



Queensland

Chicken Meat Industry Amendment Bill 2011



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2011

A Bill

for

**An Act to amend the *Chicken Meat Industry Committee Act*
1976**

The Parliament of Queensland enacts—	1
Clause 1 Short title	2
This Act may be cited as the <i>Chicken Meat Industry Amendment Act 2011</i> .	3 4
Clause 2 Commencement	5
Sections 6(1), 7 and 10 to 19 commence on a day to be fixed by proclamation.	6 7
Clause 3 Act amended	8
This Act amends the <i>Chicken Meat Industry Committee Act 1976</i> .	9 10
Clause 4 Amendment of long title	11
Long title, from ‘industry,’—	12
<i>omit, insert—</i>	13
‘ industry ’.	14
Clause 5 Amendment of s 1 (Short title)	15
Section 1, ‘ <i>Committee</i> ’—	16
<i>omit</i> .	17
Clause 6 Amendment of s 2 (Definitions)	18
(1) Section 2, definition <i>chairperson</i> —	19
<i>omit</i> .	20
(2) Section 2—	21
<i>insert—</i>	22
‘ assets , for part 2A, see section 19A.’	23

authorised person, for part 2A, see section 19A. 1
company limited by guarantee, for part 2A, see section 19A. 2
IAMA, for part 5, see section 27. 3
liabilities, for part 2A, see section 19A. 4
notice means written notice. 5
proposed transfer day, for part 2A, see section 19C(a). 6
public record, for part 5, see section 27. 7
replacement corporation see section 19C(b). 8
transfer day see section 19A.’. 9

- (3) Section 2, definition *committee*, from ‘by’— 10
omit, insert— 11
‘under this Act as in force immediately before the assent of 12
the *Chicken Meat Industry Amendment Act 2011*.’. 13
- (4) Section 2, definition *competition legislation*, ‘*Editor’s* 14
notes’— 15
omit, insert— 16
‘*Notes*’. 17

Clause 7 Omission of pt 2 (Chicken Meat Industry Committee) 18
Part 2— 19
omit. 20

Clause 8 Insertion of new pts 2A and 2B 21
After section 19— 22
insert— 23

[s 8]

‘Part 2A	Matters about dissolution of Chicken Meat Industry Committee	1 2 3
‘Division 1	Preliminary	4
‘19A	Definitions for pt 2A	5
	‘In this part—	6
	<i>assets</i> , of the committee, means all assets of the committee immediately before the transfer day.	7 8
	<i>authorised person</i> , for the replacement corporation, means its secretary or another individual with the written authority of its board of directors.	9 10 11
	<i>company limited by guarantee</i> means a company limited by guarantee under the Corporations Act, section 9.	12 13
	<i>liabilities</i> , of the committee, means all liabilities of the committee immediately before the transfer day.	14 15
	<i>proposed transfer day</i> see section 19C(a).	16
	<i>transfer day</i> means the day approved by the Minister under section 19F as the transfer day for the committee.	17 18
‘Division 2	Dissolution of committee	19
‘Subdivision 1	Steps to transfer and dissolution	20
‘19B	Decision to transfer to replacement corporation	21
	‘The committee must decide to dissolve itself and transfer its assets and liabilities to a corporation that is not a statutory body.	22 23 24

‘19C	Committee to decide particular matters for transfer	1
	‘Under section 19B, the committee must decide the following—	2 3
	(a) the day on which it proposes to transfer its assets and liabilities (the <i>proposed transfer day</i>);	4 5
	(b) the corporation to which it will transfer its assets and liabilities (the <i>replacement corporation</i>).	6 7
‘19D	Conditions for transfer	8
	‘The committee may decide a corporation will be its replacement corporation only if—	9 10
	(a) the corporation has, by notice given to the committee signed by an authorised person for the corporation, agreed to be the replacement corporation; and	11 12 13
	(b) the corporation is a company limited by guarantee; and	14
	(c) the committee is satisfied that, on the transfer of its assets and liabilities to the replacement corporation, having regard to the requirements and purposes of the transfer, the following will be appropriate—	15 16 17 18
	(i) the corporation’s constitution;	19
	(ii) the obligations, restrictions and rights that will attach to the corporation’s members;	20 21
	(iii) the corporation’s officers.	22
‘19E	Notice of decision about replacement corporation	23
	‘(1) The committee must give the Minister notice of its decision under section 19B.	24 25
	‘(2) The notice must state the following—	26
	(a) the day the decision was made;	27
	(b) the proposed transfer day;	28
	(c) the replacement corporation’s name;	29

[s 8]

(d)	the replacement corporation is a company limited by guarantee;	1 2
(e)	the committee is satisfied that, on the transfer of its assets and liabilities to the replacement corporation, having regard to the requirements and purposes of the transfer, the following will be appropriate—	3 4 5 6
(i)	the corporation’s constitution;	7
(ii)	the obligations, restrictions and rights that will attach to the corporation’s members;	8 9
(iii)	the corporation’s officers.	10
‘(3)	The notice must be accompanied by a copy of the notice mentioned in section 19D(a).	11 12
‘19F	Minister’s decision about transfer	13
‘(1)	The Minister must consider the notice and may require information from the committee.	14 15
‘(2)	If the Minister does not consider that all requirements for this division have been complied with for the transfer, the Minister may give the committee a written direction about the requirements.	16 17 18 19
‘(3)	The committee must comply with a direction given under subsection (2).	20 21
‘(4)	The Minister must, by notice given to the committee, approve the proposed transfer day, or another day after the proposed transfer day, as the transfer day for the committee.	22 23 24
‘(5)	The day approved by the Minister as the transfer day for the committee must be declared by gazette notice.	25 26
‘19G	Transfer and dissolution	27
‘On the transfer day—		28

(a)	the committee’s assets and liabilities are transferred to, and become the assets and liabilities of, the replacement corporation; and	1 2 3
(b)	the committee is dissolved.	4
‘19H	Replacement corporation does not represent the State	5 6
	‘The replacement corporation—	7
(a)	does not represent the State; and	8
(b)	can not make the State liable for the debts and obligations of the corporation or any other person.	9 10
‘Subdivision 2	Provisions facilitating transfer	11
‘19I	Registration of transferred assets	12
‘(1)	A certificate signed by an authorised person for the replacement corporation is evidence of an asset having become an asset of the corporation on the transfer day if the certificate—	13 14 15 16
(a)	identifies the asset; and	17
(b)	states the asset was, immediately before the transfer day, an asset of the committee; and	18 19
(c)	states that, under this division, the asset became an asset of the replacement corporation on the transfer day.	20 21
‘(2)	If the certificate is given to an entity with registration functions under a law of the State for assets of that kind, the entity must do the following as if the certificate were an appropriate instrument of transfer of the asset—	22 23 24 25
(a)	register the matter in the same way as transactions for assets of that kind;	26 27
(b)	deal with, and give effect to, the certificate.	28
	<i>Example of an entity with registration functions—</i>	29
	the registrar of titles	30

[s 8]

- ‘(3) A transfer of the asset to the replacement corporation may be registered or given effect to under the law of another State or the Commonwealth if—
- (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
 - (b) the entity is permitted by law to do so.
- ‘19J References to the committee**
- ‘A reference to the committee in an Act or document existing before its dissolution has effect, from its dissolution, as if it were a reference to the replacement corporation, if the context permits.
- ‘19K Continuity of proceedings and matters**
- ‘(1) A proceeding that, if the committee were not dissolved, might have been started or continued by or against the committee may, from its dissolution, be started or continued by or against the replacement corporation.
- ‘(2) All matters started by the committee before its dissolution may be completed by the replacement corporation after the committee’s dissolution.
- ‘19L Employees**
- ‘(1) A person employed by the committee immediately before the transfer day becomes, on the transfer day, an employee of the replacement corporation.
- ‘(2) Subsection (1) does not—
- (a) constitute a redundancy or retrenchment of the person’s employment by the committee; or
 - (b) entitle the person to a benefit or payment merely because the person is no longer employed by the committee; or
 - (c) interrupt the person’s continuity of service.

‘(3)	For the <i>Industrial Relations Act 1999</i> , the person’s period of employment with the committee is taken to be an equivalent period of employment with the replacement corporation.	1 2 3
‘(4)	Subject to the <i>Industrial Relations Act 1999</i> , the person has the same employment rights against the replacement corporation that the person had against the committee immediately before the transfer day.	4 5 6 7
‘(5)	If an industrial instrument under the <i>Industrial Relations Act 1999</i> bound the person and the committee immediately before the transfer day, it binds the person and the replacement corporation.	8 9 10 11
‘19M	Members stop holding office	12
‘(1)	A person who, immediately before the transfer day, was a member of the committee goes out of office on the transfer day.	13 14 15
‘(2)	No compensation is payable to a person because of subsection (1).	16 17
‘Part 2B	Provisions about replacement corporation	18 19
‘19N	Function	20
	‘The replacement corporation’s function is to facilitate collective negotiations for agreements, including, for example, by—	21 22 23
(a)	convening a group comprising representatives of growers and a processor to negotiate agreements; and	24 25
(b)	recommending procedures, including codes of conduct, for the group in the negotiations.	26 27

[s 9]

‘190 Powers	1
‘The replacement corporation—	2
(a) may do anything necessary or convenient to be done for performing its function; and	3 4
(b) without limiting paragraph (a), may charge for registering agreements under section 24B and for any services it provides.	5 6 7
‘19P Chairperson	8
‘The replacement corporation’s chairperson must be a director who—	9 10
(a) has recognised expertise in corporate governance; and	11
(b) is independent of the following—	12
(i) representative bodies of the chicken meat industry;	13
(ii) processors;	14
(iii) growers.’.	15
Clause 9 Amendment of pt 3, hdg (Agreements and dispute resolution)	16 17
Part 3, heading, ‘and dispute resolution’—	18
<i>omit.</i>	19
Clause 10 Omission of pt 3, div 1, hdg (Agreements)	20
Part 3, division 1, heading—	21
<i>omit.</i>	22
Clause 11 Insertion of new s 21	23
After section 20—	24
<i>insert—</i>	25

'21	Dispute resolution	1
	‘(1) A written agreement must state a process for dispute resolution between the parties to the agreement.	2 3
	‘(2) The parties to the agreement must attempt to resolve any dispute under the agreement between the parties by using the process.’.	4 5 6
Clause 12	Omission of s 22A and pt 3, div 2	7
	Section 22A and part 3, division 2—	8
	<i>omit.</i>	9
Clause 13	Amendment of pt 3A, hdg (Registration of agreements and annual fees)	10 11
	Part 3A, heading, ‘and annual fees’—	12
	<i>omit.</i>	13
Clause 14	Omission of pt 3A, div 1, hdg (Registration)	14
	Part 3A, division 1, heading—	15
	<i>omit.</i>	16
Clause 15	Amendment of s 24A (Committee to keep register)	17
	(1) Section 24A, heading, ‘Committee’—	18
	<i>omit, insert—</i>	19
	‘Replacement corporation’.	20
	(2) Section 24A, ‘committee’—	21
	<i>omit, insert—</i>	22
	‘replacement corporation’.	23
Clause 16	Amendment of s 24B (Application for registration)	24
	(1) Section 24B(1), ‘committee’—	25

[s 17]

omit, insert— 1

‘replacement corporation’. 2

(2) Section 24B(2)— 3

omit, insert— 4

‘(2) The replacement corporation must— 5

(a) register the agreement; and 6

(b) give the applicant notice of the registration.’. 7

Clause 17 Omission of s 24C and pt 3A, div 2 8

Section 24C and part 3A, division 2— 9

omit. 10

Clause 18 Replacement of s 25 (Protection of members) 11

Section 25— 12

omit, insert— 13

‘25 Review of Act 14

‘(1) The Minister must, within 10 years after the commencement 15
of this section, start a review of this Act to ensure it is 16
adequately meeting community expectations and its 17
provisions remain appropriate. 18

‘(2) The Minister must, as soon as practicable after the review is 19
finished, table a report of the outcome of the review in the 20
Legislative Assembly.’. 21

Clause 19 Insertion of new pt 5 22

After section 26— 23

insert— 24

'Part 5	Transitional provisions for Chicken Meat Industry Amendment Act 2011	1 2 3
'27	Definitions for pt 5	4
	'In this part—	5
	<i>IAMA</i> means The Institute of Arbitrators & Mediators Australia ACN 008 520 045.	6 7
	<i>public record</i> means a public record under the <i>Public Records Act 2002</i> .	8 9
'28	Public records of committee	10
	'A public record held by the committee immediately before the transfer day becomes a public record of the department on the transfer day.	11 12 13
'29	Disposal of public records	14
	'(1) This section applies if—	15
	(a) a thing is done for which a certificate mentioned in section 19I(1) is evidence of the thing; and	16 17
	(b) the thing is, or involves, a disposal of a public record.	18
	'(2) To remove any doubt, it is declared that, for the purpose of the <i>Public Records Act 2002</i> , section 13, the public record is disposed of under legal authority, justification or excuse.	19 20 21
'30	Existing register of agreements	22
	'(1) The register of agreements kept under previous section 24A is taken to be the register of agreements kept under current section 24A.	23 24 25
	'(2) In this section—	26
	<i>current section 24A</i> means section 24A as in force immediately after the transfer day.	27 28

[s 19]

previous section 24A means section 24A as in force
immediately before the transfer day. 1
2

‘31 Application for registration 3

‘(1) An application for registration of an agreement, made under
previous section 24B and not decided before the transfer day,
must be decided from the transfer day under section 24B. 4
5
6

‘(2) In this section— 7

previous section 24B means section 24B as in force
immediately before the transfer day. 8
9

**‘32 Mediation of prescribed disputes on or after transfer
day 10
11**

‘(1) This section applies to a prescribed dispute if— 12

(a) before the transfer day—the parties to the dispute
notified the committee of the dispute; and 13
14

(b) on or after the transfer day—the dispute— 15

(i) had not been resolved; and 16

(ii) had not been referred to mediation under previous
section 23(1). 17
18

‘(2) From the transfer day, the replacement corporation must refer
the prescribed dispute to mediation— 19
20

(a) if the dispute is not resolved within 90 days after it
arose; or 21
22

(b) if asked by the parties. 23

‘(3) The mediation must be conducted by— 24

(a) a person agreed to by the parties; or 25

(b) if the parties can not agree on a mediator—a mediator
appointed by the president of IAMA. 26
27

‘(4) The president of IAMA may appoint a mediator under
subsection (3)(b) only if the person has the qualifications or 28
29

	experience the president considers appropriate to mediate the dispute.	1 2
‘(5)	The parties must pay the mediator the costs of mediation in the proportions decided by the mediator.	3 4
‘(6)	An amount of unpaid costs is a debt payable to the mediator and may be recovered in a court with jurisdiction to recover the amount.	5 6 7
‘(7)	Nothing in this section affects any rights or remedies to which a party to the dispute may be entitled.	8 9
‘(8)	In this section—	10
	<i>prescribed dispute</i> means a dispute that arose before the transfer day between a grower and a processor about an agreement or proposed agreement.	11 12 13
	<i>previous section 23(1)</i> means section 23(1) as in force immediately before the transfer day.	14 15
‘33	Arbitration of prescribed disputes on or after transfer day	16 17
‘(1)	This section applies to—	18
	(a) a prescribed dispute mentioned in section 32 that—	19
	(i) is between the parties to an agreement about an amount payable under the agreement; and	20 21
	(ii) is not resolved by mediation by a mediator appointed under section 32; or	22 23
	(b) a dispute between the parties to an agreement about an amount payable under the agreement that—	24 25
	(i) was referred to mediation by a mediator under previous section 23; and	26 27
	(ii) is not resolved by mediation by the mediator.	28
‘(2)	This section applies despite any provision in the agreement to the contrary.	29 30
‘(3)	The replacement corporation must refer the dispute to—	31
	(a) an arbitrator agreed to by the parties; or	32

[s 19]

- (b) if the parties can not agree on an arbitrator—an arbitrator appointed by the president of IAMA. 1
2
- ‘(4) However, the mediator must not be appointed as the arbitrator 3
without the agreement of the parties. 4
- ‘(5) The *Commercial Arbitration Act 1990* applies to the 5
arbitration. 6
- ‘(6) However, the replacement corporation can not be ordered to 7
pay the costs, or part of the costs, of the arbitration. 8
- ‘(7) In this section— 9
previous section 23 means section 23 as in force immediately 10
before the transfer day.’. 11

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