



Queensland

Banana Industry Protection Act 1989

Reprinted as in force on 28 May 2007

Reprint No. 1D

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

NOT FURTHER AMENDED
LAST REPRINT BEFORE REPEAL
See 1989 Act No. 5 s 38

Information about this reprint

This Act is reprinted as at 28 May 2007. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

Replacement reprint date If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.



Queensland

Banana Industry Protection Act 1989

Contents

		Page
1	Short title	3
3	Definitions	3
4	Establishment of Banana Industry Protection Board	4
5	Functions of board	4
6	Delegation of functions, powers and duties under Plant Protection Act	4
7	Membership of board	5
8	Vacation of office and disqualification	6
9	Filling of casual vacancy	6
10	Deputy member	7
11	Proceedings of board	7
12	Fees and allowances	8
13	Chief inspector and other officers	8
14	The banana industry fund	8
15	Payment of grants to board—appropriation thereof	9
16	Expenditure on pest control	10
17	Budget	10
18	Observance of budget	11
19	Treatment of surplus and deficit	12
20	Levy	12
21	Powers of inquiry	13
22	Restricted entry into dwelling house	14
24	Offences in relation to information	16
25	Obstruction	17
26	Limitation of action	17
27	Offences	17
28	Evidence	18

Banana Industry Protection Act 1989

29	Approval of forms	19
30	Regulation making power	19
31	Transfer and dissolution	19
32	Continuity of proceedings and matters	19
33	Employees	20
34	Members cease holding office	20
35	Secretary to the board	20
36	Authorised persons	20
37	Offences	21
38	Repeal	21
Schedule 2	Subject matters for regulations	22
1	Powers, functions and duties	22
2	Qualifications and appointments	22
3	Banana Industry Protection Board	22
4	Information	22
5	Assessments	22
6	The banana industry fund	23
7	Offences	23
8	Fees and expenses	23
 Endnotes		
1	Index to endnotes	24
2	Date to which amendments incorporated	24
3	Key	24
4	Table of reprints	25
5	Tables in earlier reprints	25
6	List of legislation	25
7	List of annotations	26

Banana Industry Protection Act 1989

[as amended by all amendments that commenced on or before 28 May 2007]

An Act to assist and to regulate the banana industry in certain respects and for related purposes

1 Short title

This Act may be cited as the *Banana Industry Protection Act 1989*.

3 Definitions

In this Act—

approved form see section 29.

amendment Act means the *Primary Industries Acts Amendment and Repeal Act 2007*.

authorised person means a person authorised by the board to exercise on its behalf the powers conferred by section 21.

board means the Banana Industry Protection Board established under section 4.

dissolution day means the date of assent of the amendment Act.

employment agreement includes an award or industrial agreement.

fund see section 14(1).

grower of bananas or *grower* means a person by whom bananas are actually grown or produced for sale.

pest infestation means a pest infestation within the meaning of the *Plant Protection Act 1989*.

vehicle includes a conveyance of any kind, whether or not it is at the material time capable of being operated or moved in any manner, and includes any aircraft, vessel or any caravan, trailer or railway rollingstock.

4 Establishment of Banana Industry Protection Board

For the purposes of this Act there is established by this section a board called the Banana Industry Protection Board.

5 Functions of board

The functions of the board shall be—

- (a) to assist the Minister in an advisory capacity in regard to problems of pest infestation affecting the production and distribution of bananas;
- (b) to advise the Minister concerning banana production and distribution generally;
- (c) to assist research into and to aid in the dissemination of information concerning matters affecting the production and distribution of bananas;
- (d) to furnish a report to the Minister upon any matter if requested to do so by the Minister;
- (e) to discharge such functions and perform such duties as may be prescribed under the regulations or as the board may be directed to discharge or perform by the Minister.

6 Delegation of functions, powers and duties under Plant Protection Act

- (1) The Governor in Council may by regulation delegate to the Minister, the board, its agents or any officer appointed under this Act, such functions, powers and duties under the *Plant Protection Act 1989* as may be specified in the order and for that purpose—
 - (a) may declare that the *Plant Protection Act 1989* shall have operation as if references in that Act specified in the regulation to the Minister, chief executive or inspector within the meaning of that Act or any other

Banana Industry Protection Act 1989

person included references to one or more of the following—

- (i) the Minister;
 - (ii) the board;
 - (iii) the chief inspector;
 - (iv) an agent or officer or other person appointed under this Act;
- (b) may declare that the *Plant Protection Act 1989* shall operate in relation to the functions, powers and duties delegated with such modifications as may be specified in the regulation;
- (c) may subject the discharge of functions, the exercise of powers and the performance of duties pursuant to the regulation to such conditions as the Governor in Council thinks fit and specifies in a regulation.
- (2) A regulation made under this section, and the provisions of the *Plant Protection Act 1989*, shall have effect in accordance with the tenor of the regulation.
- (3) The delegation under this section of a function, power or duty under the *Plant Protection Act 1989* shall not prevent or prejudice the discharge of a function, the performance of a duty or the exercise of a power under the *Plant Protection Act 1989* by any person or body upon whom a function, power or duty is conferred or imposed by the *Plant Protection Act 1989*.

7 Membership of board

- (1) The board shall consist of 4 members of whom—
- (a) 2 shall be representatives of the government of the State, nominated by the Minister, one of whom shall be chairperson of the board;
 - (b) 2 shall be representatives of growers of bananas nominated as prescribed.
- (2) Members of the board and its chairperson shall be appointed by the Governor in Council by notification published in the gazette.

- (3) Subject to sections 8 and 9, members of the board shall be appointed for a term of 3 years ending on the same day.
- (4) A member of the board whose term of office has expired shall be eligible for reappointment if otherwise qualified.

8 Vacation of office and disqualification

- (1) The office of a member shall become vacant if the member—
 - (a) dies;
 - (b) becomes bankrupt or compounds with the member's creditors, or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
 - (c) is absent without leave granted by the board from 2 consecutive ordinary meetings of the board of which due notice has been given to the member;
 - (d) resigns office by signed written notice addressed to the Minister and given to the chief executive;
 - (e) is convicted in Queensland of an indictable offence or, elsewhere than in Queensland, is convicted in respect of an act or omission that if done or made in Queensland would have constituted an indictable offence;
 - (f) is removed from office as member by the Governor in Council.
- (2) For the purposes of subsection (1)(c), the attendance of a member at a time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding the meeting is not actually held because of the lack of a quorum.
- (3) The Governor in Council, for any reason appearing to the Governor in Council to be sufficient, may remove any member from office and may remove the chairperson from office as such.

9 Filling of casual vacancy

If the office of a member becomes vacant during the currency of the member's term of office, at any time during the balance of that term, the Governor in Council, subject to section 7(1),

may by notification published in the gazette, appoint another person to fill that vacancy for the balance of that term, either from appointment or from a later date specified in the notification.

10 Deputy member

- (1) The Minister may, by signed written notice, appoint a person who is not a member of the board to be the deputy of a member of the board, including the chairperson, for any meeting or meetings of the board specified by the Minister in the instrument of appointment.
- (2) At any such meeting so specified, if the member in respect of whom a deputy has been appointed is absent therefrom, the deputy may discharge the functions, exercise the powers and perform the duties of the member whose deputy the member is.
- (3) However, a person attending a meeting as the deputy of the chairperson shall not be chairperson.

11 Proceedings of board

- (1) The quorum of the board shall consist of 3 members of the board.
- (2) The chairperson shall preside at any meeting of the board.
- (2A) In the event of the absence of the chairperson appointed under section 7(2) the member (other than the chairperson) who is a representative of the government of the State shall preside at the meeting as chairperson.
- (3) The board shall discharge its functions, exercise its powers and perform its duties by the majority vote of its members present and voting on the business in question.
- (4) A member of the board who, being present at a meeting and eligible to vote, abstains from voting shall be taken to have voted for the negative.
- (5) The chairperson shall have a deliberative vote and a casting vote.

12 Fees and allowances

A member of the board shall be entitled to be paid such fees and allowances as the Governor in Council may from time to time determine.

13 Chief inspector and other officers

- (1) The Governor in Council—
 - (b) may appoint any person to be an agent of the board with such territorial jurisdiction as may be specified by the Governor in Council;
 - (c) shall appoint a secretary to the board.
- (2) Persons appointed under subsection (1) may be appointed—
 - (a) under and subject to the *Public Service Act 1996*; or
 - (b) on the terms and conditions the Governor in Council considers appropriate subject to any relevant employment agreement.
- (3) An agent of the board appointed under subsection (1)(b)—
 - (a) shall perform such duties as are prescribed or as the agent may be directed to perform by the Minister or the board;
 - (b) in the performance of the agent's duties shall be deemed to be an inspector appointed under the *Plant Protection Act 1989*.

14 The banana industry fund

- (1) The banana industry fund (the *fund*) is continued in existence subject to the *Financial Administration and Audit Act 1977*, part 8, division 2.¹
- (1A) Accounts for the fund must be kept as part of the departmental accounts of the department.

¹ *Financial Administration and Audit Act 1977*, part 8 (Transitional provisions), division 2 (Transitional provisions for *Financial Administration Legislation Amendment Act 1999*)

Banana Industry Protection Act 1989

- (1B) Amounts received for the fund must be deposited in a departmental financial-institution account of the department but may be deposited in an account used for depositing other amounts of the department.
- (2) Amounts received for the fund include the following—
- (a) all moneys of any grant made by the Governor in Council in aid of the fund;
 - (b) all moneys received or recovered under this Act including penalties and moneys in respect of offences.
- (3) An amount is payable from the fund only for—
- (a) liabilities incurred by the board in the discharge of its functions, the exercise of its powers and the performance of its duties; and
 - (b) liabilities, that the Minister directs shall be so paid, incurred by the Crown—
 - (i) in the administration of this Act;
 - (ii) in the prevention, control or eradication of pest infestation of banana plants under the *Plant Protection Act 1989*.
- (4) The board shall not make any disbursement in respect of the fund except in accordance with the provisions of a budget approved by the Minister from time to time.
- (5) In this section—

departmental accounts, of a department, means the accounts of the department under the *Financial Administration and Audit Act 1977*, section 12.

departmental financial-institution account, of a department, means an account of the department kept under the *Financial Administration and Audit Act 1977*, section 18.

other amounts, of a department, means amounts received by the department other than amounts received for the fund.

15 Payment of grants to board—appropriation thereof

- (1) The Governor in Council may before 30 September in any financial year in which the Governor in Council deems it

necessary and proper so to do, make a grant in aid of the fund out of consolidated fund (which is hereby appropriated for the purpose) in such sum as the Governor in Council may approve.

- (2) However, a grant so made shall be at a rate not exceeding \$1 for every dollar paid into the fund in respect of moneys received or recovered under this Act during the financial year next preceding the financial year in which the grant is made.

16 Expenditure on pest control

The Minister may direct that such moneys from the fund as the Minister considers appropriate shall be applied for the purposes of—

- (a) inquiring into the prevention, control or eradication of pest infestation of banana plants;
- (b) inquiring into improved methods of producing and distributing bananas particularly through the development of varieties of banana plants that provide improved yields of bananas or improved resistance to or control over pest infestation;
- (c) prescribed matters;

and where the Minister so directs, subject to section 18, the board shall apply the moneys accordingly.

17 Budget

- (1) Before 31 May each year, the board shall prepare and lodge with the Minister a preliminary estimate of its budget in respect of the fund wherein it shall estimate as accurately as possible—
 - (a) the amount to be disbursed from the fund during the financial year next following; and
 - (b) the amount to be received into the fund during the financial year next following.
- (2) Before 30 September in any financial year, the board shall approve, adopt and lodge with the Minister a balanced budget

in respect of the fund for the financial year referred to in subsection (1).

- (3) The budget lodged pursuant to subsection (2) shall have no force or effect until it is approved by the Minister who may amend it in such way as the Minister thinks fit, except that the Minister may not vary the amount of any grant made by the Governor in Council.
- (4) When the Minister approves the budget, the budget as approved, whether or not it has been amended pursuant to subsection (3), shall be binding on the board.
- (5) Any disbursement by the board from the fund in any financial year before the approval of the budget in respect thereof that may reasonably be regarded as an ordinary disbursement is hereby authorised and shall be included in the budget in respect of the fund for that financial year.

18 Observance of budget

- (1) Subject to subsection (2), the board shall confine its disbursements from the fund throughout a financial year to within the items and amounts contained in its budget for that financial year as approved by the Minister.
- (2) If during any financial year it appears to the board that circumstances have arisen that require the board—
 - (a) to make a disbursement from the fund that was not provided for in the budget in respect of the fund as approved by the Minister; or
 - (b) to make a disbursement that exceeds the amount estimated in respect of that disbursement in the budget; or
 - (c) to transfer funds from one item to another within the budget;

the board shall, before taking such action, approve of the action by resolution of the board and obtain the approval of the Minister for an amendment of the budget.

- (3) If the Minister gives approval to the amendment, the budget as amended shall be binding on the board.

19 Treatment of surplus and deficit

If the fund contains a surplus or shows a deficit at the end of the financial year, the surplus or, as the case may be, the deficit shall be carried forward and taken into account by the board in the preparation of its budget for the next following financial year.

20 Levy

- (1) A regulation may levy upon all growers of bananas or growers of a class specified in the regulation an assessment in such sum and upon such method and basis of assessment as may be recommended by the board.
- (1A) An assessment so levied shall remain in force until it is cancelled or varied by a subsequent regulation.
- (2) A regulation may prescribe—
 - (a) the times of payment of the assessment;
 - (b) the person to whom and the manner in which the payments shall be made;
 - (c) the person or persons who shall make payments including the grower or agent, banana ripener, carrier or any other person on behalf of the grower;
 - (d) such matters as may be necessary or desirable for achieving the objects and purposes of this section.
- (3) A person who contravenes or fails to comply with the provisions of a regulation made for the purposes of this section commits an offence against this Act.
- (4) If a person commits an offence against this Act by failing to pay on the person's own account or on behalf of a grower the amount of any assessment or part thereof levied by a regulation under this section within the time prescribed—
 - (a) the person's obligation to pay the amount shall continue notwithstanding that the time prescribed for payment has expired; and
 - (b) the person shall be taken to commit a continuing offence for each day after the date of the conviction in respect of the contravention during which the failure to pay

continues and shall be liable to a penalty not exceeding 1 penalty unit for each day during which the failure continues; and

- (c) the person may be prosecuted from time to time in respect of the continuing offence.
- (5) If an assessment levied under this section is not paid by or on behalf of any grower, the grower and any other person required to collect and pay the assessment shall be jointly and severally liable for the amount unpaid, and without prejudice to any proceedings for an offence under this section for failure to pay the amount unpaid, the board may recover the amount unpaid in action as for a debt in any court of competent jurisdiction.

21 Powers of inquiry

- (1) Subject to section 22, a person authorised in that behalf by the board, at any time may—
 - (a) enter any place (including any vehicle) in order to obtain information relating to the levying of an assessment under this Act, or in order to ascertain whether the provisions of this Act have been complied with or to investigate an offence against this Act;
 - (b) take with the person into any place entered pursuant to paragraph (a) such assistants, vehicles and equipment as the person considers necessary for the proper performance of the person's duties;
 - (c) search any place entered pursuant to paragraph (a) and make therein such investigation, inspection or inquiry as is necessary for the purposes of this Act;
 - (d) stop and detain any vehicle or direct a person in charge of the vehicle to remove it to some other place, or personally remove it to some other place for the purposes of the exercise by the person of his or her powers;
 - (e) direct any person to furnish for inspection at such times and places as the person specifies, records or copies or extracts from records that are prepared or kept for a purpose connected with this Act or that in the opinion of

- the authorised officer would assist the person in obtaining information relating to the levying of an assessment under this Act or in ascertaining whether the provisions of this Act have been complied with or in investigating an offence against this Act;
- (f) take notes or copies or extracts from anything furnished pursuant to paragraph (e);
 - (g) question any person in order to obtain information relating to the levying of an assessment under this Act or in order to ascertain whether the provisions of this Act have been complied with or to investigate an offence against this Act and, subject to section 24, require the person to answer the question put;
 - (h) if the authorised person is obstructed, or reasonably believes that he or she will be obstructed—ask anyone the authorised person considers can help, to help the authorised person exercise the powers.
- (2) A person called in aid of an authorised person pursuant to subsection (1)(h) shall assist the authorised person as required by the authorised person and in accordance with this Act.

22 Restricted entry into dwelling house

- (1) Before an authorised person enters a dwelling house for the purpose of exercising powers under this Act, save where the authorised person has the permission of the occupier to the entry, the authorised person shall make an application to a justice who is a stipendiary magistrate and obtain from the justice a warrant to enter.
- (2) A justice who is satisfied upon an application made under this section that it is necessary for an authorised person to enter a place in the exercise of powers under section 21 may issue a warrant directed to an authorised person to enter the place specified in the warrant for the purpose of exercising therein the powers conferred upon the authorised person by this Act.
- (3) The justice shall specify in the warrant the powers the authorised person may exercise and shall note thereon the basis upon which the warrant is issued.

Banana Industry Protection Act 1989

- (4) An application to a justice for the issue of a warrant under this section—
 - (a) may be heard in any place, and subject to subsections (5) and (6), in such manner as the justice thinks fit;
 - (b) may be made in person or by telephone, radio or by means of any other form of distant communication.
- (5) Except where a warrant is issued upon an application made by telephone, radio or by means of any other form of distant communication, in determining whether or not the justice should issue a warrant, the justice shall not rely on any statement of facts unless it is provided by means of an oral or written statement given under oath, affirmation or declaration or under some other sanction authorised by law.
- (6) If an application is made by means of telephone, radio or any other form of distant communication the following provisions shall apply—
 - (a) the justice shall not issue the warrant unless the justice informs the applicant of the facts upon which the justice relies in issuing the warrant and obtains from the applicant an undertaking that the applicant shall deliver to the justice as directed by the justice as soon as practicable a statement in writing given under oath, affirmation or declaration or under some other sanction authorised by law, that verifies those facts;
 - (b) if the justice issues the warrant the justice shall inform the applicant that the justice has done so and shall send the warrant to the Minister within 7 days of its issue;
 - (c) on and from the issue of the warrant, a form of warrant completed by the applicant substantially in the terms of the warrant issued by the justice and stating the name of the justice and date on which and the place at which the justice issued it shall for all purposes be deemed to be a warrant issued under this section;
 - (d) as soon as practicable after the issue of a warrant, the applicant shall deliver to the justice a statement in writing in compliance with the undertaking obtained from the applicant pursuant to paragraph (a) and if the

Banana Industry Protection Act 1989

applicant fails to do so the warrant on and from such failure shall be deemed to be cancelled.

- (6A) The failure of a justice to send a warrant to the Minister in compliance with paragraph (b) shall not affect the validity of the warrant.
- (7) A warrant issued under this section shall be, for a period of 21 days from the date of its issue, sufficient authority for the authorised person and all persons acting in aid of the authorised person—
- (a) to enter the place specified in the warrant; and
 - (b) subject to the terms of the warrant, to exercise the powers conferred upon an authorised person under this Act.

24 Offences in relation to information

- (1) A person shall not—
- (a) refuse or fail to furnish to the best of the person's knowledge any information or any records or copies thereof, required of the person under this Act;
 - (b) in response to a requirement made of the person under this Act to furnish information or records or copies thereof, furnish false or misleading information, records or copies thereof.
- (2) This section shall not apply in respect of a refusal or failure to furnish any information required of a person pursuant to section 21(1)(g) that would tend to incriminate the person of any offence.
- (3) If in response to a requirement made of the person pursuant to section 21(1)(g) a person furnishes any information that would tend to incriminate the person in any offence, other than an offence defined in subsection (1)(b), the information so furnished shall not be admissible in evidence against the person in proceedings relating to the firstmentioned offence.

25 Obstruction

- (1) A person shall not obstruct an authorised person in the exercise of the authorised person's powers under this Act.
- (2) For the purpose of this Act a person shall be deemed to obstruct an authorised person in the exercise of the authorised person's powers under this Act if the person—
 - (a) assaults, abuses, intimidates or insults an authorised person or any other person assisting him or her in the exercise of powers under this Act; or
 - (b) directly or indirectly deliberately prevents any person from being questioned by an authorised person or from furnishing under this Act any information or records or copies thereof or attempts to do so; or
 - (c) in any other way obstructs or attempts to obstruct an authorised person in the exercise of powers under this Act.
- (3) A person shall not obstruct the performance by another person of a duty or obligation imposed on the other person by this Act.

26 Limitation of action

- (1) Liability at law shall not attach to the Crown, the Minister, the board, an authorised person, or an agent of the board or any other person acting in aid thereof on account of any act or thing—
 - (a) done or omitted to be done pursuant to this Act; or
 - (b) done or omitted to be done bona fide for the purposes of this Act and without negligence.
- (2) This section does not affect a person's liability to disciplinary action under the *Public Service Act 1996*.

27 Offences

- (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

Banana Industry Protection Act 1989

- (2) A person who fails to do that which the person is required or directed to do, or who does that which the person is forbidden to do, by a person acting under the authority of this Act, commits an offence against this Act.
- (3) Unless a specific penalty is otherwise prescribed, a person who commits an offence against this Act is liable to a penalty not exceeding 20 penalty units.
- (4) Proceedings in respect of an offence against this Act shall be taken in a summary way under the *Justices Act 1886* within 12 months after the offence is committed or within 6 months after the offence comes to the knowledge of the complainant, whichever period is the later to expire, upon the complaint of—
 - (a) the chief inspector; or
 - (b) a person authorised by the Minister or the board.

28 Evidence

In any proceeding for the purposes of this Act—

- (a) the appointment of the chief inspector, a secretary or agent of the board or officer or other person under this Act, or the authority of any person to do any act, take any proceeding or give any direction or order pursuant to this Act shall be presumed unless the contrary is proved;
- (b) a signature purporting to be that of the Minister, chief inspector, secretary or agent of the board, officer or other person appointed under this Act shall be taken to be the signature it purports to be until the contrary is proved;
- (c) a statement in a complaint stating when it was that the commission of an offence against this Act came to the knowledge of the complainant shall be evidence and in the absence of evidence to the contrary, conclusive evidence, of that fact;
- (d) a certificate purporting to be signed by the secretary of the board—
 - (i) describing actions or proceedings of the board; or

- (ii) verifying the due authorisation by the board of any action undertaken on its behalf; or
 - (iii) stating that an amount stated therein is an amount unpaid of an assessment levied pursuant to this Act and is due and owing from a person named therein;
- shall be admitted in evidence, and in the absence of evidence to the contrary, be conclusive evidence of the matters stated therein.

29 Approval of forms

The chief executive may approve forms for use under this Act.

30 Regulation making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about a matter mentioned in schedule 2.

31 Transfer and dissolution

On the dissolution day—

- (a) amounts in the fund become the assets of the State; and
- (b) the liabilities mentioned in section 14(3) become liabilities of the State; and
- (c) the board is dissolved.

32 Continuity of proceedings and matters

- (1) A proceeding by or against the board that has not been finished before the dissolution day may be continued and finished by or against the State.
- (2) If, because of an event that happened before the dissolution day, a proceeding could have been started by or against the board, it may be started by or against the State after the dissolution day.

33 Employees

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

34 Members cease holding office

- (1) Each person who, immediately before the dissolution day, was a member of the board goes out of office on the dissolution day.
- (2) No compensation is payable because of subsection (1).

35 Secretary to the board

- (1) This section applies to an appointment, in force immediately before the dissolution day, of a person as the secretary to the board.
- (2) On the dissolution day, the person goes out of office.
- (3) No compensation is payable because of subsection (2).
- (4) To remove any doubt, it is declared that subsection (2) does not affect the secretary's employment as a public service employee.

36 Authorised persons

A person authorised by the board to exercise powers under section 21, is, on and from the dissolution day, no longer authorised to exercise the powers.

37 Offences

- (1) Proceedings for an offence against the Act may, from the dissolution day, be continued or started by the State and the provisions of the Act necessary or convenient to be used in relation to the proceedings continue to apply as if the amendment Act had not commenced.
- (2) This section is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A, applies.

38 Repeal

This Act is repealed immediately after the dissolution day.

Schedule 2 Subject matters for regulations

section 30

1 Powers, functions and duties

The regulation of the discharge of any function, the performance of any duty or the exercise of any power by the board or any person under this Act.

2 Qualifications and appointments

The qualifications required before a person is appointed under this Act, the appointment of persons for the purposes of this Act, including appointment by the board.

3 Banana Industry Protection Board

- (1) The submission to the Minister of the names of persons for appointment to the board.
- (2) The regulation of the board's activities.

4 Information

- (1) The registration of places where bananas are grown for monetary return.
- (2) Information to be supplied by a grower, carrier or other person concerning the growing and marketing of bananas or any other matter where it is necessary or desirable to have the information in order to assist in the making and recovery of assessments under this Act or in the discharge of a function, performance of a duty or exercise of a power under this Act.

5 Assessments

- (1) The regulation of assessments under this Act.
- (2) The collection and recovery of assessments.

Schedule 2 (continued)

6 The banana industry fund

All matters relating to the banana industry fund including the usage of its moneys, its control, management and audit.

7 Offences

Fixing a penalty of not more than 20 penalty units for a contravention of a regulation.

8 Fees and expenses

The fees, expenses and other amounts of money payable for any registration, application or other matter under this Act.

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	24
3 Key	24
4 Table of reprints	25
5 Tables in earlier reprints	25
6 List of legislation	25
7 List of annotations	26

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 28 May 2007. Future amendments of the Banana Industry Protection Act 1989 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only

Reprint No.	Amendments to	Effective	Reprint date
1	1995 Act No. 58	28 November 1995	20 December 1995
1A	1996 Act No. 37	1 December 1996	18 December 1996
1B	1999 Act No. 29	1 July 1999	2 July 1999
1C	2000 Act No. 5	23 March 2000	30 March 2000

Reprint No.	Amendments included	Effective	Notes
1D	2007 Act No. 26	28 May 2007	

5 Tables in earlier reprints

Name of table	Reprint No.
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Banana Industry Protection Act 1989 No. 5

date of assent 30 March 1989

commenced on date of assent

amending legislation—

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Financial Administration Legislation Amendment Act 1999 No. 29 ss 1–2, 50 sch

date of assent 16 June 1999

ss 1–2, 50 commenced on date of assent

remaining provisions commenced 1 July 1999 (1999 SL No. 122 and see 1999 SL No. 119, 1999 No. 70 s 2(3))

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2

date of assent 23 March 2000

commenced on date of assent (see s 2(1)–(2))

Primary Industries Acts Amendment and Repeal Act 2007 No. 26 s 1, pt 2

date of assent 28 May 2007

commenced on date of assent

7 List of annotations

Repeals savings and transitional

s 2 om 1995 No. 58 s 4 sch 1

Definitions

prov hdg sub 1995 No. 58 s 4 sch 1

s 3 def “**approved form**” ins 1995 No. 58 s 4 sch 1
 def “**amendment Act**” ins 2007 No. 26 s 4
 def “**Chief Inspector**” om 1995 No. 58 s 4 sch 1
 def “**director-general**” om 1995 No. 58 s 4 sch 1
 def “**dissolution day**” ins 2007 No. 26 s 4
 def “**employment agreement**” ins 1995 No. 58 s 4 sch 1
 def “**financial year**” om 1995 No. 58 s 4 sch 1
 def “**fund**” ins 1999 No. 29 s 50 sch
 def “**Minister**” om 1995 No. 58 s 4 sch 1

Functions of board

s 5 amd 1995 No. 58 s 4 sch 1

Delegation of functions, powers and duties under Plant Protection Act

s 6 amd 1995 No. 58 s 4 sch 1

Membership of board

s 7 amd 1995 No. 58 s 4 sch 1

Fees and allowances

s 12 amd 1995 No. 58 s 4 sch 1

Chief inspector and other officers

s 13 amd 1995 No. 58 s 4 sch 1; 1996 No. 37 s 147 sch 2

The banana industry fund

s 14 amd 1995 No. 58 s 4 sch 1; 1999 No. 29 s 50 sch

Levy

s 20 amd 1995 No. 58 s 4 sch 1

Powers of inquiry

s 21 amd 2000 No. 5 s 373 sch 2

Duty to convert stored information to writing

s 23 om 1995 No. 58 s 4 sch 1

Limitation of action

s 26 amd 1996 No. 37 s 147 sch 2

Approval of forms

s 29 sub 1995 No. 58 s 4 sch 1

Regulation making power

s 30 sub 1995 No. 58 s 4 sch 1

Transfer and dissolution

s 31 ins 2007 No. 26 s 5

Continuity of proceedings and matters

s 32 ins 2007 No. 26 s 5

Employees

s 33 ins 2007 No. 26 s 5

Members cease holding office

s 34 ins 2007 No. 26 s 5

Secretary to the board

s 35 ins 2007 No. 26 s 5

Authorised persons

s 36 ins 2007 No. 26 s 5

Offences

s 37 ins 2007 No. 26 s 5

Repeal

s 38 ins 2007 No. 26 s 5

SCHEDULE 1

om 1995 No. 58 s 4 sch 1

SCHEDULE 2—SUBJECT MATTERS FOR REGULATIONS**Offences**

s 7 amd 1995 No. 58 s 4 sch 1