

(c) by adding at the end thereof the following subsections:—

“(2) Notwithstanding anything in subsection (1) of this section, upon application being made in that behalf by a person claiming the benefit of this Act, the Court or a judge may, after hearing such of the persons affected or likely to be affected by that application as it or he may think fit, extend the time limited by that subsection for the taking out of a summons for such further period as the Court or judge may think necessary.

“(3) The powers conferred on the Court or a judge by subsection (2) of this section may be exercised notwithstanding that the time limited by subsection (1) of this section for the taking out of a summons may have expired (whether that time expired or expires before or after the commencement of this subsection).

“(4) An application under subsection (2) of this section shall be made before the final distribution of the estate of the deceased person, and no distribution of any part of the estate made before the making of an application under that subsection shall be disturbed by reason of that application or of any order made thereon or in consequence thereof.”

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## WHEAT INDUSTRY STABILIZATION.

No. 47 of 1954.

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AN ACT relating to the stabilization of the wheat industry. [23 November, 1954.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1** This Act may be cited as the *Wheat Industry Stabilization Act 1954*. Short title.

**2** This Act shall commence on the day on which the *Wheat Industry Stabilization Act 1954* of the Commonwealth comes into operation. Commencement.

**3—(1)** The *Wheat Marketing Act 1948*, the *Wheat Industry Stabilization Act 1951*, and the *Wheat Marketing Act 1953* are repealed. Repeal.

(2) Notwithstanding the repeal effected by subsection (1) of this section but subject to subsection (3) of this section, the provisions of the repealed Acts continue to apply, as if this Act had not been passed, in relation to wheat harvested before the first day of October 1953.

(3) A reference in the provisions referred to in subsection (2) of this section to the Australian Wheat Board established by the *Wheat Marketing Act 1948-1953* of the Commonwealth shall, in relation to things done or to be done after the commencement of this Act, be read as a reference to that Board as continued in existence by the Commonwealth Act and conducting its proceedings in accordance with the Commonwealth Act.

(4) Wheat harvested on or after the first day of October 1953 and delivered to the Board after the commencement of this Act (including wheat delivered to a person who was a licensed receiver for the purposes of the Acts repealed by this Act) shall be deemed to have been delivered in pursuance of section eight of this Act, and any advance payment made by the Board in respect of any such wheat before the commencement of this Act shall be deemed to have been made in pursuance of this Act.

Interpreta-  
tion.  
Cf. No. 64 of  
1948, s. 2.

**4** In this Act, unless the contrary intention appears—

“Board” means the Australian Wheat Board continued in existence by the Commonwealth Act;

“Commonwealth Act” means the *Wheat Industry Stabilization Act 1954* of the Commonwealth;

“Commonwealth Minister” means the Minister of State administering the Commonwealth Act, or another Minister of State of the Commonwealth acting for and on behalf of that Minister;

“cost of production” means—

(a) in relation to wheat of the season that ended on the thirtieth day of September 1954, twelve shillings and sevenpence per bushel; and

(b) in relation to wheat of a subsequent season, the cost of production per bushel of wheat of that season, as determined in pursuance of section five of the Commonwealth Act;

“guaranteed price”, in relation to wheat of a season, means an amount equal to the cost of production of wheat of that season;

“licensed receiver” means a person or State authority licensed by the Board to receive wheat on behalf of the Board;

“season”, in relation to wheat, means the period of twelve months, commencing on the first day of October in any year, during which the wheat was harvested;

“State authority” means an authority constituted or established by or under any Act, or appointed by the Governor under the authority of any Act to exercise any functions or perform any duties under or for the purposes of that Act.

**5**—(1) If, by reason of the Constitution of the Commonwealth, a provision of this Act, or a notice under a provision of this Act, cannot validly apply in relation to any particular wheat or class of wheat, that provision or notice shall be construed as intended to operate in relation to all wheat in relation to which it purports to apply, being wheat in relation to which it can validly apply. Act to apply subject to Constitution.

(2) The provisions of subsection (1) of this section are in addition to, and not in substitution for, the provisions of section three of the *Acts Interpretation Act 1931*.

**6**—(1) Subject to this section, the Board may license, subject to such conditions as are specified in the licence, a person or State authority to receive wheat on behalf of the Board, and may cancel or suspend any licence under this section. Licensed receivers. *Ibid.*, s. 3.

(2) A licence to receive wheat on behalf of the Board that was in force immediately before the commencement of this Act shall be deemed to have been granted under this section.

**7**—(1) The Board may—

- (a) purchase wheat, wheaten flour, semolina, corn sacks, jute, or jute products;
- (b) accept wheat delivered to it;
- (c) sell or dispose of wheat, wheaten flour, semolina, corn sacks, jute, or jute products the property of the Board;
- (d) grist, or arrange for the gristing of, wheat and sell or otherwise dispose of the products of the gristing;
- (e) manage and control all matters connected with the handling, storage, protection, treatment, transfer, or shipment of wheat or other things purchased or otherwise acquired by the Board or sold or otherwise disposed of by the Board; and

Powers of Board. *Ibid.*, s. 4.

- (f) do all things that it is required or permitted by this Act to do or that are necessary or convenient to be done by the Board for giving effect to this Act.

(2) The Commonwealth Minister may give directions to the Board concerning the performance of its functions and the exercise of its powers, and the Board shall comply with those directions.

Delivery of  
wheat.  
*Ibid.*, s. 6.

**8**—(1) Subject to this section, a person who is in possession of wheat—

- (a) may deliver that wheat to the Board; and  
(b) shall deliver that wheat to the Board on demand made by or on behalf of the Board.

(2) Upon delivery of wheat to the Board under this section, the wheat becomes the absolute property of the Board, freed from all mortgages, charges, liens, pledges, interests, and trusts affecting the wheat.

(3) A demand under this section may be made—

- (a) by notice in writing served personally or by post on the person to whom it is addressed; or  
(b) by notice published in the *Gazette*, in which case it may be addressed to persons generally, or to persons included in a class of persons.

(4) Nothing in this section applies to—

- (a) wheat harvested before the first day of October 1953;  
(b) wheat retained by the grower for use on the farm where it is grown;  
(c) wheat that has been sold by the Board; or  
(d) wheat sold or delivered to a person with the approval of the Board.

(5) No person shall—

- (a) fail to comply with a demand made under this section; or  
(b) deliver to the Board wheat that has previously been sold by the Board.

Penalty: Thrice the value of the wheat in respect of which the offence is committed, calculated at the guaranteed price for wheat of the season that is current at the time of the offence, or imprisonment for six months, or both.

Delivery to  
licensed  
receiver.  
*Ibid.*, s. 7.

**9**—(1) Delivery of wheat to the Board may be made by delivering or consigning the wheat to a licensed receiver.

(2) A person who delivers or consigns wheat to a licensed receiver shall, at the same time, furnish to the licensed receiver in writing the names and addresses of all persons known by him to have or to claim an interest in the wheat or in the payment to be made for the wheat, and all particulars known to him of those interests.

**10** Except as provided in sections eight and nine, or with the consent of the Board, no person shall—

Unauthorized  
dealings  
with wheat.  
*Ibid.*, s. 8.

- (a) sell, deliver, or part with the possession of, or take into his possession, wheat other than wheat to which subsection (4) of section eight relates;
- (b) part with the possession of, or take into his possession, wheat that is the property of the Board; or
- (c) purport to sell or offer for sale, or purport to purchase or offer to purchase (otherwise than from the Board), wheat that is the property of the Board.

Penalty: Thrice the value of the wheat in respect of which the offence is committed, calculated at the guaranteed price for wheat of the season that is current at the time of the offence, or imprisonment for six months, or both.

**11**—(1) Where wheat is delivered to the Board in pursuance of this Act, the Board shall pay for that wheat (including the corn sacks, if any, in which the wheat is delivered) an amount determined by the Board in accordance with this section.

Price to be  
paid for  
wheat.  
*Ibid.*, s. 9.

(2) The Board shall determine amounts payable under subsection (1) of this section in respect of wheat of a season by—

- (a) ascertaining the net proceeds of the disposal by the Board of all wheat of that season delivered to the Board in Australia (whether in pursuance of this Act or otherwise);
- (b) deducting from the amount so ascertained an amount calculated at the rate of threepence for each bushel of so much of the wheat of that season grown in the State of Western Australia as the Board certifies to the Commonwealth Minister to have become available for export to places outside Australia; and
- (c) ascertaining the share in the remaining amount of each person entitled to payment under this section by apportioning that remaining amount amongst the persons who delivered wheat of that season to the Board in Australia (whether in pursuance of this Act or otherwise) on the basis of the number of bushels of wheat so delivered by each person, with proper allowance for differences in the quality of wheat and for transport charges for the carriage of wheat to the terminal port from the place at which the wheat was delivered to the Board, corn sacks in which wheat was supplied to the Board, and other necessary adjustments in particular cases.

(3) For the purposes of this section, the Board is not bound to preserve the identity of wheat of a season, and may keep its accounts in respect of sales in such manner as will, in its judgment, attribute sales to wheat of different seasons (including the season that ended on the thirtieth day of September 1954) in an equitable manner.

(4) The Board is not bound to make a final payment in respect of wheat of a season until it has disposed of the whole of the wheat of that season delivered to it in Australia (whether in pursuance of this Act or otherwise), but the Board may, with the approval of the Commonwealth Minister, make from time to time such advance payments as it considers justified.

(5) Subject to this section, the net proceeds of the disposal of wheat shall, for the purposes of this section, be deemed to be the net return from the disposal of the wheat (including corn sacks in which the wheat was sold) after paying the charge imposed by the *Wheat Export Charge Act 1954* of the Commonwealth, and administration, interest, transport, storage, and other charges incurred by the Board (other than charges for transport to the terminal port from the place at which the wheat is delivered to the Board).

(6) In ascertaining the net proceeds of the disposal of any wheat, no account shall be taken of moneys to which section eighteen of this Act, section fourteen A of the *Wheat Marketing Act 1948*, or a corresponding provision of a Commonwealth Act or of an Act of another State, applies or applied, or of costs of the Board payable out of those moneys.

(7) Where the average price per bushel obtained by the Board for wheat of a season exported by the Board, or sold by the Board for export, is less than the guaranteed price, the net proceeds from the disposal of wheat of that season by the Board shall, for the purposes of this section, be deemed to be increased by the amount that becomes payable to the Board under the Commonwealth Act out of the Wheat Prices Stabilization Fund established by that Act, that is to say an amount ascertained by multiplying the amount of the difference between that average price and the guaranteed price by a number equal to the number of bushels of wheat of the season exported by the Board, or sold by the Board for export, or by one hundred million, whichever is the less.

(8) In ascertaining the average price for the purposes of subsection (7) of this section, the price obtained in respect of a sale other than a sale of fair average quality bulk wheat free on rails at the port of export shall be deemed to be the price that would have been the corresponding price for a sale of the same quantity of fair average quality bulk wheat free on rails at the port of export.

Payment of  
Board.  
*Ibid.*, s. 9A.

**12—**(1) The amount payable under this Act in respect of any wheat is payable to the person who would have been entitled to receive the price of the wheat if the wheat had been lawfully sold to the Board at the time of the delivery of the wheat.

(2) The same rights (if any) exist against the person receiving an amount paid by the Board under this Act in respect of wheat as would exist if the moneys so paid were the proceeds of a sale or purported sale of the wheat by him, and any such rights may be enforced by action in any court that would have had jurisdiction if the moneys were the proceeds of such a sale or purported sale.

(3) Payment in good faith by the Board of any moneys payable under this Act to the person appearing to the Board to be entitled to receive them discharges the Board from any further liability in respect of those moneys.

(4) Subject to subsection (5) of this section, an assignment of moneys payable by the Board in respect of wheat delivered to the Board (not including a crop mortgage registered under the *Stock, Wool, and Crop Mortgages Act 1930*) executed after the commencement of this Act is void as against the Board.

(5) Where a person assigns moneys payable to him by the Board in respect of wheat delivered or to be delivered to the Board in payment of, or as security for payment of, an amount payable by that person for corn sacks supplied to him, the Board may pay those moneys to the assignee.

**13**—(1) A person who—

- (a) consigns or delivers to a licensed receiver wheat harvested before the fifteenth day of September 1954; or
- (b) consigns or delivers to a licensed receiver, after the final delivery day in respect of a season, wheat harvested in that season,

Declaration to be furnished as to old season's wheat.  
*Ibid.*, s. 10.

shall make and forward to the licensed receiver a declaration correctly stating the season during which the wheat was harvested.

(2) For the purposes of this section, the final delivery day in respect of a season is the day declared to be the final delivery day in respect of that season by notice published in the *Commonwealth of Australia Gazette* under the Commonwealth Act.

**14**—(1) A police officer who is authorized by the Board or the chairman of the Board to act under this section may—

- (a) at all reasonable times, enter premises and inspect any stock of wheat or corn sacks, and any accounts, books, and documents relating to wheat or corn sacks; and
- (b) take possession of and remove any wheat that is the property of the Board or the delivery of which has been lawfully demanded by the Board, or any corn sacks that are the property of the Board.

Entry of premises, seizure of wheat, &c.  
*Ibid.*, s. 11.

(2) Wheat, other than wheat that is the property of the Board, of which possession is taken under subsection (1) of this section shall, for the purposes of this Act, but without affecting the liability of a person for an offence, be deemed to be delivered to the Board under this Act.

Power of Board to require returns.  
*Ibid.*, s. 12.

**15**—(1) For the purposes of this Act, the Board may, by notice in writing served on the person to whom it is addressed either personally or by post, require a person to furnish in writing to the Board, within the time specified in the notice, such information relating to wheat, wheaten flour, semolina, corn sacks, jute, or jute products as is specified in the notice.

(2) No person shall, without reasonable excuse—

- (a) fail to comply with a requirement under this section; or
- (b) furnish to the Board any information that is false or misleading in any particular.

Proper care to be taken of wheat owned by Board.  
*Ibid.*, s. 13.

**16** A person who has wheat the property of the Board in his possession or under his care shall exercise proper care and take all proper and reasonable precautions and do all things necessary to preserve and safeguard that wheat and to keep it free from damage or deterioration.

Home consumption price of wheat.  
*Ibid.*, s. 14.

**17**—(1) The price at which the Board shall sell wheat for manufacture into wheat products for human consumption in Australia, or wheat for consumption in Australia by pigs, poultry, or dairy stock, is the appropriate price ascertained in accordance with this section.

(2) Subject to this section, the price per bushel in respect of a wholesale sale of bulk wheat of fair average quality free on rails at a port of export shall be—

- (a) the International Wheat Agreement price or, if at the beginning of the year in which the sale is made there is not in operation an International Wheat Agreement that has been accepted by Australia, export parity; or
- (b) fourteen shillings,

whichever is the less.

(3) If the price applicable to a sale under subsection (2) of this section is less than the cost of production of wheat of the season that is current at the beginning of the year in which the sale is made, the price shall, subject to subsection (4) of this section, be an amount per bushel equal to that cost of production.

(4) The price applicable under subsection (2) or subsection (3) of this section shall be increased by an amount of one penny half-penny per bushel for the purpose of reimbursing the Board for the costs of shipment of wheat to this State.



(5) If the Board reports to the Commonwealth Minister that the amounts being received by the Board by reason of the operation of subsection (4) of this section, together with amounts being received under corresponding provisions of the Commonwealth Act and the laws of the other States, are more or less than the amounts required to meet the costs of shipment of wheat by the Board to this State, the Commonwealth Minister may direct the Board that the amount per bushel specified in that subsection shall be reduced or increased to such extent as he considers necessary.

(6) The price in respect of a sale other than a sale specified in subsection (2) of this section shall be a price ascertained by adding to or deducting from the price applicable to sales so specified an amount that makes a proper allowance for the quality of the wheat, the conditions of sale, and the place of delivery.

(7) In this section—

“export parity”, in relation to sales made in a year, means the price that the Commonwealth Minister certifies to the Board to be the price that he is satisfied was the price (expressed in Australian currency) per bushel prevailing immediately before the commencement of that year for sales by the Board on the export market of bulk wheat of fair average quality free on rails at the ports of export;

“International Wheat Agreement price”, in relation to sales made in a year, means the amount that the Commonwealth Minister certifies to the Board to be the amount that he is satisfied is the equivalent, in Australian currency and on the basis of sales free on rails at the ports of export, of the price per bushel prevailing immediately before the commencement of that year for sales by the Board under an International Wheat Agreement of bulk wheat of fair average quality;

“year” means the period of twelve months commencing on the first day of December 1954, and each subsequent period of twelve months.

(8) Notwithstanding the repeal of section fourteen of the *Wheat Marketing Act 1948*—

(a) the prices for sales of wheat by the Board that were applicable under that section immediately before the commencement of this Act continue to be applicable to sales made before the first day of December 1954; and

(b) all moneys received by the Board in respect of those sales by reason of the operation of subsection (4) or subsection (5) of that section shall be deemed to be moneys to which subsection (1) of section eighteen of this Act applies.

Special  
account for  
freight to  
Tasmania.  
*Ibid.*, s. 14A.

**18**—(1) Notwithstanding any other provision of this Act but subject to this section, the Board shall keep a separate account of the moneys received by the Board by reason of the operation of subsections (4) and (5) of section seventeen, and of payments made out of those moneys, and shall not apply those moneys except in accordance with this section.

(2) The Board may combine the account required to be kept under subsection (1) of this section with any similar account or accounts to be kept by it under the Commonwealth Act or under the law of any other State or States.

(3) The Board shall use the moneys referred to in subsection (1) of this section in meeting the costs of shipment of wheat by the Board to this State on and after the first day of December 1953, and shall not use for that purpose any other moneys derived by it from the sale of wheat delivered to it in pursuance of this Act.

(4) Any moneys referred to in subsection (1) of this section that remain unexpended after the Board has disposed of the whole of the wheat of the last season to which this Act applies delivered to the Board in Australia shall be applied by the Board for the benefit of the wheat industry in such manner as the Commonwealth Minister, after consultation with the appropriate Minister of each State, directs.

(5) Any moneys paid by the Board, before the commencement of this Act, in pursuance of section fourteen A of the *Wheat Marketing Act 1948*, to the credit of the account kept for the purposes of that section and not expended before the commencement of this Act shall be deemed to be moneys to which subsection (1) of this section applies.

Use of funds  
by Board.  
*Ibid.*, s. 14B.

**19** Subject to the Board's paying or making provision for the payment of amounts required to be paid by it under this Act, nothing in this Act shall be deemed to prevent the Board from applying moneys received by it by reason of the exercise of its functions under this Act for the purposes of the Commonwealth Act or an Act of another State relating to the marketing of wheat or the stabilization of the wheat industry.

Offences.  
*Ibid.*, s. 15.

**20** A person who contravenes or fails to comply with a provision of this Act for which no penalty is prescribed elsewhere in this Act is guilty of an offence.

Penalty: One hundred pounds or imprisonment for six months.

Regulations.  
*Ibid.*, s. 16.

**21** The Governor may make regulations under this Act, and, in particular, and without prejudice to the generality of this section, the regulations may prescribe penalties not exceeding one hundred pounds or imprisonment for six months, or both, for offences against the regulations.

Application of  
Act.

**22** This Act does not apply in relation to wheat harvested after the thirtieth day of September 1958.