33 and 40(1), (4), (6) and (7) of this Act commence on assent.

7

8

(2) The remaining provisions of this Act, other than section 40(3), commence on 1 January 2004.

9

10

(3) Section 40(3) of this Act commences on 1 July 2004.

11

**PART 2—AMENDMENT OF SUGAR INDUSTRY
ACT 1999**

12

13

Clause 3 Act amended in pt 2

14

This part, and the schedule, amends the *Sugar Industry Act 1999*.

15

Clause 4 Amendment of title

16

Title, from ‘about’ to ‘Queensland’—

17

omit, insert—

18

‘to provide for the establishment of marketing arrangements for the domestic and export supply of sugar’.

19

20

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Clause 5	Amendment of s 1 (Short title)	1
	Section 1, ‘ <i>Industry</i> ’—	2
	<i>omit, insert</i> —	3
	‘ <i>Marketing</i> ’.	4
Clause 6	Replacement of ch 2, hdg	5
	Chapter 2, heading—	6
	<i>omit, insert</i> —	7
	‘CHAPTER 2—SUPPLY CONTRACTS AND CANE ACCESS RIGHTS’.	8 9
Clause 7	Replacement of ch 2, pt 1 (Cane production areas)	10
	Chapter 2, part 1—	11
	<i>omit, insert</i> —	12
	‘PART 1—CANE SUPPLY AND SUPPLY CONTRACTS	13
	<i>‘Division 1—Cane supply is governed by supply contracts</i>	14
‘7	Object of pt 1	15
	‘The object 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 written contracts (each a “ supply contract ”) between growers and mill owners.	16 17 18
‘8	Definitions for pt 1	19
	‘In this part—	20
	“bargaining representative” , for a group of growers, means a person with the written authority of each grower who is a member of the group.	21 22
	“group of growers” see section 11(1).	23
	“interested third party” means a person with a direct or indirect monetary interest in—	24 25

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(a) the supply by growers of cane to a mill; or	1
(b) the milling of cane.	2
<i>Examples—</i>	3
1. A harvesting contractor who is engaged by a grower or mill owner to harvest cane.	4 5
2. A producer of ethanol.	6
3. A person who transports cane to a mill.	7
“supply contract” see section 7.	8
 ‘9 Supply contract	 9
‘(1) Each grower must have a supply contract with a mill owner for each season.	10 11
‘(2) A grower must make a supply contract with a mill owner before the grower supplies cane to the mill.	12 13
‘(3) A supply contract may be either an individual contract or a collective contract.	14 15
‘(4) A supply contract may be for 1 or more crushing seasons.	16
‘(5) An interested third party may be a party to a supply contract between a mill owner and a grower.	17 18
‘(6) Each of the parties to a supply contract must sign the contract.	19
 ‘10 Individual contract	 20
‘An individual contract—	21
(a) is a supply contract made directly between a grower and a mill owner; and	22 23
(b) may be for all or part of the supply of cane grown by the grower.	24
 ‘11 Collective contract	 25
‘(1) A collective contract is a supply contract made between 2 or more growers (a “group of growers”) and a mill owner.	26 27
‘(2) Each grower in a group of growers must sign the collective contract.	28

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‘(3) A group of growers may appoint a bargaining representative to negotiate a collective contract on behalf of the group.	1 2
‘(4) There may be more than 1 collective contract in force at the same time for a mill.	3 4
‘(5) A grower may be a party to 1 or more collective contracts.	5
‘12 Variation of supply contract	6
‘(1) The parties to a supply contract may, in writing, vary the contract.	7
‘(2) The varied supply contract is taken to be the supply contract for this part.	8 9
<i>‘Division 2—Dispute resolution</i>	10
‘13 Application of div 2	11
‘This division applies if, for a supply contract, a dispute arises between any or all of the parties to the supply contract about its terms.	12 13
‘14 Parties may choose dispute resolution process	14
‘Subject to section 15, the parties may, if they agree—	15
(a) under section 16, refer the dispute to mediation; or	16
(b) attempt to resolve the dispute by another dispute resolution process.	17 18
‘15 No final offer arbitration	19
‘(1) The parties can not use final offer arbitration.	20
‘(2) The parties to a dispute use “ final offer arbitration ” if, at the end of mediation—	21 22
(a) each party to the mediation gives a written offer (a “ final offer ”) for resolving all issues to—	23 24
(i) the mediator appointed for the mediation; and	25
(ii) each other party to the dispute; and	26

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(b) the final offer states the basis on which the party is prepared to settle all issues that have not been agreed; and	1 2
(c) an arbitrator appointed to resolve the dispute can make a decision only by choosing 1 of the offers; and	3 4
(d) if only 1 final offer has been made—the arbitrator may accept the offer as the arbitrator’s decision.	5 6
‘16 Mediation	7
‘(1) If the dispute is referred to mediation, the mediation must be conducted by—	8 9
(a) a person agreed to by the parties; or	10
(b) if the parties can not agree on a mediator—the commissioner or a person appointed by the commissioner.	11 12
‘(2) However, the commissioner may appoint a mediator only if the person has the qualifications or experience the commissioner considers appropriate to mediate the dispute.	13 14 15
‘(3) The parties must pay the mediator the costs of mediation in the proportions decided by the mediator.	16 17
‘(4) An amount of unpaid costs is a debt payable to the mediator and may be recovered in a court of competent jurisdiction.	18 19
‘(5) Nothing in this section affects any rights or remedies to which a party to the dispute may be entitled.	20 21
‘17 Arbitration	22
‘(1) If the commissioner certifies that the dispute has not, under section 16, been resolved by mediation, the commissioner may refer the dispute to an arbitrator.	23 24 25
‘(2) However, the commissioner may refer the dispute to arbitration only if agreed to by the parties.	26 27
‘(3) The arbitrator must be—	28
(a) a person agreed to by the parties; or	29
(b) if the parties can not agree on an arbitrator—the commissioner or a person appointed by the commissioner.	30 31

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	‘(4) However, the commissioner may appoint an arbitrator only if the person has the qualifications or experience the commissioner considers appropriate to arbitrate the dispute.’	1 2 3
	‘(5) The <i>Commercial Arbitration Act 1990</i> applies to the arbitration.	4
	‘(6) However, the arbitrator—	5
	(a) can not be ordered to pay the costs, or part of the costs, of the arbitration; and	6 7
	(b) may recover from the parties the costs of arbitration in the proportions decided by the arbitrator.	8 9
	‘(7) An amount of unpaid costs is a debt payable to the arbitrator and may be recovered in a court of competent jurisdiction.’.	10 11
Clause 8	Omission of ch 2, pt 2 (Cane supply and processing agreements)	12
	Chapter 2, part 2—	13
	<i>omit.</i>	14
Clause 9	Omission of ch 2, pt 5 (Mills)	15
	Chapter 2, part 5—	16
	<i>omit.</i>	17
Clause 10	Insertion of new ch 3, pt 1, hdg and s 99	18
	Chapter 3, before section 100—	19
	<i>insert—</i>	20
	‘PART 1—MARKETING OF SUGAR VESTED IN QSL	21
	‘99 Definition for pt 1	22
	‘In this part—	23
	“ supplier ”, for sugar, means a person who, immediately before the sugar is manufactured, owns the sugar cane from which the sugar is manufactured.’.	24 25 26

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Clause 11	Amendment of s 100 (Vesting of sugar in QSL)	1
	(1) Section 100—	2
	<i>insert—</i>	3
	‘(1A) However, the sugar does not become the property of QSL if the authority grants, under part 2, an exemption for the sugar. ¹ ’.	4
		5
	(2) Section 100(1A) to (3)—	6
	<i>renumber</i> as section 100(2) to (4).	7
Clause 12	Amendment of s 101 (QSL to market and pay for vested sugar)	8
	Section 101, ‘mill owner’—	9
	<i>omit, insert—</i>	10
	‘supplier’.	11
Clause 13	Amendment of s 102 (Schemes for payment)	12
	(1) Section 102(1)—	13
	<i>omit, insert—</i>	14
	‘(1) Payment to a supplier for sugar vested in QSL must be calculated and made—	15
		16
	(a) under payment schemes; and	17
	(b) by reference to the raw sugar equivalent of sugar delivered by the supplier to QSL.’.	18
		19
	(2) Section 102(6) ‘mill owners’—	20
	<i>omit, insert—</i>	21
	‘suppliers’.	22
	(3) Section 102(7), ‘mill owner’—	23
	<i>omit, insert—</i>	24
	‘supplier’.	25
	(4) Section 102(8), from ‘relevant mill owners’—	26

1 See however, section 107S(3)(b) (In what ways can exempt sugar be used).

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omit, insert— 1
‘relevant suppliers.’. 2
(5) Section 102(9) and (10)— 3
omit. 4

Clause 14 Amendment of s 103 (Production of brands of raw sugar) 5
(1) Section 103(7) and (8)— 6
omit. 7
(2) Section 103(9)— 8
renumber as section 103(7). 9

Clause 15 Amendment of s 104 (Directions about delivery etc.) 10
Section 104(2), ‘mill owners’— 11
omit, insert— 12
‘suppliers’. 13

Clause 16 Amendment of s 105 (Sugar quality standards) 14
(1) Section 105(1), ‘mill owner’— 15
omit, insert— 16
‘supplier’. 17
(2) Section 105(4), from ‘mill owner’— 18
omit, insert— 19
‘supplier.’. 20

Clause 17 Amendment of s 107 (Exemption of sugar for local consumption) 21
(1) Section 107(1), ‘(“**exempt sugar**”)’— 22
omit, insert— 23
‘(“**local consumption exempt sugar**”)’. 24
(2) Section 107(2), ‘Exempt sugar’— 25

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<i>omit, insert—</i>	1
‘Local consumption exempt sugar’.	2
(3) Section 107, ‘exempt sugar’—	3
<i>omit, insert—</i>	4
‘local consumption exempt sugar’.	5

Clause 18	Insertion of new ch 3, pt 2	6
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After section 107—	7
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<i>insert—</i>	8
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‘PART 2—EXEMPTIONS FROM VESTING IN QSL	9
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<i>‘Division 1—Preliminary</i>	10
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‘107A Definitions for pt 2	11
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‘In this part—	12
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“amendment” , of an exemption, means an amendment of the following details stated in the exemption certificate—	13 14
--	----------

(a) the exemption’s on-user; or	15
---------------------------------	----

(b) the exemption’s exempt use of the sugar.	16
--	----

“applicant” , for an exemption or an amendment of an exemption, means a person who applies for the exemption or amendment of the exemption.	17 18 19
--	----------------

“exemption” means a grant from the authority to exempt the sugar manufactured from a person’s sugar cane from vesting, under section 100, in QSL.	20 21 22
--	----------------

“exemption application” see section 107C(1).	23
---	----

“exemption certificate” means a certificate given under section 107K(1).	24
---	----

“exemption certificate details” see section 107L(2).	25
---	----

“exemption close day” see section 107C(1).	26
---	----

“exemption conditions” see section 107I.	27
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- “exempt sugar”**, for an exemption, means sugar for which the exemption has been granted. 1
2
- “exempt sugar details”** see section 107E(1)(a)(v). 3
- “exempt use”** see section 107B. 4
- “on-user”** means a person who has a contract, arrangement or understanding with an applicant for the use of the applicant’s sugar for an exempt use. 5
6
7
- “related mill”** means the mill that manufactures the sugar to be exempted under an applicant’s exemption. 8
9
- “relevant sugar source”** means the sugar source from which the sugar to be exempted will be manufactured. 10
11

‘107B Meaning of “exempt use” 12

‘An **“exempt use”**, for sugar, means sugar that is intended to have any of the following uses— 13
14

- (a) to be sold in the domestic market in a State; 15
 - (b) to be used for the manufacture in a State of refined sugar or an alternative product; 16
17
- Example of an alternative product—* 18
- Ethanol. 19
- (c) to be exported in bags (but not in bulk), if the quality of the sugar to be exported is suitable for human consumption; 20
21
 - (d) a use similar to a use mentioned in paragraphs (a) to (c). 22

‘Division 2—Obtaining exemption certificate 23

‘Subdivision 1—Exemption applications 24

‘107C Declaration of exemption close day 25

‘(1) The authority must, for each year, publish a gazette notice declaring a day by which any application for an exemption (an **“exemption application”**) in the year must be lodged (the **“exemption close day”**). 26
27
28

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‘(2) Before declaring the exemption close day, the authority must consult with QSL.	1 2
‘(3) The authority may also notify the exemption close day in a way the authority considers appropriate.	3 4
‘107D Applying for exemption	5
‘(1) A person may make an exemption application to the authority.	6
‘(2) The application must be made on or before the exemption close day.	7
‘107E Procedural requirements for application	8
‘(1) An exemption application must—	9
(a) state the following—	10
(i) the applicant’s name and address;	11
(ii) the on-user’s name and address;	12
(iii) the period of the exemption;	13
(iv) the proposed use of the sugar;	14
(v) a description of the sugar to be exempted (the “ exempt sugar details ”); and	15 16
(b) be accompanied by—	17
(i) satisfactory evidence that the applicant is the owner of the relevant sugar source; and	18 19
(ii) a document to show the applicant’s contract, arrangement or understanding with the on-user; and	20 21
(iii) the reasonable fee fixed by the authority for deciding the application that is no more than its actual costs of deciding the application.	22 23 24
‘(2) The exempt sugar details must include—	25
(a) either—	26
(i) the number of tons of sugar to be exempted; or	27

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(ii) the amount of sugar to be exempted expressed as a percentage of the related mill's total production of sugar; and	1 2 3
(b) another way of identifying the sugar to be exempted, including, for example, the following—	4 5
(i) the quality of the sugar;	6
(ii) when the relevant sugar source is to be crushed.	7
‘107F Authority may seek further information or documents	8
‘(1) The authority may, after an exemption application has been made, give the applicant a notice requiring the applicant—	9 10
(a) to give the authority a stated document or information that is relevant to the application; or	11 12
(b) to verify the correctness of the document or information by statutory declaration.	13 14
‘(2) However, the notice may be given only within 15 business days after the authority receives the application.	15 16
‘(3) The application is withdrawn if, within the stated time in the notice, the applicant does not comply with a requirement under subsection (1).	17 18
 <i>‘Subdivision 2—Deciding exemption application</i>	 19
‘107G Decision on exemption application	20
‘(1) The authority must consider and decide either to grant, grant on conditions or refuse each exemption application within 28 days after the last of the following events to happen—	21 22 23
(a) the making of the application;	24
(b) the authority's receipt of all necessary information to decide the application;	25 26
(c) if, under section 107F, the authority has required the applicant to give a document or information—the giving of the required document or information.	27 28 29

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‘(2) If the authority does not make a decision before the event happens stated in subsection (1), the exemption application is taken to be granted when the event happens.	1 2 3
‘107H Criteria for decision	4
‘(1) The authority must grant an exemption application if satisfied—	5
(a) the applicant is the owner of the relevant sugar source; and	6
(b) the proposed use of the sugar to be exempted under the exemption application is an exempt use.	7 8
‘(2) If the authority is not satisfied as mentioned in subsection (1), it must refuse the application.	9 10
‘107I Exemption conditions	11
‘The authority may, in granting an exemption application, impose conditions on the exemption the authority considers necessary or desirable to ensure the exempt sugar under the exemption application is used only for an exempt use (“ exemption conditions ”).	12 13 14 15
‘107J Period of exemption	16
‘(1) An exemption may be granted for 1 or more crushing seasons.	17
‘(2) However, an exemption may only be granted for a crushing season that starts after the relevant exemption application is made.	18 19
‘(3) If the authority decides to grant an exemption, the exemption remains in force for the period—	20 21
(a) commencing on the day when the authority makes its decision; and	22 23
(b) ending on the last day of the period of the exemption.	24

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<i>‘Subdivision 3—Action after decision on exemption application</i>	1
‘107K Grant of exemption application	2
‘(1) If an exemption application is granted, the authority must as soon as practicable give the applicant a signed exemption certificate.	3 4
‘(2) The exemption certificate must state the following—	5
(a) the applicant’s name and address;	6
(b) the on-user’s name and address;	7
(c) the period of the exemption;	8
(d) either—	9
(i) the number of tons of sugar exempted; or	10
(ii) the amount of sugar exempted expressed as a percentage of the related mill’s total production of sugar;	11 12
(e) any other information the authority considers appropriate.	13
‘107L Exempt use on copy of exemption certificate	14
‘(1) The authority must—	15
(a) keep a copy of the exemption certificate; and	16
(b) on the copy, state the following—	17
(i) the exempt use of the sugar;	18
(ii) any exempt sugar details, or other information, the authority considers appropriate.	19 20
‘(2) The information recorded, under section 107K, on the exemption certificate and, under this section, on the copy of the certificate is called the applicant’s “exemption certificate details” .	21 22 23
‘107M Authority must give QSL details of exemption certificate	24
‘The authority must, within 7 days after the authority gives an applicant an exemption certificate, give QSL the applicant’s exemption certificate details.	25 26 27

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‘107N Notice of refusal of exemption application

‘The authority must, as soon as practicable after making a decision as follows about an exemption application, give the applicant an information notice about the decision—

- (a) a decision to refuse the application;
- (b) a decision to impose an exemption condition.

‘Division 3—Register of exemption certificates

‘107O Keeping register

‘The authority must keep a register of exemption certificates.

‘107P Exemption certificate details

‘(1) The register must state, for each exemption certificate, the information required to be stated on the certificate.

‘(2) The register is not required to contain information that is stated on the authority’s copy of the certificate kept under section 107L.

‘107Q Inspection of register

‘The authority must—

- (a) keep the register open for inspection, free of charge, at the authority’s office by any person during the authority’s office hours; and
- (b) allow a person to take extracts, free of charge, from the register; and
- (c) if a person asks for a copy of the register, or a part of it—give the person the copy on payment of a fee that is no more than the reasonable cost incurred in giving the person the copy.

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‘Division 4—Procedure for amendment of exemption

‘107R Application for amendment of exemption

‘(1) A person may at any time apply to the authority for an amendment of the person’s exemption.

‘(2) The application for amendment must—

(a) state each of the following—

- (i) the applicant’s name and address;
- (ii) if the on-user (the **“new on-user”**) is different from the on-user stated on the applicant’s exemption certificate—the new on-user’s name and address;
- (iii) if the proposed use of the sugar (the **“new proposed use”**) is different from the proposed use stated on the applicant’s exemption certificate—the new proposed use; and

(b) be accompanied by—

- (i) if there is a new on-user—a document to show the applicant’s contract, arrangement or understanding with the new on-user; and
- (ii) if there is a new proposed use—a document to show the new proposed use; and
- (iii) the reasonable fee fixed by the authority for deciding the application that is no more than its actual costs of deciding the application.

‘(3) Sections 107F to 107I and 107K to 107N, with necessary changes, apply to the application for an amendment of the exemption as if it were an exemption application.

‘(4) If the applicant is granted an amendment of the applicant’s exemption—

- (a) the exemption the applicant held before the granting of the amendment of the exemption lapses; and
- (b) the exemption that is amended under this section is taken to be the exemption for this part.

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‘Division 5—Use of exempt sugar

‘107S In what ways can exempt sugar be used

‘(1) This section applies to a person who is—

(a) a holder of an exemption; or

(b) an on-user for the exemption.

‘(2) The person may use the exempt sugar under the exemption only in the following ways—

(a) for the exempt use stated for the sugar in the exemption;

(b) if the person has a contract with QSL for the use of the exempt sugar under the exemption—for the use decided by QSL.

‘(3) If the person or another person uses the sugar in a way that contravenes subsection (2)—

(a) the exemption for the sugar is of no effect; and

(b) section 100(1) applies as if the exemption had never been granted.

‘Division 6—Application of Freedom of Information Act 1992

‘107T Exempt matter

‘A document held by the authority in connection with the making, under this part, of applications or the granting of exemptions is exempt matter under the *Freedom of Information Act 1992*.

‘Division 7—Prohibited conduct

‘107U False or misleading application

‘(1) A person must not make an application as follows containing information the person knows is false or misleading in a material particular—

(a) an exemption application;

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(b) an application for amendment of an exemption.	1
Maximum penalty—3 000 penalty units.	2
‘(2) Section 252 ² does not apply to an application mentioned in subsection (1).	3 4
‘107V Improper use of exempt sugar	5
‘A person must not use exempt sugar under an exemption for a use other than each of the following—	6 7
(a) for the exempt use stated for the sugar in the exemption;	8
(b) if the person has a contract with QSL for the use of the exempt sugar under the exemption—for the use decided by QSL.	9 10
Maximum penalty—3 000 penalty units.	11
‘107W Executive officers must ensure corporation complies with pt 2	12
‘(1) The executive officers of a corporation must ensure the corporation complies with this division.	13 14
‘(2) If a corporation commits an offence against a provision of this division, each of its executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.	15 16 17
Maximum penalty—the penalty for the contravention of the provision by an individual.	18 19
‘(3) Evidence that the corporation has been convicted of an offence against a provision of this division is evidence that each of its executive officers committed the offence of failing to ensure the corporation complies with the provision.	20 21 22 23
‘(4) However, it is a defence for an executive officer to prove that—	24
(a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or	25 26 27 28

2 Section 252 (Offence to make false statement in application or submission)

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(b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

‘(5) It is also a defence in a proceeding against an executive officer for the officer to prove information that tended to incriminate the corporation was obtained under a direction or requirement under this part.’.

Clause 19 Amendment of s 124 (Minister’s directions to QSL)

(1) Section 124—

insert—

‘(1A) However, the Minister can not give QSL written directions about the pricing of sugar for sale to domestic customers.’.

(2) Section 124(3) and (10)—

omit.

(3) Section 124(4), ‘any other type of’—

omit, insert—

‘the’.

(4) Section 124(1A) and (2)—

renumber as section 124(2) and (3).

Clause 20 Amendment of s 128 (Membership)

Section 128(2), before ‘commodity’—

insert—

‘the application of competition principles,’.

Clause 21 Amendment of s 135 (Functions of authority)

Section 135(2), from ‘has’—

omit, insert—

‘has—

(a) the function provided for under division 4; and

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	(b) the function of granting exemptions and giving exemption certificates.’.	1 2
Clause 22	Amendment of s 138 (Authority’s budget)	3
	Section 138(4), after ‘QSL’—	4
	<i>insert</i> —	5
	‘and from fees and charges collected from matters associated with the granting of exemptions’.	6 7
Clause 23	Omission of ch 4, pt 6 (Cane production boards)	8
	Chapter 4, part 6—	9
	<i>omit</i> .	10
Clause 24	Omission of ch 4, pt 9 (Negotiating teams)	11
	Chapter 4, part 9—	12
	<i>omit</i> .	13
Clause 25	Amendment of s 223A (Powers of commissioner)	14
	Section 223A(b)—	15
	<i>omit, insert</i> —	16
	‘(b) acquire, hold, dispose of and deal with property, including, for example, assets transferred to the commissioner under chapter 10; ³ ’.	17 18 19
Clause 26	Amendment of s 234 (Appeal to Magistrates Court)	20
	(1) Section 234(1)(a)—	21
	<i>omit, insert</i> —	22

3 See sections 388 (Automatic dissolution) and 410 (Transfer to commissioner).

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‘(a) a person whose application to register any matter on a register kept by the commissioner has been refused by the commissioner;’.

(2) Section 234(1)(b) to (e)—

omit.

(3) Section 234(1)(g)—

renumber as section 234(1)(b).

Clause 27 Insertion of new s 234A

After section 234—

insert—

‘234A Appeal to District Court—exemption application

‘(1) This section applies to a decision by the authority under section 107G.⁴

‘(2) The applicant may appeal to the District Court (the “**court**”).

‘(3) The appeal is started by—

(a) giving a notice of appeal stating the grounds to the clerk of the court; and

(b) giving a copy of the notice to the authority.

‘(4) An appeal must be started within 28 days after the appellant is given notice of the authority’s decision under section 107N.⁵

‘(5) In deciding the appeal, the court—

(a) is unaffected by the appealed decision; and

(b) is not bound by the rules of evidence; and

(c) must observe natural justice.

‘(6) In deciding the appeal, the court may confirm the appealed decision or set the appealed decision aside and make another decision.

4 Section 107G (Decision on exemption application)

5 Section 107N (Notice of refusal of exemption application)

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‘(7) If the court makes another decision, the decision, other than for this section, is taken to be the decision of the respondent.’. 1
2

Clause 28 Replacement of ss 237–242 3

Sections 237 to 242— 4

omit, insert— 5

‘237 Collective contracts 6

‘(1) This section applies only to a collective contract made under section 11 between a group of growers and a mill owner who are within the same region. 7
8
9

‘(2) 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. 10
11
12

‘(3) The following things are specifically authorised for the competition legislation— 13
14

(a) the making of a collective contract under section 11;⁶ 15

(b) the variation, under section 12,⁷ of a collective contract. 16

‘(4) Subsection (1) applies to the making or variation of a collective contact only to the extent the contract is made or varied for giving effect to a settlement about— 17
18
19

(a) the acceptance and crushing of cane by a mill at a time fixed under the agreement; and 20
21

(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. 22
23
24

‘(5) The following things are specifically authorised for the competition legislation— 25
26

(a) the acceptance and crushing of cane by a mill at a time fixed under a collective agreement; and 27
28

6 Section 11 (Collective contract)

7 Section 12 (Variation of supply contract)

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- (b) the payment of a price for cane by a mill owner to a grower under a supply agreement mentioned in this section;
1
2
- (c) the receipt of a price for cane by a grower from a mill owner under a supply agreement mentioned in this section;
3
4
- (d) 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 a supply agreement mentioned in this section.
5
6
7
8
- ‘(6) In this section—
9
- “**region**” means a part of the State that is prescribed under a regulation.
10
- “**settlement**” means a contract, arrangement or understanding made or arrived at between any or all of the following—
11
12
- (a) a group of growers;
13
- (b) a mill owner;
14
- (c) an interested third party.’.
15

Clause	29 Omission of s 246 (Sugar price directions)	16
	Section 246—	17
	<i>omit.</i>	18
Clause	30 Omission of s 248 (General provisions about show cause proceedings)	19 20
	Section 248—	21
	<i>omit.</i>	22
Clause	31 Omission of ch 10, pts 1 and 2	23
	Chapter 10, parts 1 and 2—	24
	<i>omit.</i>	25
Clause	32 Amendment of ch 10, pt 3, hdg	26
	Chapter 10, part 3, heading—	27

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omit, insert—

**‘PART 1—TRANSITIONAL PROVISIONS FOR SUGAR
INDUSTRY AND OTHER LEGISLATION AMENDMENT
ACT 2003’.**

Clause 33 Insertion of new ch 10, pt 2

Chapter 10, after part 1—

insert—

**‘PART 2—TRANSITIONAL PROVISIONS FOR SUGAR
INDUSTRY AND OTHER LEGISLATION AMENDMENT
ACT (No. 2) 2003**

‘Division 1—Preliminary

‘373 Definitions for pt 2

‘In this part—

“amending Act” means the *Sugar Industry and Other Legislation Amendment Act (No. 2) 2003*.

“unamended Act” means this Act as in force immediately before the date of assent for the amending Act.

‘Division 2—Dissolution of cane production boards

‘Subdivision 1—Interpretation and application

‘374 Definitions for div 2

‘In this division—

“assets”, of a board, means all assets of the board, or of members of the board held by them as members of the board, immediately before the board’s transfer day.

“board” means a cane production board under the unamended Act.

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“liabilities” , of a board, means all liabilities of the board, or of members of the board incurred by them as members of the board, immediately before the board’s transfer day.	1 2 3
“receiving entity” see section 377.	4
“transfer day” , for a board, means—	5
(a) 1 January 2004 if—	6
(i) the board does not, before 1 January 2004, give the Minister a notice under section 379; ⁸ or	7 8
(ii) the Minister approves, on or before 1 January 2004, a proposed transfer for the board; or	9 10
(iii) the Minister has refused, on or before 1 January 2004, to approve each proposed transfer for the board; or	11 12
(b) if the Minister approves, or refuses to approve, after 1 January 2004, the transfer for the board—the day the Minister approves, or refuses to approve, the transfer.	13 14 15
 ‘375 Application to transfers from more than 1 board	 16
‘(1) This division applies to a transfer of assets and liabilities of boards from more than 1 board to a single receiving entity on the transfer day for the boards in the same way it applies to a transfer from a single board to a receiving entity.	17 18 19 20
‘(2) For subsection (1), each provision of subdivisions 2 and 3 is applied separately to each board.	21 22
 <i>‘Subdivision 2—Voluntary dissolution</i>	 23
 ‘376 Decision to transfer to person	 24
‘A board may, before 1 January 2004, decide to dissolve itself and transfer its assets and liabilities to a person.	25 26

8 Section 379 (Notice of decision about receiving entity)

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‘377 Things that must be decided for the transfer	1
‘Under section 376, the board must decide the person to which it will transfer its assets and liabilities (the “receiving entity”).	2 3
‘378 Deciding the receiving entity	4
‘A board may decide a person will be its receiving entity only if—	5
(a) the receiving entity has, by notice to the board signed by an authorised person for the entity, agreed to be the receiving entity; and	6 7 8
(b) the relevant mill owner and a majority of the growers who supply cane to the relevant mill agree with the proposed transfer.	9 10
‘379 Notice of decision about receiving entity	11
‘(1) The board must give the Minister notice of its decision under section 376.	12 13
‘(2) The notice must state the following—	14
(a) the day the decision was made;	15
(b) the receiving entity’s name.	16
‘(3) The notice must be accompanied by—	17
(a) a copy of the notice mentioned in section 378(a); and	18
(b) evidence that the relevant mill owner and a majority of the growers who supply cane to the relevant mill agree with the proposed transfer.	19 20 21
‘380 Minister’s decision	22
‘(1) The Minister must consider the notice and may require information from the board.	23 24
‘(2) If the Minister considers that all requirements of this Act have been complied with for the transfer, the Minister must, by notice given to the board, approve the transfer for the board.	25 26 27

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‘(3) If the Minister does not consider that all the requirements for the transfer have been complied with, the Minister must, by notice given to the board, refuse to approve the transfer and state the reasons for the refusal.	1 2 3
‘381 Transfer and dissolution	4
‘(1) This section applies if the Minister approves the transfer of a board.	5
‘(2) On the transfer day for the board—	6
(a) the board’s assets and liabilities are transferred to, and become the assets and liabilities of, the receiving entity; and	7 8
(b) the board is dissolved.	9
‘Subdivision 3—Provisions facilitating transfer	10
‘382 Exemption for cooperatives	11
‘If a receiving entity is a cooperative, the <i>Cooperatives Act 1997</i> , section 268 ⁹ does not apply to the transfer of the board’s assets and liabilities to the receiving entity.	12 13 14
‘383 Registration of transferred assets	15
‘(1) A certificate signed by an authorised person for a receiving entity is evidence of an asset having become an asset of the receiving entity on the board’s transfer day if the certificate—	16 17 18
(a) identifies the asset; and	19
(b) states the asset was, immediately before the transfer day, an asset of the board; and	20 21
(c) states that, under this division, the asset became an asset of the receiving entity on the transfer day.	22 23
‘(2) If the certificate is given to an entity with registration functions under a law of the State for assets of that kind under a law of the State, the entity must do the following as if the certificate were an appropriate instrument of transfer of the asset—	24 25 26 27

9 *Cooperatives Act 1997*, section 268 (Acquisition and disposal of assets)

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(a) register the matter in the same way as transactions for assets of that kind;	1 2
(b) deal with, and give effect to, the certificate.	3
<i>Example of an entity with registration functions—</i>	4
• the registrar of titles.	5
‘(3) A transfer of the asset to the receiving entity may be registered or given effect to under the law of another State or the Commonwealth if—	6 7
(a) the certificate is given to an entity with registration functions for assets of that kind under the other State’s or the Commonwealth’s law; and	8 9 10
(b) the entity is permitted by law to do so.	11
 ‘384 References to board	 12
‘A reference to a board in an Act or document existing before its dissolution has effect, from its dissolution, as if it were a reference to the receiving entity, if the context permits.	13 14 15
 ‘385 Continuity of proceedings and matters	 16
‘(1) A proceeding that, if a board were not dissolved, might have been started or continued by or against the board may, from the dissolution, be started or continued by or against the receiving entity.	17 18 19
‘(2) All matters started by a board before its dissolution may be completed by the receiving entity after the board’s dissolution.	20 21
 ‘386 Employees	 22
‘(1) A person’s employment by a board immediately before the board’s transfer day is, on the transfer day, taken to be lawfully terminated under the Industrial Relations Act.	23 24 25
‘(2) The receiving entity and the employee may agree the employee is, on the transfer day, to be employed by the receiving entity.	26 27
‘(3) If an agreement is made under subsection (2), subsections (4) to (7) apply.	28 29
‘(4) Subsection (2) does not—	30

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- (a) constitute a redundancy or retrenchment of the person's employment by the board; or
1
2
- (b) entitle the person to a benefit or payment merely because the person is no longer employed by the board; or
3
4
- (c) interrupt the person's continuity of service.
5
- '(5) For the Industrial Relations Act, the person's period of employment with the board is taken to be an equivalent period of employment with the replacement corporation.
6
7
8
- '(6) Subject to the Industrial Relations Act, the person has the same employment rights against the replacement corporation that the person had against the board immediately before the transfer day.
9
10
11
- '(7) If an industrial instrument under the Industrial Relations Act bound the person and the board immediately before the transfer day, it binds the person and the replacement corporation.
12
13
14
- '(8) If an agreement is not made under subsection (2)—
15
- (a) the person has, under the Industrial Relations Act, the rights given to an employee whose employment has been lawfully terminated under that Act; and
16
17
18
- (b) the rights given to the person may be exercised against the receiving entity as if the receiving entity had been the employer who terminated the person's employment.
19
20
21
- '387 Members cease holding office**
22
- '(1) Each person who, immediately before a board's transfer day, was a member of the board goes out of office on the transfer day.
23
24
- '(2) No compensation is payable to a person because of subsection (1).
25
- 'Subdivision 4—Automatic dissolution if no receiving entity***
26
- '388 Automatic dissolution**
27
- '(1) This section applies if—
28
- (a) a board does not, before 1 January 2004, give the Minister a notice under section 379;¹⁰ or
29
30

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(b) the Minister refuses, under section 380(3), ¹¹ to approve the transfer for the board.	1 2
‘(2) On the transfer day for the board—	3
(a) the board’s assets and liabilities are transferred to the commissioner; and	4 5
(b) the board is dissolved.	6
‘389 Continuity of proceedings and matters	7
‘(1) A proceeding that, if a board were not dissolved, might have been started or continued by or against the board may, from the dissolution, be started or continued by or against the commissioner.	8 9 10
‘(2) All matters started by a board before its dissolution may be completed by the commissioner after the board’s dissolution.	11 12
‘390 Employees	13
‘(1) A person’s employment by a board immediately before the board’s transfer day is, on the transfer day, taken to be lawfully terminated under the Industrial Relations Act.	14 15 16
‘(2) The person has the rights given to an employee whose employment has been lawfully terminated under that Act.	17 18
‘(3) The rights given to the person may be exercised against the commissioner as if the commissioner had been the employer who terminated the person’s employment.	19 20 21
‘391 Members cease holding office	22
‘(1) Each person who, immediately before a board’s transfer day, was a member of the board goes out of office on the transfer day.	23 24
‘(2) No compensation is payable to a person because of subsection (1).’.	25

10 Section 379 (Notice of decision about receiving entity)

11 Section 380 (Minister’s decision)

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Clause 34	Insertion of new ch 10, pt 2, div 3	1
	Chapter 10, part 2—	2
	<i>insert—</i>	3
	<i>‘Division 3—Abolition of cane production areas</i>	4
	‘392 Definition for div 3	5
	‘In this division—	6
	“commencement” means the day the amending Act, section 34, commences.	7 8
	‘393 Abolition of existing cane production areas	9
	‘(1) This section applies to a cane production area under the unamended Act in existence under this Act immediately before the commencement.	10 11
	‘(2) The cane production area is abolished.	12
	‘(3) No compensation is payable to the holder of the cane production area because of subsection (2).	13 14
	‘394 Undecided applications taken to have lapsed	15
	‘(1) This section applies if—	16
	(a) a person applied before the commencement under the unamended Act, chapter 2, part 1, division 2, for a grant, variation or cancellation of a cane production area; and	17 18 19
	(b) on the commencement the application had not been decided.	20
	‘(2) The application is taken to have lapsed.	21
	‘(3) No compensation is payable to an applicant because of subsection (2).	22 23
	‘395 End of processes relating to cane production areas	24
	‘(1) This section applies if a horizontal expansion or productivity increase process under the unamended Act has started but has not ended before the commencement.	25 26 27

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- ‘(2) On the commencement— 1
- (a) the process ends; and 2
- (b) any application relating to the process that has not been decided 3
is taken to have lapsed. 4

‘(3) No compensation is payable to an applicant because of 5
subsection (2). 6

‘396 Existing instrument, agreement, understanding and undertaking 7

‘(1) A reference in an instrument or an oral agreement, understanding or 8
undertaking to a grower who is identified by the grower’s cane production 9
area is, on commencement, taken to be a reference to the grower. 10

*Example of an instrument under which a grower may be identified by the grower’s cane 11
production area— 12*

- BSES Services Agreement 13
- PBR Licence Agreement. 14

‘(2) The instrument or oral agreement, understanding or undertaking 15
gives rise to the same rights and liabilities as would have risen if the 16
unamended Act were not amended by the amending Act.’. 17

Clause 35 Insertion of new ch 10, pt 2, div 4 18

Chapter 10, part 2— 19

insert— 20

‘Division 4—Supply agreements 21

‘397 Definition for div 4 22

‘In this division— 23

“commencement” means the day the amending Act, section 35, 24
commences. 25

‘398 Termination of existing supply agreements 26

‘(1) This section applies to a supply agreement in existence immediately 27
before the commencement. 28

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‘(2) On the commencement, the agreement is terminated. 1

‘(3) No compensation is payable to a party to the agreement because of 2
subsection (2). 3

‘(4) In this section— 4

“supply agreement” means a supply agreement made under the 5
unamended Act, chapter 2, part 2.¹² 6

‘399 Undecided applications taken to have lapsed 7

‘(1) This section applies if— 8

(a) a person applied before the commencement, under the 9
unamended Act, section 45,¹³ for a variation of a collective 10
agreement; and 11

(b) on the commencement, the application had not been decided. 12

‘(2) The application is taken to have lapsed. 13

‘(3) No compensation is payable to an applicant because of 14
subsection (2). 15

‘(4) In this section— 16

“collective agreement” means a collective agreement under the 17
unamended Act, section 41.¹⁴. 18

Clause 36 Insertion of new ch 10, pt 2, div 5 19

Chapter 10, part 2— 20

insert— 21

12 Chapter 2 (Production, supply and milling), part 2 (Cane supply and processing agreements)

13 Section 45 (Variation of collective agreement)

14 Section 41 (Collective agreement—nature)

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<i>‘Division 5—Mill suppliers’ committees</i>	1
<i>‘Subdivision 1—Preliminary</i>	2
‘400 Definition for div 5	3
‘In this division—	4
“commencement” means the day the amending Act, section 36, commences.	5 6
“mill suppliers’ committee” means a mill suppliers’ committee defined under the unamended Act, schedule. ¹⁵	7 8
<i>‘Subdivision 2—Incorporated mill suppliers’ committees</i>	9
‘401 No effect on corporate status	10
‘(1) This section applies to a mill suppliers’ committee that, immediately before the commencement, is a corporation.	11 12
‘(2) To remove any doubt, it is declared that the repeal of former provisions of this Act relating to mill suppliers’ committees does not affect the committee’s corporate status.	13 14 15
<i>‘Subdivision 3—Transfer of assets and liabilities of unincorporated mill suppliers’ committees to replacement corporation</i>	16 17
‘402 Application of sdiv 3	18
‘This subdivision applies to a mill suppliers’ committee that, immediately before the commencement, is not a corporation.	19 20
‘403 Definitions for sdiv 3	21
‘In this subdivision—	22

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- “assets”**, of a mill suppliers’ committee, means all assets of the committee, or of members of the committee held by them as members of the committee, immediately before the transfer day. 1
2
3
- “eligible grower”** means a person who, immediately before the transfer day, is, under the definition of the term “grower” under the repealed *Primary Producers’ Organisation and Marketing Act 1926*, section 30,¹⁶ a grower for the mill or mills a mill suppliers’ committee represents. 4
5
6
7
8
- “liabilities”**, of a mill suppliers’ committee, means all liabilities of the committee, or of members of the committee incurred by them as members of the committee, immediately before the transfer day. 9
10
11
- “PIBR Act”** means the *Primary Industry Bodies Reform Act 1999*. 12
- “replacement corporation”**, for a mill suppliers’ committee, see section 404. 13
14
- “replacement corporation trust”**, for a replacement corporation, means the trust established under the PIBR Act, section 44.¹⁷ 15
16
- “transfer day”** means 1 January 2004. 17
- ‘404 Transfer of mill suppliers’ committee’s assets and liabilities** 18
- ‘Subject to section 405, a mill suppliers’ committee’s assets and liabilities are transferred to the following corporation (its **“replacement corporation”**) on the transfer day and become assets and liabilities of the replacement corporation— 19
20
21
22
- (a) generally—the corporation appointed under the PIBR Act, section 41,¹⁸ as the replacement corporation for the former Queensland Cane Growers’ Organisation; 23
24
25
 - (b) if under the PIBR Act, section 46(1)(a),¹⁹ another corporation has replaced the corporation mentioned in paragraph (a) as trustee of the replacement corporation trust—the other corporation; 26
27
28

16 The repealed *Primary Producers’ Organisation and Marketing Act 1926*, section 30 (Cane to be a commodity)

17 PIBR Act, section 44 (Purpose trust for eligible growers)

18 PIBR Act, section 41 (Transfer of producer body’s assets and liabilities)

19 PIBR Act, section 46 (Change of trustee or termination of trust)

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- (c) if under the PIBR Act, section 46(1)(b), the replacement corporation trust has been terminated—the corporation to which the former trust property of the trust has been transferred under that paragraph.

‘405 Purpose trust for eligible growers

‘(1) This section applies only if the replacement corporation trust for a replacement corporation had not been terminated under the PIBR Act, section 46(1)(b), before the transfer day.

‘(2) The assets (the “**trust property**”) transferred to the replacement corporation under section 404 are taken to be held by it under the replacement corporation trust.

‘(3) The trust property is taken to be the trust property of the replacement corporation trust.

‘(4) The PIBR Act, section 48,²⁰ applies to the assets as if the transfer day were the replacement corporation transfer day.

‘(5) The PIBR Act, section 45,²¹ applies to the liabilities transferred under section 404 as if the transfer day were the replacement corporation transfer day.

‘(6) In this section—

“**replacement corporation transfer day**” means the transfer day under the PIBR Act, section 10(3).²²

‘406 Exemption for cooperatives

‘If the replacement corporation for a mill suppliers’ committee is a cooperative, the *Cooperatives Act 1997*, section 268,²³ does not apply to the transfer of a mill suppliers’ committee’s assets and liabilities to the replacement corporation.

20 PIBR Act, section 48 (Registration of transferred assets)

21 PIBR Act, section 45 (Reimbursement for transferred liabilities)

22 PIBR Act, section 10 (Meaning of “transfer day”)

23 *Cooperatives Act 1997*, section 268 (Acquisition and disposal of assets)

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‘407 Employees	1
‘(1) A person’s employment by a mill suppliers’ committee immediately before the commencement is, on the commencement, taken to be lawfully terminated under the Industrial Relations Act.	2 3 4
‘(2) The person has the rights given to an employee whose employment has been lawfully terminated under that Act.	5 6
‘(3) The rights given to the person may be exercised against the replacement corporation as if the replacement corporation had been the employer who terminated the person’s employment.	7 8 9
 ‘408 Members cease holding office	 10
‘(1) Each person who, immediately before the commencement, was a member of a mill suppliers’ committee goes out of office on the commencement.	11 12 13
‘(2) No compensation is payable to a person because of subsection (1).’.	14
 Clause 37 Insertion of new ch 10, pt 2, div 6	 15
Chapter 10, part 2—	16
<i>insert—</i>	17
<i>‘Division 6—Abolition of negotiating teams</i>	18
 ‘409 Definitions for div 6	 19
‘In this division—	20
“assets” , of a negotiating team, means all assets of the negotiating team, or of members of the negotiating team held by them as members of the negotiating team, immediately before the commencement.	21 22 23
“commencement” means the day the amending Act, section 37, commences.	24 25
“negotiating team” means a negotiating team established under the unamended Act and in existence immediately before the commencement.	26 27 28
“liabilities” , of a negotiating team, means all liabilities of the negotiating team, or of members of the negotiating team incurred by them as	29 30

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members of the negotiating team, immediately before the commencement.	1 2
‘410 Transfer to commissioner	3
‘On the commencement, a negotiating team’s assets and liabilities are transferred to, and become the assets and liabilities of, the commissioner.	4 5
‘411 Abolition	6
‘On the commencement, each negotiating team is abolished.	7
‘412 Continuity of proceedings and matters	8
‘(1) A proceeding that, before the commencement, might have been started or continued by or against a negotiating team may, after the commencement, be started or continued by or against the commissioner.	9 10 11
‘(2) All matters started by a negotiating team before the commencement may be completed by the commissioner after the commencement.	12 13
‘413 Employees	14
‘(1) A person’s employment by a negotiating team immediately before the commencement is, on the commencement, taken to be lawfully terminated under the Industrial Relations Act.	15 16 17
‘(2) The person has the rights given to an employee whose employment has been lawfully terminated under that Act.	18 19
‘(3) The rights given to the person may be exercised against the commissioner as if the commissioner had been the employer who terminated the person’s employment.	20 21 22
‘414 Members cease holding office	23
‘(1) Each person who, immediately before the commencement, was a member of a negotiating team goes out of office on the commencement.	24 25
‘(2) No compensation is payable to a person because of subsection (1).’.	26

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Clause 38	Insertion of new ch 10, pt 2, div 7	1
	Chapter 10, part 2—	2
	<i>insert—</i>	3
	<i>‘Division 7—Appeals</i>	4
	‘415 Definitions for div 7	5
	‘In this division—	6
	“board” means a cane production board established under the unamended Act, section 161. ²⁴	7 8
	“commencement” means the day the amending Act, section 38, commences.	9 10
	‘416 Appeal to Magistrates Court against board’s decision	11
	‘(1) This section applies to a person mentioned in the unamended Act, section 234(1)(a) to (e), ²⁵ who may appeal to a Magistrates Court against the decision, mentioned in relation to the person, of a board.	12 13 14
	‘(2) If—	15
	(a) the person has appealed to a Magistrates Court under the unamended Act, section 234, against the decision; and	16 17
	(b) the appeal has not been decided before the commencement;	18
	the appeal lapses.	19
	‘(3) No order for costs may be made for the appeal.	20
	‘(4) If—	21
	(a) the person could have appealed to a Magistrates Court under the unamended Act, section 234, against the decision; and	22 23
	(b) the person has not appealed before the commencement;	24
	the unamended Act, section 234, does not apply to the decision.	25

24 Section 161 (Establishment of a cane production board)

25 Section 234 (Appeal to Magistrates Court)

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‘417 Appeal to District Court against Magistrates Court’s decision	1
‘(1) This section applies to a person mentioned in the unamended Act, section 234(1)(a) to (e), who—	2 3
(a) has appealed to a Magistrates Court against the decision, mentioned in relation to the person, of a board; and	4 5
(b) is dissatisfied with the decision of the Magistrates Court (the “ court decision ”).	6 7
‘(2) If—	8
(a) the person has appealed to the District Court under the unamended Act, section 234(8), against the court decision; and	9 10
(b) the appeal has not been decided before the commencement; the appeal lapses.	11 12
‘(3) No order for costs may be made for the appeal.	13
‘(4) If—	14
(a) the person could have appealed to the District Court under the unamended Act, section 234(8), against the court decision; and	15 16
(b) the person has not appealed before the commencement; the unamended Act, section 234(8), does not apply to the court decision.’.	17 18
 Clause 39 Insertion of new ch 10, pt 2, div 8	 19
Chapter 10, part 2—	20
<i>insert—</i>	21
‘Division 8—Injunctions	22
 ‘418 Definitions for div 8	 23
‘In this division—	24
“ commencement ” means the day the amending Act, section 39, commences.	25 26
“ court ” means the Supreme Court.	27
“ injunction ” includes an interim injunction.	28

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“repealed provision” means a provision of the unamended Act, chapter 2, part 1, 2 or 5. ²⁶	1 2
“undesirable conduct” , for a person, means the person has engaged, is engaging, or is proposing to engage, in conduct that is, was, or would be, any of the following—	3 4 5
(a) a contravention of a repealed provision;	6
(b) attempting to contravene a repealed provision;	7
(c) aiding, abetting, counselling or procuring a person to contravene a repealed provision;	8 9
(d) inducing or attempting to induce (whether by threats, promises or otherwise) a person to contravene a repealed provision;	10 11
(e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of a repealed provision;	12 13
(f) conspiring with others to contravene a repealed provision.	14
 ‘419 Undecided applications taken to have lapsed	 15
‘(1) This section applies if an interested entity applied before the commencement under the unamended Act, section 247, ²⁷ to the court for an injunction—	16 17 18
(a) either—	19
(i) restraining a person from engaging in undesirable conduct;	20
or	21
(ii) requiring a person to do anything the person is required to do under a repealed provision; and	22 23
(b) on the commencement, the application had not been decided.	24
‘(2) The application is taken to have lapsed.	25
‘(3) No order for costs may be made for the application.	26

26 Chapter 2 (Production, supply and milling), part 1 (Cane production areas), 2 (Cane supply and processing agreements) or 5 (Mills)

27 Section 247 (Injunctions)

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‘420 Injunctions of no effect after commencement

‘(1) This section applies if the court has, on the application of an interested entity, granted an injunction, under the unamended Act, section 247—

- (a) restraining a person from engaging in undesirable conduct and, if the court considered it desirable to do so, requiring the person to do anything; or
- (b) requiring a person to do anything the person is required to do under a repealed provision.

‘(2) The injunction is of no effect after the commencement.’.

Clause 40 Amendment of schedule (Dictionary)

(1) Schedule, definitions “Competition Code”, “competition legislation”, “grower” and “mill”—

omit.

(2) Schedule, definitions “adjacent”, “cane analysis program”, “cane quality program”, “cane production area”, “cane production board”, “cane productivity”, “cane supply and processing agreement”, “closed mill”, “closed mill cane”, “collective agreement”, “commercial cane sugar”, “consent process”, “crushing capacity”, “current cane production area”, “current cane production board”, “current mill”, “eligible person”, “expansion”, “grant of unallocated hectares”, “guidelines”, “harvesting equity committee”, “horizontal expansion”, “horizontal expansion process”, “land included in a cane production area”, “mill suppliers’ committee”, “negotiating team”, “number of hectares included in a cane production area”, “penalty sugar”, “productivity increase”, “productivity increase process”, “Queensland Sugar Corporation”, “receiving cane production board”, “receiving mill”, “register of easements”, “regulation process”, “repealed Act”, “settlement”, “STL”, “Sugar Cane Assignment Register”, “Sugar Industry Tribunal”, “suitable cane land”, “supply agreement”, “third party”, “transfer”, “transitional assignment”, “transitional easement”, “transitional permit”, “unallocated” and “variation”—

omit.

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(3) Schedule, definitions “assets”, “board”, “liabilities”, “pest”, “pest infestation”, “proposed transfer day”, “replacement entity” and “transfer day”—	1
	2
	3
<i>omit.</i>	4
(4) Schedule—	5
<i>insert—</i>	6
‘ “amendment” , for chapter 3, part 2, see section 107A.	7
“applicant” , for chapter 3, part 2, see section 107A.	8
“Competition Code” see section 236.	9
“competition legislation” see section 236.	10
“exemption” , for chapter 3, part 2, see section 107A.	11
“exemption application” see section 107C(1).	12
“exemption certificate” see section 107A.	13
“exemption certificate details” see section 107L(2).	14
“exemption close day” see section 107C(1).	15
“exemption conditions” see section 107I.	16
“exempt sugar” see section 107A.	17
“exempt sugar details” see section 107E(1)(a)(v).	18
“exempt use” see section 107B.	19
“grower” means a person who supplies cane to a mill.	20
“mill” means a building or other structure that is equipped for the manufacture of sugar from cane.	21
	22
“on-user” see section 107A.	23
“related mill” , for chapter 3, part 2, see section 107A.	24
“relevant sugar source” see section 107A.	25
“supplier” see section 99.’.	26
(5) Schedule—	27
<i>insert—</i>	28
‘ “bargaining representative” , for chapter 2, part 1, see section 8.	29

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“collective contract” means a collective contract under section 11.	1
“group of growers” see section 11(1).	2
“interested third party” see section 8.	3
“supply contract” , for chapter 2, part 1, see section 7.’.	4
(6) Schedule, definition “sugar cane”, after ‘part of a plant’ —	5
<i>insert—</i>	6
‘, whether or not the part has been crushed,’.	7
(7) Schedule, definition “payment scheme”, ‘mill owner’ —	8
<i>omit, insert—</i>	9
‘a supplier’.	10

PART 3—MINOR AND CONSEQUENTIAL	11
AMENDMENTS OF ACTS	12

Clause 41 Acts amended—schedule	13
The schedule amends the Acts it mentions.	14

SCHEDULE	1
MINOR AND CONSEQUENTIAL AMENDMENTS OF ACTS	2 3
sections 3 and 41	4
DUTIES ACT 2001	5
1 Schedule 6, definition “new right”, paragraph (f)—	6
<i>omit.</i>	7
2 Schedule 6, definition “new right”, paragraph (g), ‘<i>Sugar Industry Act 1999</i>’—	8 9
<i>omit, insert—</i>	10
<i>‘Sugar Marketing Act 1999’.</i>	11
LIENS ON CROPS OF SUGAR CANE ACT 1931	12
1 Sections 8(1), ‘Subject to the <i>Sugar Industry Act 1999</i> and any collective agreement mentioned in section 40²⁸ of that Act and affecting any crop, if’—	13 14 15
<i>omit, insert—</i>	16
<i>‘If’.</i>	17

28 *Sugar Industry Act 1999*, section 40 (Collective agreement—nature) was renumbered as section 41 under the *Sugar Industry Act 1999*, section 227A.

SCHEDULE (continued)

2	Section 8(1), ‘relates any cane production area in which is’—	1
	<i>omit, insert—</i>	2
	‘the lien or supplies the crop from any land’.	3
3	Section 8(4)—	4
	<i>omit.</i>	5
4	Section 9(1)(a), ‘under a cane supply and processing agreement entered into under the <i>Sugar Industry Act 1999</i>’—	6
	<i>omit.</i>	7
		8
5	Section 9(1)(d), ‘such levies’—	9
	<i>omit, insert—</i>	10
	‘the fees or charges’.	11
6	Section 17(1)(a), ‘, on land all or part of which is assigned to a mill under the <i>Sugar Industry Act 1991</i>’—	12
	<i>omit.</i>	13
		14

SUGAR INDUSTRY ACT 1999	15
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1	Chapter 4, part 10, division 1, heading—	16
	<i>omit.</i>	17
2	Chapter 4, part 10, division 2—	18
	<i>omit.</i>	19

SCHEDULE (continued)

3	Sections 109(1)(e) and (4), 110(1)(e), 223(b) to (e), 230(2), 254(3) and (5)(c) and 256(1)—	1 2
	<i>omit.</i>	3
4	Section 182, from ‘by—’—	4
	<i>omit, insert—</i>	5
	‘by the entity that nominated the member for appointment. ²⁹ ’.	6
5	Section 223(f) to (i)—	7
	<i>renumber</i> as section 223(b) to (e).	8
6	Section 230(3), from ‘to—’—	9
	<i>omit, insert—</i>	10
	‘to an appropriately qualified mediator.’.	11
7	Section 234(3), from ‘appellant’—	12
	<i>omit, insert—</i>	13
	‘appellant is given notice of the relevant decision.’.	14
8	Section 234(9), definition “decision”—	15
	<i>omit, insert—</i>	16
	‘ “decision” includes an order.’.	17
9	Section 236, definitions “harvesting equity committee” and “settlement”—	18 19
	<i>omit.</i>	20

²⁹ The *Acts Interpretation Act 1954*, section 24B contains provisions about acting appointments.

SCHEDULE (continued)

10	Section 254(1), ‘subsections (2) to (4)’—	1
	<i>omit, insert—</i>	2
	‘subsections (2) and (3)’.	3
11	Section 254(4), ‘subsections (2) and (3)’—	4
	<i>omit, insert—</i>	5
	‘subsection (2)’.	6
12	Section 254(4) and (5), as amended—	7
	<i>renumber</i> as section 254(3) and (4).	8
TRANSPORT INFRASTRUCTURE ACT 1994		9
1	Schedule 3, definition “cane railway”, paragraph (a)(i), ‘<i>Sugar Industry Act 1991</i>, part 11’—	10
	<i>omit, insert—</i>	11
	‘ <i>Sugar Marketing Act 1999</i> ’.	12
2	Schedule 3, definition “cane railway”, paragraph (a)(iii), ‘<i>Sugar Industry Act 1999</i>, chapter 2, part 4’—	14
	<i>omit, insert—</i>	15
	‘ <i>Sugar Marketing Act 1999</i> ’.	16
		17

SCHEDULE (continued)

TRANSPORT OPERATIONS (ROAD USE	1
MANAGEMENT) ACT 1995	2

- | | | |
|----------|--|---|
| 1 | Schedule 4, definition “railway”, paragraph (b), ‘<i>Sugar Industry Act 1999</i>, chapter 2, part 4’— | 3 |
| | | 4 |
| | <i>omit, insert—</i> | 5 |
| | <i>‘Sugar Marketing Act 1999’.</i> | 6 |