This Legislation Bulletin was prepared to assist Members in their consideration of the Bill in the Queensland Legislative Assembly. It should not be considered as a complete guide to the legislation and does not constitute legal advice.

The Bulletin reflects the legislation as introduced. The Queensland Legislation Annotations, prepared by the Office of the Queensland Parliamentary Counsel, or the Bills Update, produced by the Table Office of the Queensland Parliament, should be consulted to determine whether the Bill has been enacted and if so, whether the legislation as enacted reflects amendments in Committee. Readers are also directed to the relevant Alert Digest of the Scrutiny of Legislation Committee of the Queensland Parliament.

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PORTFOLIO: Primary Industries, Fisheries and Forestry

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1. PURPOSE

There are six main areas of amendment proposed by the Primary Industries Legislation Amendment Bill (No. 2) as follows:

- The Bill will dismantle policy councils established from 1991 to 1995 by either of the then Ministers for Primary Industries, the Hon E Casey MLA or the Hon R Gibbs MLA. These policy councils were set up to generally advise the Minister on policy issues for each industry. The policy councils were established under the following legislation:

  City of Brisbane Market Act 1960
  Dairy Industry Act 1993
  Farm Produce Marketing Act 1964
  Fisheries Act 1994
  Grain Industry (Restructuring) Act 1991
  Meat Industry Act 1993
  Sugar Industry Act 1991
• Some of the policy councils are also required to advise the Minister on membership of selection committees which in turn nominate persons for appointment to the statutory authorities established under each of these Acts. These selection committees and their role in the appointment of members of these authorities will also be abolished under the Bill.

• The Bill also introduces into each of the above Acts a specific provision giving the Minister the power to establish an advisory committee or other body to assist in the administration of the Act. The Farm Produce Marketing Act 1964 and the Sugar Industry Act 1991 already provide for the establishment of similar ministerial advisory bodies.

• In the case of the Meat Industry Act 1993, the Bill proposes further amendments which affect the composition of the Queensland Livestock and Meat Authority and proceedings in relation to meetings. The Bill also introduces a new Part 7A into that Act which deals with the appointment of an administrator of that authority.

• The Bill will also repeal sections of the Sugar Industry Act 1991 which concern the increase of cane assigned land.

• The Bill will also make mechanical amendments to the Biological Control Act 1987 and the Stock Act 1915 which will not be discussed in this Bulletin.

• The Bill will amend the Primary Producers’ Organisation and Marketing Act 1926 by removing references to the Council of Agriculture. This body represented commodity boards and organisations formed under that Act. In 1994 this body was dissolved (section 57 of the Statute Law (Miscellaneous Provisions) Act 1994) as it had been inactive for a number of years. Other amendments to the Primary Producers’ Organisation and Marketing Act 1926 concern the removal of “Henry VIII” provisions which are discussed in the Explanatory Notes.

2. THE CITY OF BRISBANE MARKET ACT 1960 AND THE FARM PRODUCE MARKETING ACT 1964

The City of Brisbane Market Act 1960 (the CBM Act) deals with the establishment and maintenance, by the Brisbane Market Authority, of a public market in Brisbane currently located at Rocklea. The Farm Produce Marketing Act 1964 (the FPM Act) deals with the licensing of farm produce agents who are persons who carry on the business of selling fruit and vegetables.

The main effect of the amendments to these Acts will be:

• the dismantling of the Horticulture Industry Policy Council and consequential amendments (section 26 CBM Act and Part 3 FPM Act);
the deletion of the requirement that members of the Brisbane Market Authority are to be nominated by a selection committee and the repeal of those sections dealing with the establishment and qualifications of the selection committee (sections 12(3) and 13 of the CBM Act);

- the repeal of the rules in relation to the eligibility of persons to be nominated for appointment to the Brisbane Market Authority (sections 14 and 15(3)(d) CBM Act); and

- the establishment of a Ministerial Advisory Body (new section 46 of the FPM Act).

2.1 THE HORTICULTURE INDUSTRY POLICY COUNCIL

The Horticulture Industry Policy Council (HIPC) is established under Part 3 of the Farm Produce Marketing Act 1964 which was introduced in 1995 by Section 48 of the Horticulture Legislation Amendment Act 1995. (The Horticulture Legislation Amendment Act 1995 also amended the City of Brisbane Market Act 1960 so as to establish the Brisbane Market Authority which replaced the Brisbane Market Trust¹). At the second reading of the Horticulture Legislation Amendment Bill the then Minister for Primary Industries and Minister for Racing, the Hon R Gibbs MLA described the HIPC as “a major forum for policy interaction between the Government and industry.”²

Mr Gibbs stated further

The Bill amends the Farm Produce Marketing Act 1964 to establish the Queensland Horticulture Industry Policy Council, which will be chaired by the Minister or the Minister’s nominee. An interim policy council has already been formed and was effective in progressing the legislative review to the present stage. The policy council, as established by the Bill, will have an important role in policy development and advising the Government and the authority on industry-wide issues. It will also provide advice in relation to such matters as the authority’s strategic plan.³

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³ Hon R Gibbs MLA, Horticulture Legislation Amendment Bill 1995, p 896.
Pursuant to section 46A of the *Farm Produce Marketing Act 1964*, the Policy Council has the following functions:

(a) to address, and advise on, the long-term strategic issues facing the industry, and to develop appropriate policy responses;

(b) to examine, and make recommendations to the Minister on, industry issues, either on the council’s own initiative or if asked by the Minister or the authority;

(c) to examine, and make recommendations to the Minister on, the authority’s strategic plan;

(d) to find out industry views on industry administration, and give them to the Minister;

(e) [to] assist in the selection of members of the authority;

(f) to examine the State’s legislation about horticulture and make recommendations to the Minister about-

   (i) its operation; and

   (ii) the achievement of its objectives.

Section 46B of the *Farm Produce Marketing Act 1964* provides that the policy council is to consist of the Minister or the Minister’s nominee and “the other persons the Minister considers necessary and appropriate to represent adequately all sectors of the industry”. The policy council is to meet whenever necessary but at least once every 6 months. Section 46D of the FPM Act gives the policy council the power to establish committees to advise it.

The Bill will repeal sections 46A to 46D (Part 3) of the *Farm Produce Marketing Act 1964* and will introduce new Part 3, new section 46 of which provides that the “Minister may establish an advisory committee or other body to assist the Minister in the administration of this Act”. As with the advisory committees introduced in the other legislation discussed in this Bulletin, there are no provisions as to the functions or composition of such a committee nor any reporting requirements. Section 49A of the *Farm Produce Marketing Act 1964* currently provides that “the Minister may select a person or persons to advise the Minister on any matter which may arise in relation to this Act”. This section will also be repealed.

### 2.2 Membership of the Brisbane Market Authority - The Selection Committee

The *Brisbane Market Authority* is, by section 6 of the *City of Brisbane Market Act 1960*, required to maintain a market in Brisbane which is to provide “a place to sell and store fruit and vegetables” and “accommodation and facilities for the conduct of other trade and commerce at the market”. The Authority is given all the
powers of a natural person to achieve its objects and to allow it to do such things as enter into contracts, acquire, hold and deal with property, appoint agents and attorneys and make charges for services and facilities it supplies.

The Brisbane Market Authority is composed of seven members who must have the qualifications set out in section 12 of the *City of Brisbane Market Act 1960*. Section 12(3) provides that the members other than the chairperson are to be nominated by a **selection committee** which is established by the Minister under section 13 of the Act.

The selection committee is to consist of the chairperson (“who, in the Minister’s opinion, is suitable to act as an independent chairperson of the selection committee”) and six other members appointed by the Minister. These other six members “are to be appointed after consultation with the policy council” and must consist of two persons representing each of the groups of fruit and vegetable growers, wholesalers and buyers and retailers (section 13(4)).

Section 14 further prescribes the appointment of members of the Brisbane Market Authority in that it sets out the following people as **ineligible** to be nominated for appointment:

(a) a member of the policy council; or

(b) a member of the committee, or;

(c) a chairperson, deputy chairperson or chief executive officer (regardless of the title by which the person is known) of an organisation representing-

(i) fruit and vegetable growers; or

(ii) fruit and vegetable wholesalers or the farm produce trade; or

(iii) fruit and vegetable buyers or retailers.

The rationale of making industry body “executives” ineligible for membership of the Authority was considered in a 1994 Discussion Paper issued by the then Minister for Primary Industries, the Hon E Casey, entitled *Review of Regulation of the Brisbane Wholesale Fruit and Vegetable Markets*. The Discussion Paper considered the composition of the then Brisbane Market Trust and stated

*The current Trust structure is heavily oriented to industry membership with seven of the ten members being representatives of various industry groups. This structure may not be appropriate for a regulatory authority required to make decisions in the public interest in the exercise of its statutory powers.*

*The Trust is continually involved in decisions of a commercial nature including the setting of rents, allocating and transferring market accommodation, subleasing, times of access and many other issues affecting the operations in the market. The existing structure prevents the effective removal of sectoral interest from the decision process …*
… To enable such statutory authorities to effectively and independently discharge their responsibilities with proper regard to the public interest, a structure exhibiting a better balance between industry experience and commercial expertise appears desirable.\(^4\)

The Bill will delete all references to the selection committee by completely repealing sections 13 and 14 (\textit{Clause 11}). \textbf{Clause 10} of the Bill will repeal section 12(3) so that members of the Brisbane Market Authority will no longer need to be first nominated by a selection committee.

3. \textbf{THE DAIRY INDUSTRY ACT 1993}

The main effect of the amendments to this Act will be:

- the dismantling of the Queensland Dairy Industry Policy Council and consequential amendments (sections 2, 28, 30, 42, 53 and 119);
- the deletion of the requirement that members of the Queensland Dairy Authority are to be nominated by a selection committee and the repeal of those sections dealing with the establishment and qualifications of the selection committee (sections 17 and 18);
- the repeal of the rules in relation to the eligibility of persons to be nominated for appointment to the Queensland Dairy Authority (section 18(5)); and
- the establishment of a Ministerial Advisory Body (section 5).

3.1 \textbf{THE QUEENSLAND DAIRY INDUSTRY POLICY COUNCIL}

The \textit{Queensland Industry Dairy Policy Council} was established under section 5 of the \textit{Dairy Industry Act 1993}.

In the Second Reading Speech to that Bill, the Minister for Primary Industries the Hon E Casey MLA stated that

\textit{The Government established a Dairy Industry Review Committee to undertake a comprehensive analysis of the options for reform of the industry. The committee’s report was released in late 1991 and, subsequently, the interim Queensland Dairy Industry Policy Council was established to, among other things, recommend a program of reform for the industry.}\(^5\)

\(^4\) Department of Primary Industries, Discussion Paper No 3, 1994, pp 16 - 17.

Mr Casey further explained the functions of the policy council (which are set out in section 6 of the Act and which are drafted along similar lines to the functions of the HIPC) as follows:

*The authority will be required to consult with the Queensland Dairy Industry Policy Council, which is formally constituted by the Bill, on significant policy issues. The functions of the council, which has been operating on an interim basis will be to address strategic industry issues, develop appropriate policy to advise the Minister and the authority, and to make recommendations on key intervention issues such as price control, franchises and allocation of growth.*

Section 7 of the Act provides that the policy council is to consist of the Minister or the Minister’s nominee and “the other persons that the Minister considers necessary and appropriate to represent adequately all sectors of the dairy industry”, which is the same wording as the HIPC. The members of the initial Queensland Dairy Industry Policy Council were appointed in August 1993.

Section 8(1) of the Act provides that the Council is to “meet as necessary for the transaction of its business”. The 1994/1995 and 1995/1996 QDA Annual Reports note that there were two meetings in each of those years at which the Chairperson of the QDA attended representing the QDA.

Like the HIPC, the Queensland Dairy Industry Policy Council also has power (under section 10 of the 1993 Act) to appoint committees “for the purpose of inquiring into, and advising the Council on, a particular subject or subjects”. The 1996 Annual Report of the Queensland Dairyfarmers’ Organisation notes that

*The dairy industry was concerned that the existing Queensland Dairy Industry Policy Council - scheduled to meet every six months - could not be fully effective in setting policy for the industry. Minister for Primary Industries Trevor Perrett has agreed to set up a management committee of the Policy council to meet monthly under the chairmanship of QDA chairman Rick Parris.*

*That proposal was endorsed by the March 20, 1996 meeting of the Queensland Dairy Industry Policy Council.*

Section 2(c) which makes the establishment of the Queensland Dairy Industry Policy Council one of the principal objectives of the Act will be repealed by **Clause 15** of the Bill while **Clause 17** will repeal Division 1 of Part 2 which deals with the

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establishment, functions and composition of the Queensland Dairy Industry Policy Council.

Clause 17 of the Bill introduces a new Division 1 with new section 5 giving the Minister the power to “establish an advisory committee or other body to assist the Minister in the administration of this Act”.

Further amendments, consequential to the dismantling of the policy council, are discussed at sections 3.1.1 and 3.1.2 below.

3.1.1 Price Fixing

Section 28, which deals with the power of the QDA to fix prices for market milk or the collection treatment, storage, distribution or delivery of market milk, currently provides that the QDA must make such orders “if the Council recommends and the Minister approves” such a proposal. Section 28(2) provides that any such proposal by the QDA “must be submitted to the Council, and the QDA must exercise its powers in accordance with the proposal if the Council recommends the proposal to the Minister and the Minister approves it”. This last section will be completely repealed by Clause 22, and section 28(1) will be amended to delete the reference to the Council and substitute the word “must” for “may”.

This will mean that the QDA will now have a discretion, subject to the Ministers approval, to make any orders in relation to the price fixing of milk or its collection, treatment, storage, distribution or delivery rather than be obliged to follow the recommendations of the Council.

3.1.2 Vestment of Milk and Milk Processing

Section 30 permits the Governor in Council to make regulations vesting milk produced in a part of the State in the QDA. Section 30(2) provides that such a regulation “may only be made on the joint recommendation of the Council, the Authority and the Minister”. Clause 23 completely repeals section 30(2) so that there will be no prescription on whose recommendation regulations are made and presumably this will rest with the Minister.

Section 42 deals with the power of the QDA to grant a processor’s license conferring on the holder an exclusive right to sell pasteurised milk and pasteurised cream to a segment of the wholesale market. The section is similar to section 28 in that it currently provides that the QDA must exercise this power “if the Council recommends and the Minister approves the recommendation”. Clause 24 amends this section in the same way as section 28 by deleting this proviso and substituting
the word “must” for “may” so that the QDA will have the discretion to exercise this power, subject to the Minister’s approval.

Section 53 of the Act provides that the QDA must conduct an annual review of market milk consumption and in the case of any increase, determine whether to distribute the whole or part of the increase among processors. Section 53(2) sets out the way in which the QDA is to apportion any such distribution among processors providing that “a proportion is to be attributed to each processor on a basis proposed by the Authority, recommended to the Minister by the Council, and approved by the Minister”. Clause 25 of the Bill will amend this section by deleting the words “proposed by the Authority, recommended to the Minister by the Council, and” so that the QDA’s discretion in this matter will now only be subject to the Minister’s approval.

Section 119 of the Act is a transitional provision dealing with the holders of processor’s licenses under the 1989 Act. Section 119(2) provides that the QDA may “on the recommendation of the Council and with the approval of the Minister” renew any such licenses. The reference to the Council will be deleted by Clause 24 of the Bill so that the QDA’s discretion is subject only to the approval of the Minister. The same amendment is made to section 119(3) which deals with the terms and conditions of the renewed licence.

3.2 MEMBERSHIP OF THE QUEENSLAND DAIRY AUTHORITY - THE SELECTION COMMITTEE

The Queensland Dairy Authority (the QDA) was established under section 11 of the Dairy Industry Act 1993 which repealed and replaced the Dairy Industry Act 1989. This new Act was part of a five year plan for the restructuring and modernisation of the dairy industry announced by the then Minister for Primary Industries, the Hon E Casey. The QDA took over the functions of the Queensland Dairy Industry Authority which ceased operating when the members of the QDA were appointed on 11 February 1994.

The functions of the QDA were described in the Queensland Dairyfarmers’ Organisation 1996 Annual Report as follows:

\[
\text{The authority - acting in consultation with government - provides a range of services to industry and the community, covering milk quality, supply, distribution and promotion.}^9
\]

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Section 17 of the *Dairy Industry Act 1993* provides that the QDA is to consist of seven members to be appointed by the Governor in Council as follows:

(a) the chairperson;

(b) three (3) persons with experience in milk production, processing or distribution, nominated for appointment by a selection committee;

(c) three (3) persons with experience in public administration, business, finance, marketing, quality assurance or industrial relations, nominated for appointment by a selection committee.

This section is to be read with section 18(1) which requires that members (other than the chairperson) must be first nominated by a selection committee to nominate those members. Section 18(2) provides that the selection committee is to consist of 7 members appointed by the Minister comprising

(a) 1 (the chairperson) who is, in the opinion of the Minister, suited by temperament and experience to act as an independent chairperson of the selection committee; and

(b) 2 representatives of producers chosen by the Minister from nominations submitted, at the Minister’s invitation, by organisations that are, in the Minister’s opinion, representative of producers; and

(c) 2 representatives of processors chosen by the Minister from nominations submitted, at the Minister’s invitation, by organisations that are, in the Minister’s opinion, representative of processors; and

(d) 2 representatives of distributors chosen by the Minister from nominations submitted, at the Minister’s invitation, by organisations that are, in the Minister’s opinion, representative of distributors.

Unlike the situation in relation to the Brisbane Market Authority, there is no specific statutory requirement that the Minister consult with the policy council before appointing members to the selection committee.

Section 18(5) of the *Dairy Industry Act 1993* sets out certain categories of persons who are ineligible to become members of the QDA. This is similar to the “ineligibility provision” under the *City of Brisbane Market Act 1960* in that it makes “executive” representatives from industry bodies ineligible for membership.

The Bill will repeal the requirement for the appointments of members of the QDA to be from those nominated by the selection committee and the ineligibility provision. **Clause 20** of the Bill completely repeals section 18 and **Clause 19** repeals that part of section 17(1) which refers to the nomination of members by a selection committee.
4. **THE FISHERIES ACT 1994**

The Bill will make the following amendments to the Fisheries Act 1994:

- Deletion of the Queensland Fisheries Policy Council and consequential amendments (Sections 26 and 186);
- Removal of the requirement that “the relevant nomination process” be followed prior to the appointment of members to the Queensland Fisheries Management Authority (section 200(4)) by dismantling the selection committee (section 201);
- Removal of restrictions on eligibility for membership of the Queensland Fisheries Management Authority (sections 202 and 203); and
- Establishment of a Ministerial Advisory Body (Section 34).

4.1 **THE QUEENSLAND FISHERIES POLICY COUNCIL**

The **Queensland Fisheries Policy Council** was established under Part 2 of the *Fisheries Act 1994*. As with the policy councils established under the *Dairy Industry Act 1993* and the *Farm Produce Marketing Act 1964*, an interim Queensland Fisheries Policy Council was initially established to review legislation relevant to the management of the fishing industry. In the Second Reading speech to the Fisheries Bill 1994, the then Minister for Primary Industries, the Hon E Casey stated

> The interim Queensland Fisheries Policy Council gave the principal interest groups the opportunity of working together in drafting the Bill, and I am pleased to say there is unanimous support for the content of this Bill by those user groups. Included on this interim policy council are representatives of commercial fishers, recreational fishers, the Aboriginal and Torres Strait Islander Commission, the Great Barrier Reef Marine Park Authority, marketers, charter boat representatives and the Department of Environment and Heritage. The Queensland Fish Management Authority has also played a significant role in the development of the Bill. ¹⁰

Mr Casey also stated

> The Bill provides for the formation of a Queensland Fisheries Policy Council, which I will chair, and which will include the leaders of representative organisations throughout the industry, as well as other significant organisational...

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groups and departments. This body will provide strategic policy advice to myself as Minister, but will not be involved in the day-to-day management of fisheries.\textsuperscript{11}

The functions of the policy council are set out in section 16 of the Fisheries Act 1994 and are similar to those of the HIPC and the Queensland Dairy Industry Policy Council. They are:

(a) to examine, and advise the Minister on, the strategic issues facing fisheries resources and fish habitats, and to recommend appropriate policy responses; and

(b) to examine, and make recommendations to the Minister on, issues affecting fisheries resources and fish habitats; and

(c) to examine, and make recommendations to the Minister on, the operation of this Act and achievement of the Act’s objectives; and

(d) to examine, and make recommendations to the Minister on, the Authority’s strategic plan; and

(e) to examine, and advise the Minister on, issues affecting the wellbeing of fisheries resources and fish habitats; and

(f) to perform other functions given to the policy council under this or another Act.

The Queensland Fisheries Policy Council is, by section 17, to be composed of the Minister or the Minister’s nominee and “other persons the Minister considers necessary and appropriate to represent adequately the strategic interests in fisheries resources and fish habitats”.

An example of the way in which these functions are achieved is referred to in the Annual Report (for the period March 1995 to 30 June 1995) of the Queensland Fisheries Management Authority which noted that

\textit{Following the introduction of the Fisheries Act 1994 a further process of extensive consultation began in relation to the development of a corresponding set of Regulations. This process was overseen by a working group formed by the Fisheries Policy Council on which the QFMA was represented.}\textsuperscript{12}

\textbf{Clauses 32, 33 and 34} of the Bill have the effect of dismantling the Policy council and deleting its role in the management of fishing. A new Part 2 will be introduced into the Act which provides that the Minister may establish “an advisory committee or other body to assist the Minister in the administration” of the Act.

\textsuperscript{11} Hon E Casey MLA, Fisheries Bill 1994, p 8407.

\textsuperscript{12} Queensland Fisheries Management Authority, \textit{Annual Report}, March 1995 to June 1995, p 4. The regulations were gazetted on 1 December 1995.
4.2 **Membership of the Queensland Fisheries Management Authority - The Selection Committee**

The Queensland Fisheries Management Authority (QFMA) is established under Part 4 of the *Fisheries Act 1994*. The QFMA’s functions are set out in Division 2 of the Act with the primary function stated as being “to ensure the appropriate management, use, development and protection of fisheries resources”.

The QFMA consists of the chairperson and six other members who

(i) have a high level of expertise in, or knowledge of, fishing; or

(ii) have skills in public administration, fisheries sciences, natural resource management, industrial affairs, commerce, economic or financial management; or

(iii) have other skills, knowledge or expertise the Minister considers to be relevant.

All members of the QFMA are to be appointed by the Governor in Council, however such appointment must, under section 200(4) of the *Fisheries Act 1994*, be after the “relevant nomination process”. This process is amplified by section 201 and only appears to apply to members of the QFMA other than the chairperson. Section 201 provides that, prior to any appointment, the Minister must establish a **selection committee** to nominate members. The selection committee must consist of a chairperson who, “in the Minister’s opinion is suited to act as an independent chairperson” and at least five but no more than eight other members who are to be appointed after consultation with the policy council. Section 202 goes on to prescribe the qualifications for members and define those persons who are **ineligible** to be nominated for membership. Those ineligible are

(a) a member of the policy council [though such a person may be appointed to the selection committee]; or

(b) a member of the selection committee; or

(c) a chairperson, deputy chairperson or chief executive officer (regardless of the title by which the person is known) of a peak representative organisation with a particular interest in fisheries.

The last category is explained by way of example as precluding the State chairperson of Queensland Commercial Fishermen’s Organisation but not the chairperson of a regional branch of the organisation.

The Bill will repeal sections 200(4), 201 and 202 so that, apart from Ministerial discretion, there will now be no prescription on the membership of the QFMA nor on the way in which such members are to be appointed.
5. **THE GRAIN INDUSTRY (RESTRUCTURING) ACT 1991**

The Bill will amend the *Grain Industry (Restructuring) Act 1991* by:

- dismantling the Queensland Grain Industry Policy Council (section 2 and Division 3 of Part 3); and
- establishing a Ministerial Advisory Body.

Pursuant to section 25 of the *Grain Industry (Restructuring) Act 1991*, the Minister is given the discretionary power to establish the **Queensland Grain Industry Policy Council** which consists of the Minister and “such other persons with knowledge and experience of the grain industry as the Minister considers appropriate”. The functions of the Queensland Grain Industry Policy Council are broader than those prescribed for other policy councils and are set out in section 27 as follows:

(a) to advise the government on policy issues affecting the grain industry; and
(b) to provide a forum for discussion of issues affecting the performance and development of the grain industry; and
(c) to consider and make recommendations on any issue referred to the council by the Minister.

The Queensland Grain Industry Policy Council is to be composed of the Minister (there is no option of the Minister’s nominee) and “such other persons with knowledge and experience of the grain industry as the Minister considers appropriate”.

Unlike the other policy councils discussed in this Bulletin (apart from the Sugar Industry Policy Council), the Queensland Grain Industry Policy Council has no specific statutory involvement with Grainco, the statutory authority for the industry. There are therefore no provisions in relation to a selection committee under this Act.

The policy council was established in early 1992 and had its first meeting on 26 June 1992. At its most recent meeting on 9 October 1996 members of the policy council issued a discussion paper on the future role of the council. This paper stated:

> Since its inception in early 1992, QGIPC has met on seven occasions and discussed a large variety of topics and issues (see Attachment 1 [Appendix A to this Bulletin]). It currently has two working parties looking into
> - the desirability or otherwise of having designated delivery points in Queensland for the Sydney Futures Exchange’s wheat futures contract; and
> - the future of grain marketing regulations and legislation in Queensland.

Given the direction set by the Minister as to the future of statutory policy councils, members agreed at the last meeting of QGIPC that they preferred the Council to
Clause 42 of the Bill repeals Division 3 of Part 3 of the Grain Industry (Restructuring) Act 1991 which deals with the policy council and replaces it with a new Division 3 and new section 25 which will give the Minister the power to establish an “advisory committee or other body” to assist in the administration of the Act.

6. THE SUGAR INDUSTRY ACT 1991

The Bill will amend the Sugar Industry Act 1991 by

- repealing the requirement that the Minister “maintain” a Sugar Industry Policy Council (section 4);
- introducing a new section giving the Minister the power to establish an “advisory committee or other body”;
- repealing the power of the Minister to maintain “other committees” (section 5);
- removing the requirement that, prior to their appointment, members of the Queensland Sugar Corporation are to be firstly nominated by a selection committee (section 15); and
- repealing some sections concerning expansion of cane assignments (section 148).

6.1 THE SUGAR INDUSTRY POLICY COUNCIL

The Sugar Industry Policy Council (SIPC) is established under section 4 of the Sugar Industry Act 1991. The statutory functions of the SIPC are more general than those set out for other policy councils. They are:

a) to provide advice to the Corporation and to the Minister concerning the extent to which the aggregate of all assignments’ areas should be increased in any year under section 149; (see section 6.3 below) and

b) to consult with and advise the government of Queensland generally on issues of strategic sugar industry policy and direction.

Unlike policy councils from other industries (apart from the grain industry), the Sugar Industry Policy Council is not specifically involved in the appointment of the

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selection committee. Members of CANEGROWERS, which is the producer representative body for the sugar industry, sit on the Sugar Industry Policy Council.14

There is no specific provision in the Sugar Industry Act 1991 as to the composition of the SIPC or regularity of its meetings. Instead section 4 simply provides that the Minister is to “maintain” the SIPC “with such membership and on such conditions as the Minister determines”.

The Bill will repeal section 4 and other sections which refer to the policy council (sections 12(a), 148 and 174(3)). A new section 4 will be introduced by clause 83 which provides “that the Minister may establish an advisory committee or other body to assist the Minister in the administration” of the Act. The same clause also repeals section 5 which provides that

\[
\text{the Minister may maintain such committees as the Minister thinks fit}
\]

\[a) \text{ to advise the Minister and sugar industry organisations of research priority; or}
\]

\[b) \text{ to assist in the coordination of research activities relating to the sugar industry; or}
\]

\[c) \text{ to assist in the administration of this act in any respect.}
\]

6.2 THE QUEENSLAND SUGAR CORPORATION - THE SELECTION COMMITTEE

The Queensland Sugar Corporation is established under section 9 of the Sugar Industry Act 1991. The Corporation was established in 1991 and took over the marketing and administrative functions previously carried out by the Central Sugar Cane Prices Board and the Sugar Board. The Corporation is specifically required to manage the acquisition of raw sugar, market that raw sugar and distribute to mill owners the net proceeds resulting from this marketing.

As with the other industries discussed in this Bulletin, members of the Queensland Sugar Corporation must first be nominated by a selection committee which is established under section 15 of the Act and is to comprise of an independent chairperson, 4 grower representatives and 4 miller representatives.

Clause 85 of the Bill repeals section 15.

Unlike other industries discussed in this Bulletin, there is no provision preventing industry body representatives from becoming members of the Queensland Sugar

Corporation, and members of CANEGROWERS are on the Queensland Sugar Corporation.\textsuperscript{15}

\subsection*{6.3 ASSIGNMENTS}

Part 9 of the \textit{Sugar Industry Act 1991} deals with assignments and farm peaks. The system created by this part of the Act controls the amount of sugar produced. Section 36 of the Act provides that cane growers may hold an entitlement called an “assignment” which is described in the Industry Commission Submission to the Sugar Industry Review Working Party as follows:

\begin{quote}
Growers possess an assignment, specified in hectares, on which they can grow cane. Cane produced from that land must be delivered to a designated mill which is obliged to accept it. While cane can be grown on unassigned land, the sugar produced from this cane generally receives a penalty price of $1 per tonne compared to average prices in excess of $300 a tonne.\textsuperscript{16}
\end{quote}

(The 1996 price is estimated in the CANEGROWERS Annual Report as being $320 a tonne).\textsuperscript{17}

The ability to grow sugarcane for profit therefore depends on the ownership of an assignment which is granted, varied or cancelled by the Queensland Sugar Corporation. The 1991 Act substantially deregulated the assignment system and, significantly, introduced provisions for transitional expansion of the granting of cane assignments. Section 148 provides that in each calendar year from 1991 until 1995 (inclusive) the Queensland Sugar Corporation was to increase the assigned land by granting additional assignments “to the extent of 2.5% of the aggregate of all assignments’ areas in existence at the commencement of the calendar year”. (The Minister could determine a greater proportion after consultation with the Sugar Industry Policy Council).

Since 1991 there has been considerable expansion. According to the CANEGROWERS 1995 Annual Report,

Annual sugar production has risen by nearly 50\% in the last eight years and the area for canegrowing has expanded by about one third including a 3.3\% increase

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{15} CANEGROWERS, \textit{Annual Report 1995}, p 10.
\item \textsuperscript{17} CANEGROWERS \textit{Annual Report 1995}, p 6.
\end{itemize}
\end{footnotesize}
in 1995-1996 which took us to a record 469 023 hectares. This trend should continue unless falling sugar prices temporarily stifle expansion.\textsuperscript{18}

The 1994/95 increase is summarised in the 1994/95 Annual Report of the Queensland Sugar Corporation as follows

In 1995, 14,437 hectares of expansion was allocated to 483 growers, including 2,000 hectares reserved for Government Project purposes …

Demand for assigned land was greatest in the Herbert/Burdekin areas where 7,900 hectares of the expansion were granted. The greatest demand for a single mill area was from growers supplying Invicta Mill in the Burdekin.\textsuperscript{19}

The 1995/1996 Annual Report of the Queensland Sugar Corporation shows that the trend has continued and reports that

In 1996, a 5.4 percent expansion was allocated to 682 growers. This increase of 25,306 hectares took the land assigned to cane in Queensland to 483,778 hectares at the end of June 1996.

Demand for expansion was greatest in the Victoria mill area where 4,090 hectares were granted with some 25 percent being granted to new growers.

Most applicants were advised of grants by February 1996 to assist in the implementation of productivity plans.\textsuperscript{20}

As the time for the operation of the transitional provision has expired, the Bill will amend the Act by deleting section 148 and consequential references to it (Clauses \textbf{88 to 93}). There will still be an annual determination of the increase in the aggregate of assignments’ areas as this is provided for in section 149. Pursuant to this section, the Corporation is required to determine, on or before 31 January of every calendar year, whether or not there should be such an increase.

In 1995, the Queensland and Commonwealth governments commissioned a review (which was undertaken by the Sugar Industry Review Working Party) of the Queensland sugar industry’s regulatory arrangements and tariffs. The Working Party is due to report to the governments by 29 November 1996 with any proposed changes to apply from 1 July 1997.\textsuperscript{21}

\begin{footnotesize}
\begin{enumerate}
  \item CANEGROWERS, Annual Report 1995, p 7.
\end{enumerate}
\end{footnotesize}
7. THE MEAT INDUSTRY ACT 1993

The Bill will amend the Meat Industry Act 1993 by:

- dismantling of the Queensland Livestock and Meat Industry Policy Council (section 3(2)(b) and Part 2);
- deleting the requirement that members of the Queensland Livestock and Meat Authority (sections 30(2), 30(4) and 32) and the Queensland Abattoir Corporation (sections 142(3), 142(5) and 145) are to be nominated by a selection committee and repealing those sections dealing with the establishment and qualifications of the selection committee (sections 31 and 144);
- repealing the rules in relation to the eligibility of persons to be nominated for appointment to the Queensland Livestock and Meat Authority (section 32(4)) and the Queensland Abattoir Corporation (section 145(3));
- restructuring the composition of the Queensland Livestock and Meat Authority (section 30) and consequential amendments (sections 35 and 36); and
- introducing, for a period of 2 years after the commencement of the Act, the Ministerial power to establish the office of an administrator of the Queensland Livestock and Meat Authority.

7.1 THE QUEENSLAND LIVESTOCK AND MEAT INDUSTRY POLICY COUNCIL

The Queensland Livestock and Meat Industry Policy Council (QLMIPC) was established under the Meat Industry Act 1993 which commenced on 1 January 1994. In the Second Reading Speech to the Meat Industry Bill 1993, the then Minister for Primary Industries, the Hon E Casey MLA, stated

This Bill makes major changes to the statutory institutional arrangements applying in the meat industry and puts in place a completely new regulatory model for the industry. The functions previously discharged by a single body are to be divided between four bodies. The first of these is the Queensland Livestock and Meat Industry Policy Council. This policy council will be the major forum for interaction between Government and industry on policy matters.\(^\text{22}\)

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Mr Casey was then granted leave to table the following list of the bodies that he said would be invited to nominate representatives onto the QLMIPC:

- United Graziers’ Association (2 representatives)
- Cattlemen’s Union (2 representatives)
- Livestock and Meat Authority of Queensland
- Queensland Pork Producers’ Organisation
- Queensland Chicken Meat Council
- Queensland Meat Exporters’ Association
- Queensland Domestic Meatworks Industry Council
- Queensland Retail Traders’ and Shopkeepers Association
- Meat and Allied Trades Federation of Australia
- Retailers’ Association of Queensland
- Australasian Meat Industry Employees Union
- Australian Game Meat Producers’ Association
- Commonwealth Department of Primary Industries and Energy
- Queensland Department of Primary Industries

The functions of the QLMIPC, (which are similar to those of the HIPC, the Queensland Dairy Industry Policy Council and the Queensland Fisheries Industry Policy Council) are set out in section 18 of the Act as follows:

a) to address, and advise on, the long-term strategic issues facing the industry, and to develop appropriate policy responses; and

b) to examine, and make recommendations to the Minister on, industry issues, either on the Council’s own initiative or if asked by the Minister or Authority; and

c) to examine, and make recommendations to the Minister on, the operation of this Act and achievement of the Act’s objectives; and

d) to examine, and make recommendations to the Minister on, the Authority’s strategic plan and the Abattoir Corporation’s strategic plan; and

e) to find out industry views on industry administration, and give them to the Minister; and

f) to perform other functions given to the Council under this Act.

The QLMIPC consists of the Minister or the Minister’s nominee and “other persons the Minister considers necessary and appropriate to represent adequately all sectors of the industry, and appoints to membership of the Council.” Section 20 provides that the QLMIPC may meet whenever it is necessary to transact its

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business but that it must meet at least once every six months. Section 21 gives the QLMIPC the power to establish committees to advise it.

**Clauses 44, 45 and 46** of the Bill will repeal Part 2 of the Act and remove the definition of QLMIPC. That Part of the Act is to replaced by a **new Part 2** which gives the Minister the power to “establish an advisory committee or other body to assist the Minister in the administration” of the Act.

### 7.2 THE QUEENSLAND LIVESTOCK AND MEAT AUTHORITY

In the Second Reading Speech to the Meat Industry Bill Mr Casey referred to the new Queensland Livestock and Meat Authority as taking over “industry administrative functions”.  

The functions of the Authority are set out in section 24 of the Act with its primary function described as being “to ensure that the wholesomeness and integrity of meat are maintained”. The Bill will amend this section by amending the description of the Authority’s “other functions” as “secondary functions” (clause 47) and by replacing section 24(3)(g) (which refers to the QLMIPC) with a **new section 24(3)(g)** which requires the Queensland Livestock and Meat Authority to advise the Minister on

1. international and national trends on meat wholesomeness and integrity;
2. meat quality assurance;
3. changes to the regulation and administration of the Queensland meat industry:

Section 24 is also amended by the inclusion of a **new section 24(4)** which is a general mandatory requirement that the Authority “perform its functions efficiently and effectively”.

The composition of the Authority will be amended by the Bill. Section 30 provides that the Authority is to consist of 10 members including a chairperson and one representative each nominated by an industry body prominent in representing beef cattle producers and an industry body representing both producers of beef cattle and sheep for meat. (This appears to be subject to section 32(4)(c) which provides that a chairperson, deputy chairperson or chief executive officer of an organisation representing livestock producers is not eligible to be nominated for appointment as a member of the Authority (see section 7.4 below)). The inclusion of these representatives is different to the composition of other similar statutory authorities.

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discussed in this paper. During the Second Reading Speech Mr Casey discussed this point stating:

*In recognition of the unique needs of the meat industry in Queensland, two of the ten members of the new authority will be nominated by industry representative bodies. This is to accommodate the diverse needs of this industry which, unlike many other industries, does not have a unified producer representative body. The major producer representative bodies are the Cattlemen’s Union and the United Graziers Association. I will invite each of these bodies to nominate potential members. I must emphasise, however, that these two members will sit on the authority for their particular knowledge and experience, not as representatives of the nominating bodies. The duty of these two members is the same as the duty of all the members of the authority, namely, to discharge the functions of the authority in the public interest. As I have said already, the policy council deals with representative matters.*

The Bill will amend this section by requiring that the authority is not to consist of more than five members (new section 30(1)) who “must be persons the Minister considers have experience or expertise” in the same areas as are currently prescribed under the Act but excluding the requirement of industry body representatives discussed above (new section 30(4)). (The change in the number of members of the Authority has required consequential amendments to sections governing what percentage of the members of the Authority may call for a meeting and the quorum of such meetings (sections 35(3)(b) and 36(3)(a)).

7.3 **THE QUEENSLAND ABATTOIR CORPORATION**

The Board of the new Queensland Abattoir Corporation was appointed in June 1994 and took over certain responsibilities from the former Livestock and Meat Authority of Queensland on 1 July 1994.

Facilities currently operated by QAC comprise service abattoirs at Brisbane, Ipswich, Toowoomba, Bundaberg and Townsville, together with the Bohle (Townsville) Saleyards.

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7.4 **THE QUEENSLAND LIVESTOCK AND MEAT AUTHORITY AND THE QUEENSLAND ABATTOIR CORPORATION - SELECTION COMMITTEES**

The other significant difference proposed by the amendments is that members of the Queensland Livestock and Meat Authority and of the Queensland Abattoir Corporation will no longer be first required to be nominated by a **selection committee**. Section 31 provides for the establishment of such a committee for the Authority and section 144 for the establishment of a committee for the Corporation. Both sections provide that an “independent” chairperson is to be appointed by the Minister and six other members to be appointed **after consultation with the policy council**. Sections 30(4) and 144(4) require that these six members be persons who are, in the opinion of the policy council, appropriate persons to represent the interests of livestock producers, persons engaged in meat wholesaling, meat retailing and other aspects of meat processing and employees of persons engaged in meat processing as well as “I person who has significant experience in the industry.”. As with other selection committees discussed in this Bulletin, a chairperson, deputy chairperson or chief executive officer (regardless of the title by which the person is known) of an organisation representing livestock producers or persons engaged in meat processing is **ineligible** to be nominated for appointment as a member of the Authority or Corporation (sections 32(4) and 145(3)). In the case of the Corporation, a person who is “concerned in the management of or employed by” a business to any extent in commercial competition with the Corporation or is a shareholder or has an interest in such a business, is also ineligible to be nominated for appointment (section 145(3)(d)).

In both cases, members of the policy council can be members of the selection committee, though members of the policy council are ineligible for membership on the Authority or the QAC.

The selection committees for both the Authority and the QAC will be repealed by **clauses 49 and 55** of the Bill which repeals sections 31, 32, 144 and 145. The “ineligibility provisions” are also therefore repealed.

7.5 **NEW PART 7A - ADMINISTRATOR**

**Clause 57** of the Bill inserts a **new Part 7A** which provides for the administration of the QLMA at any time during the period of 2 years after the commencement of the Part(**new section 162F**).

In the Second Reading Speech to this Bill, the Minister for Primary Industries the Hon T Perrett describes the power to appoint an administrator as “essentially a ‘reserve power’”. Mr Perrett stated that having become aware of a “looming
financial difficulty facing the Authority”, he commissioned a “review team to take a good look at the situation” which in turn has recommended the implementation of a business plan which includes the option of the appointment of an administrator.

**New section 162B** provides that a person who the Minister considers has the appropriate qualifications and experience to be an administrator may be so appointed. Such an appointment must not be for more than 2 years and any administrator is subject to the direction of the Minister. Once an administrator is appointed the members of the Authority “go out of office” (new section 162C(1)). The appointment of an administrator will not affect the operation of the Queensland Abattoir Corporation.

There is nothing in the Bill to prescribe the circumstances under which an administrator may be appointed nor the specific function of such an appointee. Some guidance may be obtained from new section 162E which sets out the “additional” functions of the administrator as follows:

a) to implement a program of structural change to the authority’s resources and functions;

b) to give the Minister a quarterly report on the authority’s financial position, the functions of the authority, and anything else the Minister requires the administrator to include in the report;

c) to give the Minister a final report on the administration, including details of any directions given by the Minister to the administrator.

The Minister is required to table any report provided under new section 162E(1)(c) in the Legislative Assembly.

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BIBLIOGRAPHY

MONOGRAPHS


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APPENDIX A


**GRAINS INDUSTRY POLICY COUNCIL**

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<td>• World grain market environment&lt;br&gt;• Infrastructure capacity for grain handling&lt;br&gt;• Value enhancement strategies&lt;br&gt;• Problems with the soybean industry&lt;br&gt;• AQIS Inspection procedures &amp; charges&lt;br&gt;• Restructuring of the grain industry&lt;br&gt;• Name of the Qld Wheat Research Institute&lt;br&gt;• Financing of the 1993 winter crop&lt;br&gt;• Necessitous growers seed scheme&lt;br&gt;• QDPI’s rural research policy&lt;br&gt;• Update on drought&lt;br&gt;• Reliability of grain supplies in Qld&lt;br&gt;• Loss of scientific expertise</td>
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<td>• General exemptions for wheat &amp; feed barley&lt;br&gt;• Outcome of Grain Security Workshop in Sept 93&lt;br&gt;• Possible Grainco/AWB joint venture&lt;br&gt;• Confirmation of Crop Establishment Loan Scheme&lt;br&gt;• Minimum purity &amp; germination standards</td>
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- Analysis of farm machinery sales statistics
- Grain Industry Review Committee - progress report
- National Competition Policy
- Quality Assurance - grain supplies to end users
- Grain containers relocation charges
- Drought - effects on infrastructure
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7  30 April 1996
- Grain Industry Review Committee - Report
- Report on the Working Party on Storage & Distribution of Grain in Qld
- Sorghum exports
- Restructuring of AWB
- National Competition Policy
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APPENDIX B

This Appendix contains the following Media Statements by Hon T Perrett MLA, Minister for Primary Industries, Fisheries and Forestry:

30 October 1996, ‘Perrett opens door to industry’.

Minister for Primary Industries, Fisheries and Forestry

30 October 1996

PERRETT OPENS DOOR TO INDUSTRY

The Primary Industries Minister, Trevor Perrett, today announced new consultation mechanisms between the Government and primary industries.

Mr Perrett introduced a Bill into the Parliament that replaces the old policy council model with a more flexible approach that would allow industry and government to work more closely on important issues.

“The last government introduced rigid, bureaucratic procedures that failed to account for differing needs between industries, and that locked industry into a rigid consultation process.

“The process simply did not work in some cases. Industry wants to be able to work flexibly with government. The Bill I introduced allows that to happen.”

Mr Perrett said the selection committees used to recommend members of industry statutory bodies had also failed to deliver any improvements, and had simply wasted time and money.

“The Government is committed to having the best people for the job, and merit will continue to be the basis for choosing members of boards.

“However, the current system does not allow that to happen. Industry leaders are deliberately excluded in some cases, so you cannot possibly have the best people,” Mr Perrett said.

“The Bill will replace rigid selection committees procedures with more flexible procedures for selection of members on merit. The door is open to industry,” Mr Perrett said.

Further information: John Moore, Senior Ministerial Policy Advisor (07) 3406 7676, Mobile 0419 729 626.

Minister for Primary Industries, Fisheries and Forestry

30 October 1996

PERRETT DETHRONES HENRY

The ghost of King Henry VIII is being dethroned under legislation introduced into Parliament today by Primary Industries Minister Trevor Perrett.

The Primary Industries Organisation and Marketing Act, dating from 1926, worked by the Government passing regulations that actually changed the Act. Along with other old Acts, it used “Henry VIII” clauses, so called because that Tudor King used to insist on Acts including a power that would let him amend the Act by a royal order. He would then send Parliament off on a long holiday, and assume ultimate power to himself.

“The Coalition is committed to effective Parliamentary Government,” Mr Perrett said. Labor had six years in Government, knowing all along this Act desperately needed to be fixed, but they sat on their hands.

“Industry organisations created under this Act were frozen by Labor’s inaction.”
Mr Perrett said that the Canegrowers, Pork Producers and Dairyfarmers Organisations could once again amend their constitutions.

“primary producer representative bodies have been important in the partnership between industry and government,” Mr Perrett said. “These amendments remove a blight on the statute book, and allow the Government to work more effectively with industry.”

Mr Perrett acknowledged the good work of the Parliamentary Counsel, who faced a difficult task untangling what must have been Queensland most complex Act.

“The policy underlying this Act must be reviewed by 1 October next year. Exorcising henry’s ghost clears the way for the review to take place,” the Minister said.

Further information: John Moore, Senior Ministerial Policy Advisor (07) 3406 7676, Mobile 0419 729 626.