

I hereby certify that this PUBLIC BILL has finally passed the Legislative Assembly of Queensland.

Legislative Assembly Chamber,
Brisbane,

The Clerk of the Parliament.

23 August 2024

In the name and on behalf of the King, I assent to this Bill.

W. Bouskill

Government House,
Brisbane,

23 August

2024



Queensland

No. 37 of 2024

A BILL for

An Act to establish the office of Queensland food farmers' commissioner and for related purposes



Queensland

Queensland Food Farmers' Commissioner Bill 2024

Contents

		Page
Part 1	Preliminary	
1	Short title	4
2	Main object	4
3	Definitions	4
Part 2	Queensland food farmers' commissioner	
Division 1	Establishment	
4	Queensland food farmers' commissioner	5
5	Functions and powers	5
6	Not a statutory body for particular Acts	6
7	Extraterritoriality	6
8	Delegation	7
9	Relationship with commissioner for fair trading	7
Division 2	Appointment	
10	Appointment	7
11	Term of appointment	7
12	Conditions of appointment	7
13	Preservation of rights of commissioner	8
14	Vacancy in office of commissioner	8
15	Resignation	8
16	Removal	9
17	Acting commissioner	9
Division 3	Office of the Queensland food farmers' commissioner	
18	Office of the Queensland food farmers' commissioner	9
19	Staff	10
20	Control of office	10
21	Staff not subject to outside direction	10

Contents

Division 4	Role of Minister and reporting requirements	
22	Ministerial direction	10
23	Statement of expectations	11
24	Reporting to Minister	11
25	Annual report	11
Part 3	Miscellaneous	
26	Exchange of information	12
27	Confidentiality	13
28	Protection from liability	14
29	Review of Act	14
30	Regulation-making power	14

2024

A Bill

for

**An Act to establish the office of Queensland food farmers'
commissioner and for related purposes**

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Queensland Food Farmers' Commissioner Act 2024*.

2 Main object

The main object of this Act is to establish the office of Queensland food farmers' commissioner to support Queensland farmers and consumers in their dealings with supermarkets for the purpose of—

- (a) improving transparency of those dealings, including, for example, dealings related to food supply chains and pricing of products; and
- (b) redressing power imbalances; and
- (c) supporting sustainability and stability of the food supply chain in Queensland.

3 Definitions

In this Act—

commissioner means the Queensland food farmers' commissioner appointed under part 2.

commissioner for fair trading means the commissioner for fair trading established under the *Fair Trading Act 1989*.

farmer means a person or entity whose sole or main business is a farming business located in Queensland.

farming business includes—

- (a) an agricultural, apicultural, dairy farming, horticultural, land-based aquacultural, pastoral, poultry keeping or viticultural business; and
- (b) another business that involves cultivating the soil, gathering crops or rearing livestock; and
- (c) another business prescribed by regulation to be a farming business.

Part 2 **Queensland food farmers' commissioner**

Division 1 **Establishment**

4 **Queensland food farmers' commissioner**

There is to be a Queensland food farmers' commissioner.

5 **Functions and powers**

- (1) The main functions of the commissioner are—
 - (a) to provide a primary point of contact for matters affecting farmers; and
 - (b) to provide information and advice to help farmers understand and manage arrangements that govern relationships between supermarkets and their suppliers; and
 - (c) to work collaboratively with State and Commonwealth entities and other persons responsible for regulating farmers, including, for example—
 - (i) the commissioner for fair trading; and
 - (ii) the Australian Competition and Consumer Commission established by the *Competition and Consumer Act 2010* (Cwlth), section 6A; and

[s 6]

- (iii) Food Standards Australia New Zealand continued in existence under the *Food Standards Australia New Zealand Act 1991* (Cwlth); and
 - (d) to monitor and advise the Queensland Government on developments in national arrangements that govern the relationships between supermarkets and their suppliers; and
 - (e) to report to the Minister about a particular issue or general matter relating to farmers or consumers, including, for example, improper behaviours and business practices adversely affecting farmers or consumers; and
 - (f) to prepare reports about—
 - (i) a particular issue or general matter affecting farmers or consumers; or
 - (ii) the commissioner's functions; and
 - (g) to publish reports mentioned in paragraph (f) if the commissioner and the Minister consider publication is appropriate; and
 - (h) to perform any other function given to the commissioner under this Act or another Act.
- (2) The commissioner has power to do anything necessary or convenient to be done for the performance of the commissioner's functions.

6 Not a statutory body for particular Acts

To remove any doubt, it is declared that the commissioner is not a statutory body for the *Financial Accountability Act 2009* or the *Statutory Bodies Financial Arrangements Act 1982*.

7 Extraterritoriality

The commissioner may perform the commissioner's functions inside and outside Queensland.

8 Delegation

- (1) The commissioner may delegate the commissioner's functions under this Act or another Act to an appropriately qualified public service officer.
- (2) In this section—
functions includes powers.

9 Relationship with commissioner for fair trading

Nothing in this Act limits the functions of the commissioner for fair trading.

Division 2 Appointment

10 Appointment

- (1) The commissioner is appointed by the Governor in Council on the recommendation of the Minister.
- (2) The Minister may recommend a person only if the person is appropriately qualified to perform the functions of the commissioner.

11 Term of appointment

- (1) The commissioner holds office for the term, of not more than 3 years, stated in the commissioner's instrument of appointment.
- (2) A person may be re-appointed as commissioner only once for a further term of not more than 3 years.

12 Conditions of appointment

- (1) The commissioner is to be paid the remuneration and allowances decided by the Governor in Council.

[s 13]

- (2) A person holds office as the commissioner on the conditions decided by the Governor in Council.
- (3) The commissioner is appointed under this Act and not the *Public Sector Act 2022*.

13 Preservation of rights of commissioner

- (1) This section applies if a person who is a public service officer is appointed as commissioner.
- (2) The person keeps all rights accrued or accruing to the person as a public service officer as if service as the commissioner were a continuation of service as a public service officer.
- (3) At the end of the person's term of office or on the person's resignation as commissioner, the person's service as the commissioner is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

14 Vacancy in office of commissioner

The office of commissioner becomes vacant if the commissioner—

- (a) resigns under section 15; or
- (b) is removed by the Governor in Council under section 16.

15 Resignation

- (1) The commissioner may resign the commissioner's office by giving the Minister a signed letter of resignation.
- (2) The resignation takes effect when the Minister receives the resignation or, if a later day is stated in the letter, the later day.

16 Removal

- (1) The Governor in Council may, at any time, remove a person from office as the commissioner on the recommendation of the Minister.
- (2) The Minister may recommend the removal of the person from office as the commissioner if the Minister is satisfied the person—
 - (a) is guilty of misconduct of a type that could warrant dismissal from the public service if the commissioner were an officer of the public service; or
 - (b) is incapable of performing the functions of the commissioner; or
 - (c) has neglected the duties of the commissioner, or performed the duties of the commissioner incompetently.
- (3) This section does not otherwise limit the *Acts Interpretation Act 1954*, section 25.

17 Acting commissioner

The Minister may appoint a person to act in the office of commissioner during—

- (a) a vacancy in the office of commissioner; or
- (b) a period when the commissioner is absent from duty, or can not, for another reason, perform the functions of the office.

Division 3 Office of the Queensland food farmers' commissioner

18 Office of the Queensland food farmers' commissioner

- (1) The office of the Queensland food farmers' commissioner is established.

[s 19]

- (2) The office's function is to help the commissioner perform the commissioner's functions.
- (3) The office consists of the commissioner and the commissioner's staff.

19 Staff

The commissioner's staff are employed under the *Public Sector Act 2022*.

20 Control of office

- (1) The commissioner controls the office.
- (2) Subsection (1) does not prevent the attachment of the office to the department to ensure the office is supplied with the administrative support services the office requires to perform its function effectively and efficiently.

21 Staff not subject to outside direction

- (1) The commissioner's staff are not subject to direction by any person, other than from within the office, about the way the commissioner's functions are to be performed.
- (2) Subsection (1) applies despite the *Public Sector Act 2022*.

Division 4 Role of Minister and reporting requirements

22 Ministerial direction

- (1) The Minister may give the commissioner a written direction about a matter relevant to the performance of the commissioner's functions.
- (2) The commissioner must comply with a direction given under subsection (1).

- (3) The commissioner must include details, in the commissioner's annual report prepared under section 25, of—
 - (a) any direction given by the Minister under subsection (1) during the financial year to which the report relates; and
 - (b) the actions taken by the commissioner as a result of the direction.

23 Statement of expectations

- (1) The Minister may give the commissioner a written statement (a *statement of expectations*) about the Minister's expectations for the performance of the commissioner's functions.
- (2) Without limiting subsection (1), the statement of expectations may—
 - (a) state a particular period for which the statement applies; and
 - (b) provide for the nature and scope of the commissioner's activities for a particular period.
- (3) The commissioner must have regard to the statement of expectations in performing the commissioner's functions.

24 Reporting to Minister

The commissioner must—

- (a) keep the Minister reasonably informed about the functions performed by the commissioner; and
- (b) comply with a reasonable request by the Minister to give the Minister stated information at a stated time about the functions performed by the commissioner.

25 Annual report

- (1) The commissioner must prepare and give to the Minister, within 3 months after the end of each financial year, a report

[s 26]

on the functions performed by the commissioner during the financial year.

- (2) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.

Part 3 Miscellaneous

26 Exchange of information

- (1) The commissioner may enter into an arrangement (an *information-sharing arrangement*) with a relevant agency for the purposes of sharing or exchanging information—
 - (a) held by the commissioner or relevant agency; or
 - (b) to which the commissioner or relevant agency has access.
- (2) An information-sharing arrangement may relate only to information that assists—
 - (a) the commissioner in performing the commissioner's functions under this Act; or
 - (b) the relevant agency in performing its functions.
- (3) Under an information-sharing arrangement, the commissioner and the relevant agency are, despite another Act or law, authorised to—
 - (a) ask for and receive information held by the other party to the arrangement or to which the other party has access; and
 - (b) disclose information to the other party; and
 - (c) use information disclosed under this section in the performance of their functions under this Act or another law.
- (4) In this section—

relevant agency means—

- (a) the chief executive of a department; or
- (b) a local government; or
- (c) another entity established for a State government purpose that performs functions or administers matters relevant to farmers or consumers.

27 Confidentiality

- (1) This section applies to a person who—
 - (a) is, or has been, performing functions under or relating to the administration of this Act; and
 - (b) in that capacity, has acquired or has access to personal information about another person.
- (2) The person must not disclose the information to anyone else, or use the information, other than under this section.

Maximum penalty—50 penalty units.

- (3) The person may disclose or use the information—
 - (a) to the extent the disclosure or use is—
 - (i) necessary to perform a function under or relating to the administration of this Act; or
 - (ii) otherwise required or permitted under this Act or another law; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) in compliance with a lawful process requiring production of documents to, or giving evidence before, a court or tribunal.
- (4) In this section—

disclose includes give access to.

information includes a document.

personal information means information about a person's affairs.

[s 28]

28 Protection from liability

- (1) The commissioner is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents civil liability attaching to the commissioner, the liability attaches instead to the State.

Note—

For protection from civil liability in relation to prescribed persons under the *Public Sector Act 2022*, section 267, see section 269 of that Act.

29 Review of Act

- (1) The Minister must review the effectiveness of this Act as soon as practicable after the day that is 4 years after the commencement.
- (2) As soon as practicable after finishing the review, the Minister must table a report about its outcome in the Legislative Assembly.

30 Regulation-making power

The Governor in Council may make regulations under this Act.

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