



Queensland

Sugar Industry (Real Choice in Marketing) Amendment Bill 2015



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2015

A Bill

for

An Act to amend the *Sugar Industry Act 1999* for particular purposes

| | |
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| The Parliament of Queensland enacts | 1 |
| Clause 1 Short title | 2 |
| This Act may be cited as the <i>Sugar Industry (Real Choice in Marketing) Amendment Act 2015</i> . | 3 4 |
| Clause 2 Commencement | 5 |
| This Act commences on a day to be fixed by proclamation. | 6 |
| Clause 3 Act amended | 7 |
| This Act amends the <i>Sugar Industry Act 1999</i> . | 8 |
| Clause 4 Amendment of s 29 (Purpose of pt 2) | 9 |
| Section 29, from ‘written’— | 10 |
| <i>omit, insert—</i> | 11 |
| supply contracts. | 12 |
| Clause 5 Amendment of s 30 (Definitions for pt 2) | 13 |
| Section 30, definition <i>supply contract—</i> | 14 |
| <i>omit.</i> | 15 |
| Clause 6 Insertion of new ss 33A and 33B | 16 |
| After section 33— | 17 |
| <i>insert—</i> | 18 |
| 33A Arbitration of disputed terms of intended supply contract | 19 20 |
| (1) This section applies if— | 21 |

-
- (a) a grower is negotiating, or has attempted to negotiate, a supply contract (an ***intended supply contract***) with a mill owner; and
- (b) the grower 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***) to refer the dispute to arbitration.
- (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) and (5).
- (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) 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.
- (7) In this section—
- arbitral tribunal*** see the *Commercial Arbitration Act 2013*, section 2.

| | |
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| 33B Terms of supply contract about sale of on-supply sugar | 1 2 |
| (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. | 3 4 5 6 |
| (2) The supply contract must include each of the following— | 7 8 |
| (a) a term requiring the amount of the payment to the grower for the supply of the cane to be worked out in a stated way by direct or indirect reference to an estimated sale price of the on-supply sugar to which the contract relates; | 9 10 11 12 13 14 |
| (b) a term providing for the proportion of the on-supply sugar for which the mill owner must bear the sale price exposure; | 15 16 17 |
| (c) a term providing for the proportion, if any, of the on-supply sugar for which the grower must bear the sale price exposure (the <i>grower economic interest sugar</i>); | 18 19 20 21 |
| (d) a term requiring the mill owner to have an agreement with a stated entity (the <i>GEI sugar marketing entity</i>) to sell that quantity of the on-supply sugar at least equal to the quantity of the grower economic interest sugar; | 22 23 24 25 26 27 |
| (e) a term providing that if the grower and mill owner can not agree which entity will be the GEI sugar marketing entity, the grower must nominate an entity as the GEI sugar marketing entity and the mill owner must accept the nomination. | 28 29 30 31 32 33 |
| (3) However, subsection (2)(d) and (e) does not apply if the supply contract states that the mill owner will sell the on-supply sugar. | 34 35 36 |
| (4) In this section— | 37 |

| | | |
|-----------------|--|----------------------|
| | <i>related body corporate</i> see the Corporations Act, section 50. | 1 2 |
| | <i>Note—</i> | 3 |
| | See section 298. | 4 |
| Clause 7 | Amendment of s 34 (Parties must use dispute resolution process stated in supply contract) | 5 6 |
| | (1) Section 34(1), after ‘resolution’— | 7 |
| | <i>insert—</i> | 8 |
| | including by arbitration | 9 |
| | (2) Section 34— | 10 |
| | <i>insert—</i> | 11 |
| | (3) The <i>Commercial Arbitration Act 2013</i> applies to an arbitration mentioned in subsection (1). | 12 13 |
| Clause 8 | Insertion of new s 238 | 14 |
| | Chapter 6— | 15 |
| | <i>insert—</i> | 16 |
| | 238 Sale of on-supply sugar | 17 |
| | The following things are specifically authorised for the competition legislation— | 18 19 |
| | (a) a grower and mill owner making a supply contract including the term mentioned in section 33B(2)(d) or (e); | 20 21 22 |
| | (b) a mill owner and GEI sugar marketing entity making an agreement to sell on-supply sugar in compliance with the term mentioned in section 33B(2)(d); | 23 24 25 26 |
| | (c) a GEI sugar marketing entity selling on-supply sugar under an agreement mentioned in paragraph (b). | 27 28 29 |

[s 9]

| | | |
|------------------|--|----|
| Clause 9 | Insertion of new ch 10 | 1 |
| | After section 297— | 2 |
| | <i>insert—</i> | 3 |
| | Chapter 10 Other transitional provisions | 4 |
| | | 5 |
| | 298 Transitional provision for Sugar Industry (Real Choice in Marketing) Amendment Act 2015 | 6 |
| | | 7 |
| | (1) This section applies to a supply contract in force immediately before the commencement. | 8 |
| | | 9 |
| | (2) Section 33B does not apply to the contract. | 10 |
| | (3) Pre-amended section 34 applies to the contract. | 11 |
| | (4) Subsections (2) and (3) stop applying at the end of the current contract period unless the contract is sooner terminated. | 12 |
| | | 13 |
| | | 14 |
| | (5) However, if an arbitration proceeding authorised by a supply contract has started and not been completed before the commencement, pre-amended section 34 applies until the arbitration is completed. | 15 |
| | | 16 |
| | | 17 |
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| | | 19 |
| | (6) In this section— | 20 |
| | <i>current contract period</i> means the period stated in the supply contract for which it is in force but does not include a period to which an extension or renewal of the contract relates. | 21 |
| | | 22 |
| | | 23 |
| | | 24 |
| | <i>pre-amended section 34</i> means section 34 as in force immediately before the commencement. | 25 |
| | | 26 |
| Clause 10 | Amendment of schedule (Dictionary) | 27 |
| | (1) Schedule, definition <i>supply contract</i> — | 28 |
| | <i>omit.</i> | 29 |
| | (2) Schedule— | 30 |

insert—

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

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.

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

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(6).

Authorised by the Parliamentary Counsel